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BEFORE THE
U.S. COMMISSION ON CIVIL RIGHTS

CIVIL RIGHTS CONCERNS
IN THE METROPOLITAN WASHINGTON AREA
IN THE AFTERMATH OF 9.11 TRAGEDIES:

Muslims, Sikhs, Arab Americans,
South Asian Americans and Muslim Women

Wednesday, April 24, 2002

Mason District Governmental Center
6507 Columbia Pike
Annandale, VA 22003

District of Columbia, Maryland and Virginia
State Advisory Committees to the
U.S. Commission on Civil Rights

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AGENDA

Opening and Welcome Remarks

Panel I: Understanding Islam in America in the
Aftermath of 9.11

Moderator: Debra Lemke, MD Advisory Committee
Staff: Ki-Taek Chun

Panel Members: Stephen Kurzman (DC)
K. Patrick Okura (MD)
Richard Patrick (VA)
Douglas Sands (MD)
Chester Wickwire (MD)
Albert C. Zapanta (VA)

Panelists: Clark Lobenstine
Yvonne Haddad
Yahya Hindi
Sanaulla Kirmani
Nezib Sacirby

Panel II: National Crises, Civil Rights Protections
and Civil Liberties: A Historical Review

Moderator: Lewis Anthony, DC Advisory Committee
Staff: Marc Pentino

Panel Members: Peter Kaplan (DC)
Chester Wickwire (MD)
Cynthia Graae (DC)
Gilberto Zelaya (MD)
Francey Lim Youngberg (VA)

Panelists: James X. Dempsey
Kit Gage

Panel III: Implementing the USA Patriots Act of 2001:
Civil Rights Impact

Moderator: Cynthia Graae, DC Advisory Committee
Staff: Marc Pentino

Panel Members: Patricia Okura (MD)
Richard Patrick (VA)
Peter Kaplan (DC)
Chester Wickwire (MD)
Sheila Carter-Tod (VA)
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PROCEEDINGS

9:30 a.m.

1
2
3 MR. PATRICK: Good morning, ladies and
4 gentlemen. My name is Richard Patrick and I m going to
5 official gavel this two-day conference to an open.
6 I m the Chair of the Virginia Advisory
7 Committee to the U.S. Civil Rights Commission. On
8 behalf of my fellow members of the Virginia Advisory
9 Committee and the Advisory Committees of the District
10 of Columbia and Maryland, I welcome you to Annandale,
11 Virginia, and to the start of our two-day conference
12 entitled Civil Rights in the Aftermath of the September
13 11th Tragedies, subtitled with a focus on Muslims,
14 Sikhs, South Asian Americans and Muslim Women.
15 To my left is Doug Sands who is the Chair of
16 the Advisory Committee for Maryland.
17 This conference is a joint effort among the
18 Advisory Committees of Virginia, the District of
19 Columbia and Maryland, which are all part of the
20 Eastern Regional Office of the U.S. Civil Rights
21 Commission.
22 Today, through a series of panels, this
23 conference will seek to educate, probe and inquire and
24 answer some of the issues raised in the aftermath of
25 September 11. As we all know, in response to the

1 events of September 11, various security measures and
2 laws were passed which have an ongoing impact on the
3 way we live.

4 Some say that these measures are too
5 Draconian. Others believes that more need to be done.
6 Through it all, we must all remain vigilant in the
7 protection of our civil rights. After all, civil
8 rights is not a fleeting concept and we should be every
9 aware of the dangers lurking behind measures deemed to
10 be put in place for our own good.

11 While we will allow public statements, we
12 would like to state at this time that we will not allow
13 any statements which defame or in any way cast
14 aspersions on any particular persons, parties, et
15 cetera.

16 The staff of the Eastern Regional Office is
17 here, and I will now turn to the Director, Mr. Ki-Taek
18 Chun, for further remarks.

19 MR. CHUN: Thank you very much.

20 Good morning, everybody. I m Ki-Taek Chun.

21 In the interest of time, I ll be brief, but I
22 do want an opportunity to say a few words of
23 appreciation.

24 Sometime late last Fall, as you were deciding
25 that this is an important area of serious civil rights

1 listened, but we had to rely on outside resource
2 persons, some of whom are with us today and tomorrow.

3 For these collaborations and spirit of
4 collaboration and dedication, I d just like to thank
5 all the Committee members, as well as the staff
6 members. We have a small regional office. All of us
7 put in long hours trying to bring this event together
8 to a success, and -- Ed Darden, where are you?

9 Oh, Ed Darden and Marc Pentino. Are you
10 there, Marc?

11 I want to thank you in public for the
12 dedication and contributions you have made.

13 Oh, there is Ed, the main principal
14 character, one of the principal characters.

15 So thank you very much for all the hard work.

16 Now, I think I am supposed to introduce the
17 Staff Director of the Civil Rights Commission. Let me
18 say that I can say a lot of things about him and the
19 position and so on, but I do want to say this. The
20 Staff Director position is a political appointee, which
21 means I have been with the Commission over 20 years and
22 three staff members together, we have been with the
23 Commission over 60 years. Which means we have seen
24 many Staff Directors come and go. And the degree of
25 pertinent experience and substance they bring to th

1 concerns that we should do something about, it occurred
2 to us that perhaps the best way would be instead of
3 having individual Advisory Committees doing their own
4 things in parallel, that several Advisory Committees
5 join forces and then do it together so that our effort
6 could be much more comprehensive and hopefully somewhat
7 in depth.

8 So we formed an inter-task force inter-SAC
9 committee, consisting of delegations of four members
10 from each committee. And in due time, you will see who
11 they are and so on.

12 The point is 12 dedicated able and highly
13 committed individuals that meant working together, that
14 meant there were bound to be controversy, sometimes
15 differences of opinion and preferences for different
16 approaches in attacking this problem area. But on
17 every occasion, I m happy to recall that we were able
18 to come to something of a reasoned and seasoned
19 consensus on many controversies.

20 And also, while we were planning, I was
21 painfully aware that at least for myself I was just too
22 uninformed about this area. So I said, well, I ll just
23 learn as I go along. I think the Committee as a whole
24 took that posture of willing to learn as we go along.
25 Which meant we not only talked to each other and

1 position varies like day and night.

2 And indeed, I am happy to say that it was a
3 breath of fresh air to have Les Jin as a Staff Director
4 because he has been an ardent advocate and committed
5 level in his career. On top of that, he has spent many
6 years as general counsel for federal agencies and he
7 has accumulated a long list of awards for his community
8 level contributions as well as trail blazing efforts in
9 his field.

10 He is a lawyer by training and on top of that
11 he has a masters in public administration from Harvard.
12 He has been a general counsel for two federal agencies:
13 U.S. Information Agency and U.S. Broadcasting Board of
14 Governors. He has worked with EEOC and other agencies.

15 So he has an illustrious variety of
16 background experiences. And it is that combination of
17 experience, maturity and managerial skill that he
18 brings to his position and we are very happy to have
19 him. He has been very supportive all the way through
20 for our efforts.

21 So it s my pleasure to introduce Les Jin, our
22 Staff Director.

23 MR. JIN: Thank you very much. That was very
24 gracious. You ll get your extra staffer on Monday.

25 (Laughter.)

1 MR. CHUN: Did you hear that?
 2 MR. JIN: I do sincerely appreciate the kind
 3 and gracious comments.
 4 Good morning to everyone. I am extremely
 5 pleased to be here today. It s events like today that
 6 makes being Staff Director with the Commission on Civil
 7 Rights an exciting and proud entity and proud thing to
 8 do.
 9 These events also -- events like this also
 10 remind me of the enormous role that the Commission on
 11 Civil Rights plays in advancing civil rights. And
 12 certainly forums like today demonstrate the pivotal
 13 role of the State Advisory Committees play in our
 14 mission.
 15 I also want to thank you for inviting me to
 16 make some opening comments here today. I bring you
 17 warm greetings from the Chairperson of the Commission
 18 on Civil Rights, Doctor Mary Frances Barry, and the
 19 rest of the Commissioners. While none of them could be
 20 present here today, they are fully aware of the
 21 extraordinary work that you are doing here today and
 22 tomorrow, the impressive program you have assembled,
 23 and the long list of outstanding witnesses that you
 24 have.
 25 Ki-Taek had an opportunity to talk to the

1 the availability of the complaint hotline which allows
 2 victims of harassment and discrimination to learn of
 3 their options and rights.
 4 The Commission also held a briefing last Fall
 5 with high ranking federal officials, as well as experts
 6 and advocates, to learn about civil rights concerns and
 7 protections in light of post-9/11 policies or proposed
 8 laws that were being contemplated or being enacted.
 9 A few months ago, the Commission also brought
 10 in an expert on bio-terrorism to brief it on the access
 11 to health care issues that were associated with bio-
 12 terrorism.
 13 In addition, several other State Advisory
 14 Committees have also held activities related to 9/11.
 15 One of your accomplishments will be to build
 16 upon what the Commission has already achieved by adding
 17 to the breadth and depth of previous Commission and
 18 State Advisory Committee work, as well as to alert all
 19 of us to what is happening in this region and this
 20 area.
 21 Your work will allow us to examine civil
 22 rights implications of laws that now have been enacted
 23 for a number of months, such as the U.S.A. Patriots Act
 24 and other policies now in place. Thus, your work, in
 25 conjunction with other Commission work and State

1 Commissioners at the last Commission meeting a couple
 2 of weeks ago and shared the draft agenda and explained
 3 a little bit what was going to happen today and
 4 tomorrow. And I can tell you without any exaggeration
 5 whatever that the Commissioners were very impressed and
 6 extremely complimentary about what you are doing here.
 7 And they should have been very pleased
 8 because the forum you are about to launch is a very
 9 important and much needed event. Issues covered in
 10 this forum have long been of interest to the
 11 Commission.
 12 As you know, soon after the September 11th
 13 tragedies, the Commission released a statement
 14 condemning all acts of bigotry directed against persons
 15 of Middle Eastern ancestry and Islamic faith, and also
 16 those who are perceived to be Arab Americans or
 17 Muslims.
 18 The statement alerted public officials to be
 19 vigilant against potential program activities and
 20 policies that might violate or impinge upon the civil
 21 rights of our fellow Americans because of their natural
 22 origin, race, religion or color, and urged them to be
 23 mindful that the United States is more than a nation.
 24 It is an ideal we continually fulfill.
 25 At the same time, the Commission publicized

1 Advisory Committee work and subsequent staff and
 2 Commission efforts will provide, in my opinion, the
 3 most comprehensive and diverse examination of post-9/11
 4 civil rights issues conducted by any entity in this
 5 country.
 6 I also applaud the fact that this forum, the
 7 timing of this forum, is truly a joint effort by the
 8 members of the 9/11 Inter-Staff Committee and the
 9 Regional Staff. For this exemplary collaborative
 10 effort among the three Advisory Committees -- Virginia
 11 District of Columbia and Maryland -- and for producing
 12 such a thoughtful, balanced and informed program, I
 13 would like to express the Commission s great
 14 appreciation to the three SAC chairpersons, Louis
 15 Anthony, Reverend Douglas Sands and to Richard Patrick
 16 for their leadership.
 17 And I also thank the hard working staff of
 18 the Eastern Regional Office for their critical role.
 19 Additionally, I want to thank the Advisory
 20 Committee members for their valuable service, for the
 21 valuable service they render to the Commission.
 22 Effective State Advisory Committees are the core part
 23 of the Commission s ability to do its job. And I
 24 congratulate each of you for the exemplary work and
 25 contributions that this project will be making to

1 strengthening civil rights protection and advancing the
2 civil rights frontier of our society.

3 Once this forum is completed, we will prepare
4 a summary report based on the transcript of what is
5 said in these two days. We will do that expeditiously
6 and we will distribute the product widely.

7 Again, thank you for your hard work and good
8 luck on what I know will be an outstanding forum.

9 MR. PATRICK: Thank you Mr. Jin.

10 Next, we have the panel on Understanding
11 Islam in America in the Aftermath of September 11,
12 2001. And that will be moderated by Ms. Debra Lemke, a
13 member of the Maryland Advisory Committee.

14 MS. LEMKE: Thank you, Mr. Chairman.

15 I would like to start this panel by providing
16 the audience with a bit of background. The Commission
17 wished to have information on the affected populations.
18 And to that effect, we have had several members of the
19 communities in the D.C. area to come in and talk to us
20 about the affected communities.

21 Professor Nyang is not able to be with us. I
22 understand that she is ill. Mr. Lobenstine has
23 discussed information that would provide us good
24 demographic background on the affected populations in
25 the tri-state area. And Mr. Lobenstine will be

1 Interfaith Council in the area.

2 MR. LOBENSTINE: Thank you.

3 I will give the end of my testimony. For
4 those who have it, it is on the third right side of the
5 page, page 5 of this collated text in the middle of the
6 page.

7 The area of population studies is hardly my
8 expertise, but in discussing with a number of other
9 persons, I am glad to share what I have learned,
10 particularly relying on others, primarily Dr. Sulayman
11 Nyang. He is the principal investigator of a three-
12 year research project, Muslims in the American Square,
13 which had a major conference yesterday at Georgetown
14 University, a project funded by the Pugh Charitable
15 Trust, undertook the first national survey of the
16 Muslim community.

17 Based on his research and his own deep
18 experience with the diverse Muslim groups in this
19 metropolitan area, he estimates that there are at least
20 60,000 to 70,000 immigrant Muslims here, approximately
21 25,000 African-American Muslims. And he estimates
22 5,000-10,000 Arab Christians.

23 Nationally, the survey of this Muslims in the
24 American Square project shows that Muslims in America
25 come from 80 different countries. Sixty-four per-

1 speaking first. He will be giving us demographic
2 information in order to understand the populations.

3 And then we have Professor Haddad, who will
4 be talking to us about Islam and the world, Christian
5 Muslim Relations. She sits with the Center for Muslim-
6 Christian Understanding at Georgetown University.

7 We have Professor Kirmani. I do apologize up
8 front. Please edify me on your name pronunciations. I
9 come from an area of the country that speaks with an
10 accent. I come from the Deep South and I tell people
11 that is why I can't pronounce things and have to spell
12 their names.

13 So Professors Haddad and Hindi from
14 Georgetown University and Mr. Sacirby from the American
15 Muslim Council.

16 Most of our panelists have biographical
17 information on the table in the back if you'd like to
18 learn more about their accomplishments. And I will
19 talk less so that you can talk more.

20 I will ask the panelists initially to keep
21 their remarks to 10 minutes, and that will provide an
22 opportunity for Commissioners, as well as the audience
23 to ask questions toward the end.

24 Mr. Lobenstine will be returning at the very
25 end of the panel to talk about some efforts by the

1 are first generation immigrants born outside of the
2 United States. Six out of every 10 of these immigrants
3 came since 1980. The other 36 percent were born in the
4 U.S., either African-American Muslims or second or
5 third generation of immigrant parents or grandparents.

6 Of all Muslims in America, the survey finds
7 that 32 percent are South Asians, primarily Pakistanis,
8 Indians, Bangladeshis and Sri Lankans; 27 percent are
9 African-Americans; 26 percent are Arabs; and 15 percent
10 come from elsewhere.

11 These percentages also show the impact of
12 immigration of the Islamic community. In a less
13 thorough study about 1980, Farib Newman found that 42
14 percent of Muslims in America were African-Americans.
15 Now that percentage is 27 percent.

16 Using the supplementary survey information of
17 the 2000 census, U.S. census data provides information
18 on persons from four countries in South Asia: Asian-
19 Indian, Bangladeshi, Pakistani and Sri Lankan. It does
20 not isolate much smaller groups of Indo-Caribbean or
21 persons from Nepal, Butan or the Maldiv Islands.

22 And these are estimated figures provided by
23 state, not metro area, and reflect the innovation in
24 this census of allowing persons to list more than one
25 racial ethnic group to identify oneself. So I don't

1 have the separate breakdowns for suburban Maryland or
2 Northern Virginia.

3 The Census Department estimates 152,655 South
4 Asians in these three states. And you have a chart
5 there showing you the breakdowns of that. A total of
6 3244 in D.C.; 65,769 in Maryland; and 83,642 in
7 Virginia.

8 And I encourage the planner of this forum to
9 be in touch with the South Asian American Leadership
10 For Tomorrow organization. They have prepared a report
11 on post-9/11 incidents against South Asians, including
12 a 25-minute video with personal testimonies. They have
13 a website at www.saalat.org.

14 Finally, Dr. Roswan Singh, a past-president
15 of the Interfaith Conference who continues to serve on
16 our Board of Directors is the founder of SCORE, the
17 Sikh Council on Religion and Education. He will
18 testify later. SCORE has received significant new
19 exposure because of their meetings with President Bush
20 since 9/11.

21 When the Sikh community joined the Interfaith
22 Conference in the early 1990s, Dr. Singh estimated
23 there were 4,000 Sikhs in this region. He now
24 estimates there are between 6,000 and 8,000 Sikhs in
25 the metropolitan area.

1 I'll continue my testimony later.

2 MS. LEMKE: Thank you.

3 Imam Hindi, please.

4 MR. HINDI: That was a good 10 minutes.

5 Thank you for having me. I decided to go
6 first because as the questions that were passed to us,
7 some of them asked us to sort of give some kind of
8 foundation on Islam; what is Islam, what is not Islam,
9 and what are the similarities between Islam and some
10 other religions.

11 The very word Islam comes from the Arabic
12 root S-L-M, which is very similar to the Shalom word in
13 Hebrew, S-L-M, which means peace. The very word Islam,
14 therefore, means peace.

15 Another meaning for the word Islam,
16 surrender. And therefore, Muslims believe that Islam
17 is a religion that teaches peace by surrendering
18 oneself to the will of God. Only when one surrenders
19 to the will of God and lives up to the teachings known
20 to us by his prophets would one be able to accomplish
21 or achieve peace in his or her life.

22 That surrendering is called in Arabic or in
23 Islam, tawhid, t-a-w-h-i-d, which is maintaining the
24 unity of God by the way one lives. We are created by
25 God, in the image of God. And one therefore should

1 reflect on God as one lives.

2 For example, if God is merciful, one has to
3 be merciful. If God is loving, one has to be loving.
4 If God is forgiving, one has to be forgiving.

5 Those attributes I just mentioned are three
6 out of 99 attributes of God we teach in Islam.

7 In order to live that tawhid, one has to
8 represent God on earth in three different areas.
9 Number one, spiritually; number two, morally; and
10 number three, physically.

11 One's spirituality has to bring about peace
12 to his or her life. One's morality and ethics have to
13 help him or her bring about peace to his or her life.
14 And one's physical interaction with others has to bring
15 peace to his or her life.

16 What do Muslims share with other religions?
17 I don't think I can speak about every other religion,
18 but I want to focus on the three Abrahamic faiths as
19 known to us in Judaism, Christianity and Islam. I
20 would say we share a lot. And I do believe that the
21 similarities are much much more than the differences
22 one would like to focus on.

23 The similarities are, number one, the belief
24 in a deity, in God. Allah, as we use to refer to God
25 is the Arabic word for God. And therefore, if you were

1 to visit a synagogue or speak with an Arab Jew or a
2 Christian Arab about God, they would not use the word
3 God. They would use the word Allah, the very word that
4 Muslims use. We refer to God as the God of Abraham,
5 the God of Isaac and the God of Jacob.

6 Number two. We share the legacy of many
7 prophets. Islam focuses a lot on Moses and the story
8 of Moses. Islam focuses a lot on the story of Joseph,
9 the story of Jesus Christ, who is also believed as a
10 prophet of God. The only chapter in the Koran named
11 after a woman is Chapter 19, named after Mary. Mary
12 has a very important position and role to play in
13 Islamic theology and Islamic teachings.

14 There are more references to Jesus in the
15 Koran than in the Bible. Having come from my own
16 seminary education, for example, the miracles performed
17 by Jesus in the Koran are much more than the miracles
18 performed by Jesus in the Bible.

19 Speaking about Mary, there are 34 references
20 to Mary in the Koran while there are only 17 references
21 to Mary in the Bible.

22 So we do share so many of those values.
23 Having gone over the story of Joseph or Jonah in the
24 Christian and the Jewish Scriptures, I would say 95
25 percent are the same events. And we speak about them

1 in the say way.

2 Muslims celebrate the freedom of Moses from
3 slavery in Egypt in a very well known holiday called
4 Asura. Actually, Muslims should fast on that date,
5 celebrating the freedom Moses enjoyed with his
6 followers from Egypt.

7 We share the concept of peace, as I said
8 earlier. Jews believe that Jerusalem is the city of
9 peace. Christians teach that Jesus Christ is the
10 Prince of Peace. Muslims believe that Islam is the
11 Prince of Peace. And therefore, that concept of peace
12 seems to me the ultimate goal of the three Abrahamic
13 religions.

14 We share the space. No one, I think, can say
15 this is a Muslim space or a Christian or a Jewish
16 space. What happened on the World Trade Center on
17 September 11 did not harm only Jews or only Christians
18 or only Muslims or only Buddhists or Hindus. It harmed
19 us all. So we share the space. And that s very
20 important to remember.

21 We share the space because, again, after
22 September 11, much more than before our churches were
23 open for Muslims to go in and do their Friday services.
24 In certain cases when churches were burned in certain
25 states, Muslims opened their mosques for Christians to

1 not really the case.

2 There are 1.2 billion Muslims worldwide.

3 Only 193 million of them are Arabs. And theref
4 more than 1 billion Muslims are not Arabs.

5 Also, there are many Christian Arabs and
6 Jewish Arabs in Lebanon, in Jordan, in Iraq and Egypt
7 and many other countries. Like in Morocco there is a
8 very well known Jewish community in Morocco.

9 A few days ago there was on TV a program
10 about the Jewish community in Syria; specifically, in
11 Damascus, which was to my surprise that there are still
12 Jews in Syria, but that is the case.

13 Islam and women. Many people think or seem
14 to think because of Taliban or what Taliban has done
15 that Islam by nature abuses women and does not give
16 women their rights. I don t believe there s any time
17 to talk about this but I think to the contrary, Islam
18 gives women the right that Islam gives men. And one
19 can focus on this if you wish at a later time.

20 People do not differentiate between political
21 agendas and religious agendas. Very often what is
22 really going on overseas are political agendas and wars
23 between people, two peoples, with two political
24 agendas. One of these two people decides to use
25 religion to back up their own political agenda. Sa

1 come in and pray.

2 Again, some synagogues were opened for
3 Muslims to go in and celebrate their services when
4 there was only one mosque in that area after September
5 11. So we share the space.

6 We share the time. No one can say the year
7 2002 is a Muslim year or a Christian or a Jewish year.
8 We share that time and we should keep that in mind as
9 we interact with one another.

10 We share the social political challenges.
11 Many of the challenges that face our children, our
12 women, are shared by all religions. There is domestic
13 violence in all communities. There is child abuse in
14 all communities. And our religions, our clergymen and
15 women have to deal with those challenges and have a lot
16 to learn from one another.

17 The other question that was posed to me is
18 what are the things that are very much misunderstood
19 about Islam. I said about the word Allah. Allah is
20 the Muslim God that has nothing to do with the
21 Christians or Jews or Buddhists or Hindus. That s not
22 really the case.

23 Number two. Muslims vis-a-vis Arab. Many
24 people think that to be a Muslim you must be an Arab
25 and if you are an Arab, you must be a Muslim. That s

1 so, I want to differentiate between political
2 fundamentalism and extremism and religious
3 fundamentalism and extremism.

4 Religious fundamentalism may not be bad if it
5 means to go back to the fundamentals of the religion,
6 whether in Judaism, Christianity, Islam, Buddhism,
7 Hinduism or any other faith. Political fundamentalism
8 is that which leads its people to be not inclusivists,
9 rather, exclusivists, and might use religion to back up
10 their own agendas. I think what Osama Bin Laden did,
11 for example. He had in mind a political agenda. He
12 used religion to back up his own agenda to get more
13 support. And this has happened in our history through
14 the Crusades, through many other struggles that one
15 could talk about.

16 Islam and the West. It s quite strange when
17 people say Islam and the West, Islam in the East and
18 the West, as if we don t have Muslims in the West.
19 There are about 8 million Muslims in America. There
20 are about 35 million Muslims in Europe. So Muslims are
21 a part of the Western fabric, if you will.

22 I see myself as an American Muslim, as a
23 Western American Muslim. I don t see myself as a
24 Eastern guy, if you will. Yes, I was born in that part
25 of the world but 50 percent of American Muslims are

1 American converts to Islam, whose only home may be in
2 Greenville, South Carolina or Seattle, Washington, and
3 do not know any other home. So the West is really our
4 home and East could be actually -- I just came back
5 from a two-week trip to some Asian countries where I
6 did not feel comfortable being myself. To me, the
7 minute the plane landed in the airport, well, I m home.
8 So the West is really may home.

9 Thank you.

10 MS. LEMKE: Thank you very much.

11 (Discussions off record.)

12 MR. KIRMANI: Imam Hindi has laid down some of
13 the foundations on which I have a few things to say,
14 and then bring the discussion around to the present
15 time.

16 The main idea in Christianity as we know is
17 the idea of love and that does not necessarily mean
18 that all Christians love everybody else all the time,
19 but there is a fundamental picture of -- fundamental
20 idea of God as love in Christianity.

21 The fundamental idea of God in Islam is that
22 of a God of justice. And God exhibits his love in
23 justice. That does not necessarily mean that every
24 Muslim is just. It does however mean that the
25 primordial primary idea in most Muslim social and

1 event of 9/11 is sometimes characterized as something
2 that is justified by Muslims and Islam as if all
3 Muslims were somehow responsible for this horrible
4 event. One begins to forget that there were a number
5 of Muslims who were also present in the towers who got
6 killed.

7 The point is that if one looks at the
8 historical pursuit that Islam had in terms of changes
9 it brought about, mainly in terms of warfare, there was
10 a policy and there has been a policy in most warfare
11 where the scorched earth policy is followed. That is,
12 if one conquered a land or a city, one burned it to the
13 ground. One killed all its inhabitants. It made those
14 who were not killed into slaves and took them off.

15 Islam radically changed that idea of warfare.
16 One of the few religions that changed that idea of
17 warfare at its very inception, because right after the
18 death of the prophet when Islam expanded to all corners
19 of this world, policies were adopted of warfare. And
20 these are all Koranic based policies and policies based
21 on the teachings of the prophet that there was to be no
22 scorched earth policy. That lands that were productive
23 were not supposed to be burned. People who are
24 productive were not supposed to be dislodged from their
25 production, from their economic activity.

1 economic affairs is that of promoting justice.

2 God, as Imam Hindi has also said, implies
3 unity because Muslims are very vehemently monotheistic.
4 And that implies also for Muslims the idea of peace,
5 because everything in this world surrenders to God.
6 And so everything being created by God, everything
7 shares in that creative activity of God. And
8 therefore, everything surrenders and is at peace with
9 God.

10 That does not also necessarily mean that
11 every Muslim individual is a person of peace, but that
12 does mean that Muslims as a culture have the idea of
13 justice of peace in their minds.

14 Muslims are keenly aware of equity in human
15 relations and therefore the Koran says that the men and
16 women are created from the same source and have not any
17 difference in their intellectual capacities. They may
18 have different stations in life.

19 They re keenly aware of the distribution of
20 wealth and treatment of people, and so there are
21 institutions in Islam known as Zakad institutions where
22 the wealth is properly distributed.

23 What happened in 9/11, if we can come down to
24 the present, is to be seen also in historical
25 perspectives because it is sometimes characterized, the

1 No killing of unarmed civilians was
2 authorized. In point of fact, if a soldier who was
3 bearing arms laid down his or her arms, then they were
4 not supposed to be harmed. So, no killing of common
5 people ever took place under Islamic rules and
6 regulations.

7 Women and children and old men and senior
8 people, elderly people, were not to be harmed and
9 killed. This was a policy adopted by early Islamic
10 caliphs whose armies went into many different lands.

11 Therefore, it strikes Muslims ears as very,
12 very bizarre to hear that somehow the event of 9/11 and
13 the killings that go on under the name of Islam are
14 somehow representative of Islam. That is one fact that
15 the American Muslims, Muslims who are in America, have
16 tried to show the communities here, those who will
17 listen, that these events that take place are really
18 not religious events as much as they are expressions of
19 some kind of frustration, which I shall not expound
20 upon. Maybe somebody else will, because I don t want
21 to use my 10 minutes to do that.

22 So there is a misunderstanding about Islam.
23 The very fact that one can begin to raise that question
24 is there a difference between Islam and the West is
25 indicate of the notion that there is somehow a radical

1 difference between a Muslim and between a Christian.
 2 There is a radial difference between us as we sit here
 3 at this table. Some of us are raised in Michigan.
 4 Some of us are raised in the Deep South. Some of us
 5 are raised in Massachusetts. We do have some cultural
 6 differences. But those are geographical differences.
 7 Those are cultural differences. Muslims also have
 8 these kinds of differences among themselves.

9 It is not necessarily the case, therefore,
 10 that somehow being a Muslim is necessarily to be
 11 different, altogether different from any Christian or a
 12 Jew or Hindu or Sikh or whatever.

13 So we share something as human beings that we
 14 have to remember. That, to me at least, means that
 15 because of these questions, what is the difference
 16 between us; how are we to take Islam; is it anti-
 17 Western; is it pro-Western; is it this way or is it
 18 that way means that there s some homework to be done.
 19 How can we go about that.

20 Well, we have to begin to understand, to
 21 dialogue. So I would first propose that we promote
 22 dialogue between Muslims and Christians and Jews in
 23 this country and between other religious traditions.

24 We have something like the Interfaith
 25 Conference which promotes dialogue, but I think that

1 has to be made more a part of the national agenda in
 2 the promotion of dialogues.

3 We must perhaps form, maybe under the aegis
 4 of the U.S. Commission on Civil Rights, maybe under
 5 some other organization -- of course, people in such
 6 organization can think about it much further than I
 7 can, but perhaps we could form something known as an
 8 interfaith advisory committee.

9 I know we have in our Constitution the
 10 separation between church and state, but we are
 11 launching ourselves into faith based activities more
 12 today than we have every before. And so there might be
 13 a situation to launch an advisory committee which would
 14 be an interfaith -- promote interfaith dialogue.

15 We have to realize that, for example, in
 16 Islamic way of practicing religion there is no central
 17 ecclesiastical authority. I ve come across many
 18 difficulties by many, many people who have wanted to be
 19 chaplains in university and so forth, who are lay
 20 people, lay Muslims, but they do not have a reverend
 21 attached to their name because they did not graduate
 22 from so-called Muslim institutions that graduate
 23 priests because we have no priestly structure.

24 We have no central authority that controls
 25 the religious situation as there are central

1 authorities in many other religious situations. That s
 2 something that has to be understood. That the laity,
 3 Muslim laity itself, it equally qualified in every
 4 single situation to conduct the religious affairs.

5 What it requires is knowledge and scholarship
 6 rather than some special kind of blessing to do so.

7 MS. LEMKE: Professor Kirmani, I m sorry to
 8 tell you your time is up.

9 Thank you, very much. Maybe we can return to
 10 that theme during the question and answer period.

11 Now Professor Haddad, please.

12 MS. HADDAD: First of all, let me say that I m
 13 scared by the word witnessing. I ve never done this
 14 before but I will try and talk about some of the
 15 research I ve been engaged in for the last 30 years.
 16 My last name is Haddad. It s an Arabic name. It
 17 literally means blacksmith. My husband has a lot of
 18 relatives who are blacksmiths.

19 I am not Muslim and I m not a convert to
 20 Christianity. My mother was born in Antioch. My
 21 father in Tarshis, and I was raised to believe that we
 22 are the original Christians and everybody else in this
 23 room who is a Christian is a johnny-come-lately.

24 Now, having said who is what, I will tell you
 25 what I ve been up to for the last 30 years. I ve been

1 studying the Muslim community in the United State.
 2 I ve published seven books on the topic and about 30
 3 articles.

4 9/11. It hit all of us. We were all
 5 stunned. We didn t know what to do and what happened
 6 to us.

7 Basically, the question that was asked by the
 8 American public is why do they hate us. And
 9 immediately we had a whole parade of people come on TV
 10 and tell us why they hated us.

11 They hated us because of our values, we were
 12 told. They hated us because of our democracy and
 13 because of our existence. But every one of those
 14 people who came and told us what we should believe was
 15 a policymaker. And every one of them said it isn t
 16 because of our policies.

17 But if you were to go and look at the final
 18 will that Muhammad Atta wrote or what Bin Laden said,
 19 which is available in translation on the website of
 20 Columbia University, you will see that they have
 21 identified three of our policies that are repugnant to
 22 them.

23 One is our policy on Iraq. And of course, in
 24 the Arab world and the Middle East, they still remember
 25 that Dr. Albright, when she was Secretary of State, she

1 was asked on NBC. It is reported that half a million,
2 500,000 children, die every year because of our policy
3 of containment of Iraq. Is it worth it?

4 She said, Yes, it s tough, but it is worth
5 it.

6 And those three words, it is worth it,
7 still reverberate throughout the Muslim world. That we
8 don t care about their children. That 500,000 children
9 can die and we don t give a damn.

10 Excuse the language. My husband is an
11 Episcopal minister and I should watch it.

12 The other policy that they identified is our
13 policy in Palestine. And that of course has been
14 playing out recently. We have had some very
15 inflammatory statements.

16 Yesterday I was at a conference where
17 everybody was quoting Mr. Bush, saying that Mr. Sharon
18 is a man of peace. And everybody is horrified that
19 anybody who has a record like Mr. Sharon, who had three
20 massacres to his credit before what happened recently -
21 - the fact that President Bush had told him to halt his
22 invasion and he basically said no. And then to look at
23 what happened in Jenin and other places.

24 But basically, the issue of Palestine is a
25 very hot one and it isn t only an Arab issue and it

1 you must be justifying what happened. I m not
2 justifying what happened. A lot of Muslims throughout
3 the world are not justifying what happened. But what
4 they re saying is we need to look at our policies. And
5 their question is why does America hate Islam. And
6 that question has been going on for a long time.

7 When Muslims immigrate to this country, every
8 immigrant comes with one suitcase or two suitcases.
9 And they really bring just mementos. They bring spices
10 from their old country. The immigration people throw
11 that stuff out. Basically, they keep pictures. But
12 they bring also a burden of history because they ve
13 been socialized in their own country to have a specific
14 concept of history.

15 So they may come with ideas about the concept
16 of the relationship between Christians and Muslims over
17 history. We have 1400 years of relationship between
18 Muslims and Christians or the West. We have the
19 Crusades, which justified if you killed an infidel --
20 in this case, the infidel is the Muslims -- you go
21 straight to heaven. You get an expiation.

22 You have the Inquisition in Spain where
23 Muslims were told convert, leave or die. You have
24 colonialism where European countries, starting with the
25 16th Century, expanded all over the Muslim world.

1 isn t a Palestinian issue.

2 Since 1969, the issue of Palestine has become
3 a worldwide Islamic issue. And 69 is crucial because
4 that s the year a crazy Jehovah Witness -- I mean,
5 that s how he was defined by Israeli courts, burnt the
6 pulpit in the Oxal (sp) Mosque. And that s when the
7 Organization of the Islamic Conference, which now
8 constitutes 56 Muslim states, came into existence
9 specifically to defend the rights of Muslims in
10 Jerusalem.

11 So they have a big stake in Palestine and
12 Jerusalem and they believe that our policy has been
13 hijacked by domestic interests.

14 And the third thing that they identified is
15 the presence of our troops in Saudi Arabia.

16 Now, my information is that some of the
17 military don t want to be there and they don t see any
18 reason for us to be there. But it s a political
19 decision. I don t want to get into that because it s
20 not my field of expertise. The only reason I m talking
21 about this is because if you look at it, it s the
22 policy, the policy, the policy.

23 Now, what I ve just said can be thought of as
24 being really anti-American because it seems as though,
25 to people -- if you talk about why they have a beef,

1 Today, out of the 56 Muslim countries in the
2 world, only two have not been occupied by European
3 countries. So that what we re going through
4 historically is de-colonialization. And their concepts
5 that they come with to the United States are sort of
6 ingrained with this idea that the West wants their
7 resources, wants to keep them oppressed.

8 And we have come in with a new order and with
9 globalization that sort of taps into some of the
10 themes.

11 Some of the things that President Bush said -
12 - for example, about we are having a crusade -- was
13 that a slip of the tongue or was that a Freudian slip?
14 We don t know. But they heard here they come again.
15 They hate us. They want to destroy us.

16 The other thing that we said that has been
17 repeated by Secretary Powell is we, the civilized
18 world, and they, the uncivilized.

19 Now, that is a term that they associate with
20 the civilizing mission of France, which went into
21 Algeria and told the Muslims, look, today Algeria is
22 France. We will give you a passport that makes you a
23 French citizen. The only thing you have to do is deny
24 Islam. It s very simple. You become civilized if you
25 deny Islam.

1 So they think we have come back.
 2 How many seconds do I have?
 3 MS. LEMKE: You have about three minutes.
 4 MS. HADDAD: Okay. Good.
 5 Let me tell you about who the Muslims are.
 6 They just did not come right off the boat. In fact, in
 7 a study I just published shows that the older Muslims
 8 in Dearborn call the newer immigrants boaters because
 9 they are not with it.

10 So immigrants, Muslim immigrants, started
 11 coming to the United States in the 1870s. They came
 12 from the Levant, Syria and Lebanon.

13 Also, the United States was interested around
 14 the 1860s in establishing a camel corps. Brought some
 15 people from North Africa. They were starting a camel
 16 corps in Arizona to start of survey the borders. Most
 17 famous of that was Hajali, whose name was Anglicized to
 18 Hi Jolly through American sense. His place of burial
 19 is still there. There s a sign over it.

20 What is very interesting is that from the
 21 beginning it was questioned whether they can fit as
 22 citizens of the United States. We have several legal
 23 cases in which Arab American Christians -- it was
 24 questioned whether they would fit as citizens, and so
 25 the legal case was at first, no. They couldn t be

1 because they were neither white nor -- excuse the term.
 2 That was what was used -- Negro.

3 And you had cases in which their noses were
 4 measured, their foreheads, to see if they were fit.
 5 And eventually they were accepted after several cases.

6 And then we had a case whether Muslims could
 7 be accepted. And then they were accepted.

8 Now, the Muslims have fought in World War I,
 9 World War II. Several of the immigrant populations
 10 were decimated. You know, Ross, North Dakota has 100
 11 Muslims that settled there and a lot of them were
 12 drafted, went into the Army in World War I. And the
 13 last Muslim died last year. There are no more Muslims
 14 in Ross, North Dakota.

15 If you go to Dearborn, there is a place for
 16 Veterans of Foreign Wars which is all Arab Muslims.
 17 They served in Korea, in Vietnam. They served in the
 18 Gulf War. And there Fatwa that was issued after 9/11
 19 by Taha Jaber Valwoni (sp) whose home was ransacked by
 20 federal agencies in March. He issued a Fatwa to
 21 Muslims to go fight in the war against terrorism.

22 So they feel that they are American citizens.
 23 In fact, the first ace in the Second World War was a
 24 Muslim from South Dakota.

25 We have an influx of new immigrants after

1 1965, after the revocation of the Asia Exclusion Act.
 2 And a lot of them are Asian Americans. And this is
 3 part of the brain drain migration from which Am
 4 has prospered because we have thousands of doctors who
 5 are serving in various areas of the United States wh
 6 no American born wants to go because there isn t as
 7 much money as in the big city.

8 If you go to upstate New York, the Center for
 9 Research on Cancer is all Pakistani doctors.

10 I could give you some other examples.

11 There s a mosque in San Jose which as 325 MA
 12 Ph.D. s in computer science. They re part of our
 13 economy. They are helping us become a stronger
 14 economic power.

15 Now, do they feel at home in America? They
 16 did. But after 9/11, it has become very, very
 17 difficult.

18 We have had certain periods where I have
 19 identified periods of stress. For example, we know
 20 that people, girls, have used Clorox to bleach their
 21 bodies in order to look white because people call them
 22 sand niggers.

23 We know that some people assimilated in the
 24 80s. For example, Pakistanis said I m Hindu to avoid
 25 being identified as a Muslim. Egyptians have said

1 Greek. And people are scared.

2 I ll end up with one small anecdote about my
 3 grandson. His name is Joseph Allen McPhail. Very Arab
 4 name; right?

5 He went to school on September 12th. Came
 6 home. Asked his father, I know I have some Arab blood
 7 but why do my classmates want to kill me.

8 MS. LEMKE: Thank you very much, Professor
 9 Haddad.

10 Now we ll hear from Mr. Sacirby, the Interim
 11 Director of the American Muslim Council.

12 MR. SACIRBY: With your permission, I will
 13 speak with accent, because my accent is contribution to
 14 America. Without different accents, we will not be
 15 able to recognize each other.

16 MS. LEMKE: Thank you very much for that
 17 comment.

18 MR. SACIRBY: Thank you.

19 I am practicing Muslim. I am not Imam. I am
 20 not Islamic scholar. But as practicing Muslim I have
 21 obligation to myself to understand my faith. And
 22 I address to the people around, I do something what
 23 Arab Christians do, too, not just Muslims, but Mus' s
 24 everywhere do. It is As-Salaam Alaikum. And As-Salaam
 25 Alaikum means peace upon you.

1 It is expression of wish for peace around us
2 and peace inside us. It means it is Islamic value to
3 have peace around us and peace inside us, peace for
4 conscience.

5 The first chapter in Koran starts (in
6 Arabic). It means thank you to God, creator or master
7 of universe. It means with this I recognize that I am
8 part of universe. I m not alone in this world. I am
9 part of everything.

10 (In Arabic) means I count on his mercy
11 because the God that I believe in, that I worship, is
12 merciful to all of us.

13 (In Arabic). It means master of the day of
14 judgment. We believe in accountability. Everything
15 what we do we will, on the day of judgment, respond to
16 our creator. It is the basis of our approach.

17 I am not Arab. I am not Mid-Eastern. I m
18 European. I speak in the European language. I m
19 minority among Muslims. I m minority by religion in
20 America. It means I m double minority. But I consider
21 myself two things: American Muslim and, first, human
22 being. Because humanity is what make us equal.

23 Humanity is why we are here and why we talk
24 about all this.

25 I will tell you something. I was child,

1 spoke on January 6, 1941. My country was not yet in
2 war but three months later it will be attacked by
3 Hitler. He spoke about freedom of speech and
4 expression; freedom of faith and worship; freedom of
5 fair; and freedom of vote. And I look at map on
6 America through these four dimensions and I try to find
7 is there anything wrong in America.

8 Oh, yes. It was many things in American past
9 what was wrong. But I said I will try to see what is
10 the best in America and to remind what was sometimes
11 wrong in America.

12 Slavery was wrong in America. Lynching was
13 wrong in America. Discrimination is wrong in America.
14 And probably some elements of these so-called Patriotic
15 Acts are wrong today. And we have to be open to say
16 so.

17 If we will not say so, we will be hypocrite.
18 We will be anti-American because we are here to improve
19 America.

20 America is ours, regardless what anyone say.
21 We adopt America. We love America. We choose America
22 because when I choose, I choose consciously, not
23 because I was hungry, ill, or I didn t have other place
24 to go.

25 In 1463 Sultan -- departed and came to

1 maybe 7-8 years old, when Arab from Saudi Arabia, a
2 little bit darker than some Arabs from Syria, came to
3 our city and the mosque, and I went. He was dark. I
4 was unhappy that I was not because I will be similar to
5 him.

6 Ten years later I realized how it is nonsense
7 to judge anyone by color of his skin. We should judge
8 ourself by what we are. And we are what we do, what we
9 preach and what we advise others to do and are doing
10 ourself.

11 Yes. I m coming from Bosnia-Herzegovia. In
12 America we today have 200,000 Muslims from Bosnia.
13 They are escapees. They are part of immigrants. There
14 are two immigrants into this country. One, they came
15 because they would like to have freedom. Another came
16 because they want to have better life. And third,
17 there are a mixture of these two things.

18 I did have good life but I came because I
19 would like to have freedom. I was in jail during
20 German occupation. I was in jail during Communists.
21 And I was a little bit tired to be in jail. And I
22 chose a country of freedom.

23 It means I came with faith in America.
24 America is country of free. I did hear -- probably you
25 didn t -- about four freedoms that President Roosevelt

1 Boston. Franciscan father with a principal approached
2 him. And they said, Your Majesty. We are Franciscan.
3 We are Catholics. We are Christians. We would like to
4 have something from you that we are free to worship, to
5 have freedom for our justice, for our property, for our
6 lives, for our teaching and preaching.

7 And Sultan issued -- or Imperial Order. It
8 is still preserved and there are many copies around,
9 that he granted freedom of religion, property,
10 preaching and teaching.

11 I will remind some people who do not know it.
12 In 1556, it was -- peace agreement between Catholics
13 and Protestant and they agree on something for the
14 peace. (In Latin). It means you have to be religion
15 of your ruler. If you are not, go out. And many did.

16 Consequently, 100 years after -- in Bosnia,
17 we have these in -- tolerance is part of Islam.

18 Tolerance is part of our civilization. Tolerance was
19 brought in our civilization through Islam.

20 I spent some time reading about human rights,
21 about wars, and reading general convention and high
22 convention. They have Islamic roots.

23 When I read speech of First Caliph when he
24 said -- how to behave, how to behave toward wounded,
25 how to behave toward clergy, how to behave toward

1 woman, how to behave to our children, how to believe to
2 environs and private property, to churches, I start to
3 be proud in two ways.

4 As Muslim and as human being. Because Islam
5 decorates my humanity and America is place where I
6 exercise my right.

7 There are something else. The question is
8 why they don t like us. I believe it is question with
9 some kind of prejudice. Do they like us, is the right
10 question. Because why they don t like us, it has an
11 accusatory tone. Do they like us?

12 I am today 76 and one day and I remember when
13 they say ugly America. I was unable to say at the time
14 ugly American. I said oogly American because I didn t
15 yet improve. And who did? Europeans. It means there
16 are people always who will look at others with some
17 wrong things, with jealousy and with short
18 understanding.

19 We are for peace for all. We Muslims believe
20 that all human beings are equal in creation. There is
21 no difference between Muslim and non-Muslim. We have
22 one creator. Life is gift of our creator. It is the
23 reason why Islam condemns suicide. And life belongs to
24 human beings as gift of God. It is the reason why
25 homicide is sin against Islam.

1 understanding and dialogue.

2 Since then, the Baha i, Hindu and Jain,
3 Latter Day Saints and Sikh communities have join
4 The Zoroastrians are in the process of joining and
5 Buddhists are developing an umbrella group to app
6 membership.

7 Next Monday will mark the 23rd anniversary of
8 my starting and the continuing privilege I have of
9 serving as Executive Director.

10 Every crisis creates both challenges and
11 opportunities, and the horrific tragedy of September 11
12 is no exception. You will hear much in these two days
13 about the enormous challenges faced by Muslims, Sikhs,
14 South Asians, Arab Americans, Muslim women and others
15 since that day, which will be a marker in history for
16 decades.

17 The Interfaith Conference has certainly faced
18 many challenges since then as well, and I will
19 highlight a few of them. But I want to spend much of
20 my time focusing on the opportunities which September
21 11 has created, for it is a dramatic response to two of
22 the questions posed for this panel: What role could
23 religious organizations, among others, play in
24 remedying the misunderstanding of Islam, and who should
25 take leadership roles here.

1 And finally, as human being, I will say the
2 same things, because the logical thinking is what is
3 difference between me and you. If there s difference,
4 I will be scared to talk to you.

5 And I m talking not just to tell you
6 something about myself but to hear your reaction and to
7 see what is right and what is wrong with me. Because I
8 aver that I don t speak always the right but I am
9 speaking in order to be corrected. And the next time
10 when I do speak, I will speak better.

11 Yes, I m happy being here. There s an
12 opportunity for us to know each other better and to
13 explain.

14 And thank you for this opportunity.

15 MS. LEMKE: Thank you very much.

16 Mr. Lobenstine will not speak about the
17 efforts of the Interfaith Council.

18 MR. LOBENSTINE: Thank you very much.

19 Going back to the beginning of my testimony,
20 I speak today on behalf of the Interfaith Conference of
21 Metropolitan Washington, begun in 1978. It was the
22 first staffed organization in the world to get the
23 Muslim community working together with the Protestant,
24 Catholic and Jewish communities to help build a just
25 community in the metropolitan area and to increase

1 Let us return to that fateful day seven
2 months ago. Through conference calls and emails, our
3 Executive Committee announced on the afternoon of
4 September 11 our plans for an interfaith service on
5 September 13 at 10:00 at Georgetown University. And
6 that announcement was part of a statement which also
7 shared our profound outrage and grief and yet called on
8 Americans not to rush to judgment as to the
9 perpetrators, as we did after the bombing of the
10 Federal Building in Oklahoma City.

11 Referring back to an earlier Interfaith
12 Conference policy statement, we concluded because
13 religion has already been raised as a possible motive,
14 we referred back earlier to our statement: The
15 Interfaith Conference strongly deplores the misdeeds of
16 those who routinely justify violence on religious
17 grounds. Not only do their violent actions cause harm
18 to people who are the creation of God, but also their
19 justifications do violence to the fabric of our
20 respective faiths.

21 Our religions teach us the sanctity of human
22 life. They apply no veneer of respectability to
23 slaughter carried out for personal vengeance or
24 political purpose.

25 And that statement on the use of religion to

1 justify violence and the dangers of stereotyping was
2 co-authored by a Muslim and a Jew, Sana Kirmani and
3 Simeon Friesberg. And a copy of that statement is
4 attached to my testimony.

5 On the 12th of September we set about to
6 create that service on the 13th, wove in our eight
7 faith community leaders, and that way -- and by 9:00
8 that night, some 18 key leaders had been involved. And
9 there was a strong and deep sense of God's guiding hand
10 in that process.

11 The Interfaith Prayer Service on the 13th was
12 deeply moving for the more than 500 who came on such
13 short notice, and for countless others who caught it on
14 the media.

15 The tragedy brought a wonderfully diverse
16 group of people together and made more poignant the
17 collaboration expressed in the service. And that was
18 especially true for the Georgetown campus, including
19 Yvonne. One of their professors and her family was
20 killed in the Pentagon crash. Cardinal McCarrick's
21 personal reflections from that day are also attached,
22 his reflections on where do we go from here.

23 The rising tide of hate violence after
24 September 11 was our next challenge. We were in touch
25 with a number of Muslim and Sikh victims to let them

1 strengthen what we are teaching our children, youth and
2 adults about other faiths and their believers through
3 our religious education program. And secondly, what we
4 are communicating about other faiths and their
5 believers through our print and electronic media. And
6 that statement's attached.

7 These challenges were also opportunities to
8 demonstrate again and again the commitment of very
9 diverse faith communities, often fighting in other
10 parts of other world, to collaborate in this region, to
11 speak and act as one. The experience which Cardinal
12 McCarrick had on September 13 at the Interfaith Prayer
13 Service led him later to describe the Interfaith
14 Conference as, quote, the envelope in which we all fit;
15 the umbrella which brings us all together.

16 And those tragic events have made IFC's more
17 than two decades of inter-religious experience more
18 important than ever. The ability and experience of so
19 many diverse faiths to work together is a sign of hope,
20 both in times of crisis and throughout the year, and a
21 hallmark of this region that goes back to the visionary
22 founders of the Interfaith Conference in 1978,
23 including four generations back of the American Jewish
24 Committee's founder, Executive Director at the time,
25 Brad Coopersmith. Stephen Kurzman is a past-president

1 know our deep concern for them and the united stand of
2 the broad religious community against these expressions
3 of religious bigotry. And you will hear many personal
4 stories in your later testimony.

5 We worked with 18 key leaders from the Baha'i
6 and Hindu and Jain, Islamic, Jewish, Latter Day Saints,
7 Protestant, Roman Catholic and Sikh faiths, and they
8 joined in an important statement and stood with Muslim
9 and Sikh victims at the historic Islamic Center in
10 Washington, taking the next steps in restoring the
11 fabric of our community, a faith-based response to the
12 rising tide of hate violence.

13 The statement quoted in part the words of the
14 Very Reverend Nathan Baxter, Dean of the Washington
15 National Cathedral from a sermon he had preached after
16 9/11. Quote: We must remember that evil does not wear
17 a turban, a tunic, a yarmulke or a cross. Evil wears
18 the garment of a human heart, a garment woven from the
19 threads of hate and fear.

20 The religious leaders in this region
21 continued. We commit ourselves to take important steps
22 to help heal the wounds caused by these hateful actions
23 and to deepen the understanding and appreciation among
24 our members of diverse faiths. We commit ourselves and
25 our faith traditions in this region to reflect upon and

1 of that.

2 Just since January 1st of this year, we have
3 worked with 30 congregations, schools and community
4 groups providing speakers and consulting on how to
5 build bridges among faith traditions that are sometimes
6 fighting elsewhere. A list is attached. All of the 86
7 participants in these classes and panels and other
8 programs have volunteered their time, and we are
9 especially indebted to the Muslim community, including
10 two of those here today on the panel, Yahya Hindi and
11 Sana, who have contributed the largest number of our
12 outside speakers.

13 Overwhelmingly it is main-line Protestant
14 congregations who hosted speakers of other faiths on a
15 one-time basis over a series of three to seven weeks.
16 We worked with one Islamic institution, one Catholic
17 church, one African American church and one African
18 American clergy association. And I would say that part
19 of the challenge is to broaden that base and to broaden
20 the teaching of other religions within Islam and
21 Islamic institutions; to do so within Catholic churches
22 where there's been much less of that going on; to build
23 more bridges with synagogues and other faith
24 communities.

25 We also consulted with the City of

1 Gaithersburg in developing a one-hour presentation on
2 the religious diversity of that city that will be used
3 in the Fall before the mayor and city council.

4 The calls and emails for speakers and
5 informal consultations last Fall were so numerous that
6 we lost all count of them.

7 I haven't researched this, but my hunch is
8 that the 30 congregations and groups we have spoken to
9 or provided speakers for in the last four months is a
10 rate at least four times anything that we have done in
11 the previous 23 years. And this vividly demonstrates a
12 key opportunity of 9/11, and the leadership which the
13 religious community is providing in educating about
14 other faiths, especially Islam.

15 And yet, although it's not a civil rights
16 issue, I raise it because it is an issue that affects
17 many, many non-profit organizations. We, like them,
18 are faced with serious financial shortfalls because of
19 9/11. We have had to meet increased demands while
20 having to reduce our staff.

21 In our case, with our largest program and
22 annual fundraiser, the 22nd Annual Interface Concert,
23 always a celebration of the sacred in song, dance and
24 chant, last year our remembrance of the sacred in song,
25 dance and chant and a particularly powerful program

1 sponsoring of three \$1,000 scholarships for the best
2 essay by a high school, college and graduate school
3 student. And many of those essays will certainly be
4 dealing with the issues that you are wrestling with
5 these two days.

6 The lecture and those winning essays will be
7 published. We'd be delighted to share copies of them
8 with you.

9 We will also have a follow-up dialogue on
10 September 24, a Tuesday evening, on the theme Mending
11 the Circle After 9/11, and it too will address in part
12 the civil rights concerns which are the focus of this
13 two-day forum.

14 I will have tickets which are free but
15 recommended because it's likely to be a sell-out crowd,
16 or a free-out crowd, whatever you say about that. So
17 please see me at the break if you'd like tickets or
18 information on the scholarship contest or flyers.

19 The Interfaith Conference is also working
20 with the First Amendment Center of the Freedom Forum to
21 train teachers, curriculum supervisors, school board
22 members and others in the appropriate teaching about
23 religion in the public, private and parochial schools.

24 Last August, for example, we jointly trained
25 85 Arlington County social studies teachers and we

1 because of 9/11. And yet it raised half of the income
2 from the previous year and a third of our projections.

3 September 11 has also defined the topic of
4 our second Richard Snowden lecture, a free Spring
5 program focused on some aspect of social and economic
6 justice from the perspective of diverse faiths.

7 Cardinal McCarrick was originally scheduled to speak on
8 poverty. He will speak on Monday instead at Georgetown
9 University on Living our Faith Since 9/11: Challenges
10 and Opportunities. And as he prepared, he deeply
11 appreciated the meeting we arranged for him last week
12 with four leading religious leaders -- two Muslims, a
13 Jew and a Sikh -- to help get new insights into his
14 topic.

15 And Cardinal McCarrick will also be helping
16 us honor Dr. Sulliman Yang, who could not make today's
17 panel, for his extraordinary leadership over many, many
18 years in encouraging Muslims to become more involved in
19 interfaith work and to deepen the understanding of
20 Islam among non-Muslims.

21 And yes, the Cardinal will be back from Rome
22 in time to speak.

23 This annual event is designed to be a lecture
24 with legs. That is, with follow-up activities. And so
25 part of this lecture will be the Washington Post

1 forward to our next training with persons from many
2 school systems to multiply many fold the impact we can
3 have on high school students.

4 We appreciate the chance to participate in
5 this opening panel and sharing our experiences since
6 September 11 with the very broad religious community in
7 this metropolitan area. I hope my testimony has been
8 helpful and we certainly look forward to other ways of
9 collaborating together with the Maryland, D.C. and
10 Virginia Advisory Commissions and the U.S. Civil Rights
11 Commission.

12 Thank you.

13 MS. LEMKE: Thank you.

14 MR. LOBENSTINE: If I might add one other
15 thing. A significant resource is the last page of your
16 testimony called the Public Conversations Project.
17 They have developed two 35-40 page documents,
18 constructive conversations about challenging times, a
19 guide to community dialogue and a guide to family
20 dialogue. You can download them off the web. And I
21 would encourage the exploration of them as useful
22 materials for the work that you do.

23 MS. LEMKE: Thank you.

24 I'd like to thank our panelists for
25 elucidating us today. We've seen that we have many more

1 similarities than differences and that it's quite a
2 complex issue.

3 I would like to open the floor now for,
4 first, questions from the Committee members and, after
5 a reasonable period of time, I will then open the floor
6 for questions to the panelists from the audience.

7 Please, if you will, address your question to
8 a particular panelist so that we might now have a
9 traffic jam in order to answer.

10 MR. PATRICK: This is Richard Patrick, and
11 this question goes to Professor Haddad.

12 Your comments centered around policy
13 differences. Let's accept your thesis. And if your
14 thesis is correct, how can we improve the climate, if
15 you will, from the standpoint of a quote/unquote better
16 understanding of the Muslim community if on the one
17 hand we have what are perceived as religious
18 difference; on the other hand, we have these so-called
19 policies out there that are in themselves political.

20 MS. HADDAD: That's actually a very good
21 question. It's one that we've grappled with and
22 thought about.

23 The Muslims really have no access to the
24 government. Under President Clinton, he had some
25 parties for them. He would have them to dinner once a

1 year. And it was sort of, you know, public relations.
2 But they have no input into our policy. In fact, even
3 an Arab American who was going to be put on one of the
4 Commissions, he was drummed out by some lobbies.

5 So, today, the Arab Christians and the
6 Muslims feel that they have been disenfranchised. The
7 money they donate to political candidates is returned
8 to them because nobody wants to be polluted by Arab
9 money.

10 They're trying to figure out how they can
11 become included. You have three commissions. There
12 isn't a single Arab American or Muslim on them on human
13 rights here. I've never looked into this. This is not
14 my area. I don't delve in this kind of stuff.

15 Lately I've been writing about 9/11 and I'm
16 beginning to see that it's not only the policy issue.
17 There's something that is happening that we haven't
18 looked at.

19 I used to write my books thinking about this,
20 that the Muslims were on the same trajectory as other
21 religions. Pilgrim fathers founded Massachusetts.
22 They didn't like Catholics or Jews or Presbyterians.
23 But eventually the Catholics were able to carve a space
24 in America. The Jews were able to carve a space in
25 America. And I'm thinking maybe the Muslims will.

1 But after 9/11, I've got to look at them in a
2 totally different way. I've got to look at them the
3 way American history did blacks. I have to look at the
4 way American history did the Germans during World War
5 I. I never heard about what happened to the Germans.
6 It was a new experience for me. An old guy told me you
7 should look at what our ancestors have gone through.
8 And I've been looking at some of this stuff: the
9 lynching, hanging, tarring and feathering, so on and so
10 forth. And I didn't know that part of American
11 history.

12 I have to look at the experience of the
13 Japanese during World War II and also of the Jewish
14 Marxists during the McCarthy era, frankly, because
15 there are people that were -- you know, in March when
16 several of the government agencies went in and in a
17 sense totally wiped out the credibility of the Muslim
18 leadership in the United States in Virginia because the
19 leadership was in Northern Virginia. And they went
20 into their homes. They took everything they had.

21 It used to be -- you know, after Oklahoma
22 City, President Clinton said you can't blame the Arabs
23 and the Muslims. You have to wait. And people were
24 looking. But soon afterwards there was this act which
25 provided profiling of terrorists. And it wasn't

1 Timothy McVeigh that was being profiled. It was Arab
2 Americans and Muslim Americans who were stopped at
3 airports and were searched.

4 And now we have this new act, which is called
5 the Patriot Act. And it used to be that you could be
6 arrested with secret evidence. Now, it's no evidence.
7 So it's not only foreign policy, it's domestic policy
8 that the Arabs and the Muslims are being targeted as
9 exceptionally threatening parts of American society.
10 And it isn't my field.

11 I'm glad you're getting some people who are
12 into this kind of stuff. I don't know law. I'm a
13 historian. People in the history people would say,
14 what are you talking about now. This is not history.

15 MR. PATRICK: Thanks, Professor. And just as
16 an aside, the Virginia Advisory Committee, in the last
17 term we had one professor and one lawyer who were both
18 Arab Americans who served on the Virginia Advisory
19 Committee.

20 MR. JIN: And on that point, just for the
21 public record, I'd like to say that it is true what our
22 Chairperson has said. That we have had members of the
23 advisory committee who are Middle Eastern. Not only
24 that, this is the point I was trying to share with you.
25 We have made an extensive outreach efforts to include.

1 That is to say we have made phone calls. We have
2 written to them that there s an opportunity and we want
3 them, and no reply.

4 MS. HADDAD: They re scared.

5 MR. JIN: It was not necessarily because of
6 that. So from the standpoint of a public official in
7 this capacity where you can create an opportunity, you
8 make a reasonable -- I would say even best outreach
9 efforts. There s no response. Then there s hardly
10 anyone we can turn to.

11 So it is true that on the surface it may look
12 as if there has been some insensitivity or
13 unwillingness to accommodate, but in this particular
14 case, I would just like you to know that ours was
15 contrary to the case.

16 MS. HADDAD: I appreciate that.

17 MR. KIRMANI: I d like to add something to
18 these remarks. May I?

19 MS. LEMKE: Yes.

20 MR. KIRMANI: I think we have to realize from
21 what Professor Haddad was saying that recent events and
22 the response that has been the majority response, and
23 partly the government response, has really sent a chill
24 in the Muslim community. And I speak of it
25 particularly from -- since I teach, I m in touch with

1 pulled out, hauled out, put to jail, God knows what
2 else.

3 So it is that kind of fear that has created.
4 So I hope in your effort that many more people w
5 respond, but I think that somehow, somewhere, the
6 atmosphere has to be made a little more congenial.

7 Whether it is a matter of time, I do not
8 know.

9 MS. LEMKE: Thank you.

10 MR. HINDI: Just one very small remark about
11 this.

12 MS. LEMKE: Yes.

13 MR. HINDI: What happened in March when those
14 Muslim homes were raided, what really frustrated the
15 Muslim community is that those people who were
16 humiliated and dehumanized by our agencies are not the
17 people who are known with extreme agendas.

18 Taking Dr. Alwani, who has been traveling
19 from state to state, mosque to mosque, country to
20 country talking about that America is the best country
21 in the world, making sure that Muslims feel that way,
22 think that way. When he came up with his fatwa that
23 Dr. Haddad spoke about, people thought that he was paid
24 for to say what he said in his fatwa, asking Muslims to
25 fight in our military in Afghanistan against terrorism

1 students -- from the point of view of young students
2 who are Muslims.

3 I know cases where after the event, one
4 student did not come out of his house for two weeks and
5 we had to go and fetch him and see if we could provide
6 food to him.

7 I know of children who go to schools and are
8 afraid to contribute to social studies classes by
9 saying that they are Muslims.

10 I also know that there is a reluctance on the
11 part of qualified Muslims to volunteer or to bring
12 themselves forward for such kinds of activities that
13 you are kind enough to call them. It is not apathy.
14 It really is a truly -- a concern for the family,
15 because they think -- I mean, almost one could say this
16 kind of concern almost veers on the ridiculous
17 sometimes because I know people who are afraid to talk
18 on the telephone because they think their phones are
19 tapped.

20 I know people who are afraid to -- the Friday
21 congregational prayers the Muslims have used to be in
22 one university that I m aware of. Fifty, sixty people
23 used to come. Today, only 15 people come because
24 people just simply would not want to associate
25 themselves because they think they are going to be

1 What happened to his wife when she was, for
2 seven hours in her sleeping clothes, not allowed to
3 cover her head, when cupboards were broken in, when TVs
4 were broken, this is the kind of message. What kind of
5 message is that sending out?

6 I just came back to the city from a two-week
7 trip with our State Department, lecturing in other
8 countries about how great Muslims are doing in America.
9 But I was shocked that every Muslim in this country
10 knew what happened and they came back saying, Imam
11 Hindi, how do you accept what happened to Alwani; how
12 do you accept what happened to --

13 No one can come up with clear answers.

14 MS. HADDAD: I just did for the State
15 Department two interviews; one with Nairobi, one with
16 Kampala. And there were five reporters in each place.
17 And those were the questions they were asking. Why do
18 Americans hate Islam? And they were talking about the
19 raids.

20 MS. LEMKE: I need to take another question,
21 first from Mr. Wickwire and then from Mr. Zapant

22 MR. WICKWIRE: One question. And I don t wa
23 you to answer it yet, Mr. Lobenstine, but this
24 question.

25 There s something from the Koran: Do you

1 know, oh, people, that I have made you into tribes and
2 nations that you may know each other.

3 And I wanted to know how you feel that things
4 are really moving.

5 But the second question I have. What do you
6 do -- and I would like to address this to Mr. Sacirby,
7 Interim Director of the American Muslim Council -- when
8 Attorney General John Ashcroft makes a statement like
9 this: Islam is a religion in which God requires you to
10 send your son to die for him. Christianity is a faith
11 in which God sends his son to die for you.

12 And then somebody like Pat Robertson, who I
13 understand now is also raising horses. But Mr.
14 Robertson says, I've taken issue with our esteemed
15 President in regard to his stand of saying Islam is a
16 peaceful religion. And the Koran makes it very clear.
17 If you see an infidel, you're to kill him. That's what
18 it says.

19 Now, that doesn't sound very peaceful to me.
20 And then Franklin Graham and his father, Billy, they
21 get off what to me are crazy statements. But how do
22 you deal with something like this when we find it at
23 pretty high levels in our country?

24 MR. SACIRBY: I'm concerned about image of
25 America. I received letters from different countries.

1 They ask me, Are you still alive? What is going on
2 with you? Because such statements are sent by TV, by
3 radio, by emails and newspaper all over the world. And
4 they are a reflection of American thinking.

5 These are anti-American statements. I
6 condemn them as American because we choose this country
7 and we are not sick. We separate country and the
8 people of this country. It means we choose people of
9 this country, too, as our neighbor, as our brothers and
10 co-citizens.

11 When John Ashcroft gives that statement, put
12 his name aside. If I will hear this statement from
13 anyone, I would say what kind of ignorant. Shame of
14 him. Because he's trying to diminish America. American
15 Muslims are part of America. Without us, America will
16 be smaller.

17 He's trying to disintegrate this country, to
18 polarize -- one this, one that. We are for united
19 America. We love this country. There is no Muslim
20 organization in this country that didn't condemn
21 terrorist attacks. There are other parts of America
22 without these ignorant uncivilized people as Pat
23 Robertson or Franklin Graham about whom I will just
24 take one minute to read to you.

25 I was in Dayton. There is a beautiful mosque

1 there and school. And I found -- and I write with my
2 handwriting, because it was not copy machine --
3 certificate of friendship. The members of Peace
4 Lutheran Church wish to assure the staff and members of
5 the Islamic community that we are grateful that they
6 are part of the Beaver Creek community and that we will
7 not tolerate unloving words, actions, attitudes from
8 anyone who seeks to harm; intimidate or do anything to
9 make them feel unwelcome.

10 Our scripture -- it means Bible -- tell us to
11 love our neighbors as we love ourselves and to work
12 hard at living in peace with everyone. We want the
13 students of Bright Horizons School -- it is the name of
14 Muslim school -- to know they are loved. And we pray
15 that we will all be able to live in peace with each
16 other.

17 This is America.

18 MS. LEMKE: We need to move on.

19 MR. SACIRBY: Thank you very much for your
20 question.

21 MS. LEMKE: Need to move on to Mr. Zapanta's
22 question, please.

23 MR. ZAPANTA: Thank you.

24 First of all, let me thank you for just
25 excellent presentations. In fact, opened my eyes to

1 some things that I may or may not have been thinking
2 about.

3 I've been trying to get information by
4 reading a lot of the books. One I just finished,
5 Samuel P. Huntington's Clash of Civilizations. And
6 I'm going to be interested to see what Professor Haddad
7 has to say.

8 But it's pretty obvious to me as you look at
9 the movement from 1900 to 2000, the growth of the
10 religions, and those of us in the West versus the rest
11 of the world. And the bipolar Cold War going into a
12 multi-fragmenting of what was then pretty much three
13 entities; Communist China, Soviet Union Communists and
14 the West, and all others on the periphery.

15 What starts to ring is that as you also start
16 to look at the population shifts and religion shifts,
17 I'm really struck by a couple of really interesting
18 numbers.

19 First of all, at the turn of the century, a
20 hundred-years ago, or 1900, there were less than one
21 percent atheist and non-religious people in the world.
22 There's over 20 percent now. So there's a trend going
23 on about that whole process of religion and where it
24 plays. And looking at both Christian Orthodox versus
25 Muslim, Hindu and looking at China from 1900 with a

1 religious percent of the world of 23 percent, less than
2 two percent Chinese folk.

3 So there s some major shifts going on that we
4 are feeling at this point.

5 And I m also struck by where we get the term
6 zealot, which was one of the first recorded terrorists
7 of a Jew upon the Romans. So terrorists are not only
8 Muslims. It also goes throughout the history of our
9 world.

10 The question that I have is in trying to
11 understand what the characteristics of what the West or
12 the Western world is versus -- and I don t mean it
13 against, but I mean it at looking at a profile.

14 Huntington talks about what are those characteristics.
15 And I d like to then ask you to lay out what are the
16 characteristics of the Islamic world or Muslim world.

17 He says that it s basically Christian
18 religion and nature. It s European language. It
19 includes French, Spanish, et cetera. It s the rule of
20 law. It is the separation of church and state, which I
21 think is a very fundamental difference, but I d like to
22 hear what you say between the two.

23 Social pluralism, representative government,
24 democracy, and individualism, human rights, civil
25 rights, equal rights. And so I would ask the group if

1 you would respond and if you would help me understand
2 what are the characteristics so that I understand Islam
3 and the Muslim community as a juxtaposition to the
4 Western world.

5 MS. HADDAD: Let me start with the clash of
6 civilization. Mr. Huntington is a professor at
7 Harvard. And when Harvard speaks, people listen.
8 Nobody has checked out that his previous predictions
9 have all failed, literally.

10 He s a political scientist who predicts. I m
11 a historian who always analyzes. We clean up after.

12 Basically, what did he set up --

13 MR. ZAPANTA: Fukiyama says the same thing.

14 MS. HADDAD: I haven t read Fukiyama.

15 But basically, Mr. Huntington was more
16 popular among fundamentalist Muslims overseas than he
17 was in the United States. He was invited to Saudi
18 Arabia, wined and dined, given multi-thousand dollar
19 honoraria because here is somebody who is validating
20 what they always thought.

21 And if you look at Islam in the 20th Century,
22 it is totally different than the 19th Century. And Mr.
23 Huntington doesn t know anything about Islam in the
24 20th Century.

25 MR. ZAPANTA: I think you for your comments,

1 but he s not the question.

2 MS. HADDAD: Okay. Let me go to what happened
3 to Islam in the 20th Century, which I think is very
4 important because you have other people, like Berna...
5 Lewis and some other people from the think tanks v
6 were pontificating about Islam. But what they re
7 talking about is Islam of the 19th Century.

8 And my specialty really is Islam in the 20th
9 Century. I did Muslims in America as an afterthought
10 because I realized that we have become in the United
11 States a place where new Islam was being manufactured.
12 Because we became the intellectual center of Islam in
13 the world.

14 It used to be France until 1950. But as
15 Muslim intellectuals came to America they began to
16 export new ideas overseas. So I was tracking what
17 America was doing to Islam.

18 But let me go back to what happened to Islam.
19 Islam became a very modern religion in the 20th
20 Century. If somebody woke up from the 19th Century, he
21 would not recognize it. Nineteenth Century Islam
22 believed in predestination. If somebody ruled you,
23 wiped you out, it s God s will. There s nothing you
24 can do about it. Accept it.

25 Today, there is a verse in the Koran that is

1 used quite often. It says God will not change what i
2 in a people until they change what is in themselves.
3 And it became the ethos from which they were able too
4 create resistance movements against European
5 colonization.

6 But what they did in the process is they got
7 rid of this dependence on the idea of predestination
8 and they took on the burden of history and said we are
9 responsible for our condition. If our condition isn t
10 good, we have to change it because God is not going to
11 help somebody who doesn t help himself. And there was
12 a saying like that.

13 So that to say that Europe is Christian
14 religion is nonsense. Because if you look at the
15 world s statistics today, you ll find that two-thirds
16 of the Christians of the world are non-European. There
17 are more Christians in Asia, Latin America and Africa.
18 Even the World Council of Churches had to deal with
19 this. So that now you have a lot of Africans.
20 Christianity is being renegotiated, remediated. There
21 are more Koreans coming in who are Christian. The
22 changing the Presbyterian church in America. Soon
23 there will be more Korean Presbyterians than there a
24 Anglo, and so on and so forth.

25 The world is changing. He doesn t take care

1 of that.

2 There are more Muslims moving into Europe.
3 If you don't count East Europe, in West Europe they're
4 the second religion in all these European countries.

5 The last books I edited, came out two weeks
6 ago, focus on this. They have separation of religion
7 and state in Europe but in each state it is different.
8 And the Muslims have had to adjust to it.

9 For example, in Europe, if you go to Holland,
10 if you go to Sweden, if you go to Germany, you have the
11 government subsidizing religion. They collect taxes
12 and they pay the imams salaries. They pay for building
13 of mosques. It's totally different. He doesn't even
14 know what he's talking about. He's talking about
15 Europe of the 19th Century.

16 MR. ZAPANTA: Can I please ask you not to deal
17 with Professor Huntington? I asked a very basic
18 question of what are the characteristics of a Muslim.
19 And if you would help me with that, I would appreciate
20 it.

21 MS. HADDAD: I will. If you look at the
22 question he asked, Mr. Lobenstine, about the Koran. In
23 the Koran, there are four verses that say had God
24 willed, he would have made you one nation. And there
25 is a verse that says that we have created you as nation

1 and tribes that you may know one another. It doesn't
2 say that you may fight one another.

3 So basically, it is God's will that there
4 will be nations and tribes and different people, and
5 the Koran says then compete in righteousness. Because
6 on the day of judgment, according to Islam, people will
7 come and say this is what we did to help bring about a
8 moral order or a just order.

9 Now, what happens is that there is a certain
10 type of Islam that was developed specifically to combat
11 Communism. And this is the kind of Islam that Osama
12 Bin Laden and there are some others. I can document
13 it. I teach a course on this. This is an Islam that
14 was specifically encouraged by our government.

15 Basically, we did not want them, the Muslims,
16 to be neutral, because the Cold War was between us and
17 the Communists and we saw Islam as a great wall against
18 the spread of Communism.

19 We supported Bin Laden. We built up his
20 infrastructure. We provided them with training, with
21 arms, and we encouraged that kind of Islam because it
22 says, just as Communism said we have to rule the world,
23 we have to wipe out all other systems, you have people
24 like Azam and some of the others who were the
25 intellectuals who said Islam has to be a system that

1 wipes out all other systems.

2 MR. ZAPANTA: Professor, I hate to be rude to
3 you.

4 MS. HADDAD: That's fine.

5 MR. ZAPANTA: I'm not here to hear your
6 lecture. I'm here to hear an answer to a question that
7 I thought I put forth.

8 MS. HADDAD: I was answering your question.

9 MR. ZAPANTA: You're getting there, but I'm
10 trying to ask what -- and I'd like to hear from other
11 people, too, because it's important that I understand,
12 and I think other people want to understand what is our
13 differences. And maybe we can start to understand how
14 we can come together.

15 MS. HADDAD: I was trying to explain that
16 there are none. But that's okay.

17 MR. ZAPANTA: No. If you say there's none,
18 then I --

19 MS. HADDAD: Let somebody talk about it.

20 MR. ZAPANTA: Would somebody else like to
21 talk?

22 MR. KIRMANI: I'll say a few words.

23 I don't think we have really a whole day to
24 talk about these things, but your question is so very
25 basic and very important that I think that somehow I

1 wish we had a whole day to talk about it because that
2 really gets to the heart of the matter.

3 I was just last year or a year and a half ago
4 in Indonesia, which is a Muslim country. I wrote a
5 paper on democracy and Islam; is it possible.

6 Yes, on the face of it, there is no apparent
7 separation between church and state in Islam. But the
8 secular country that we have here in the United States,
9 we are secular people, we have a separation of church
10 and state.

11 It does not mean that the secularism somehow
12 is an outright denial of God because we are a very
13 religious country at the same time. I guess what we
14 don't do is we have our government support, build, help
15 or decide what religious institutions are going to do.

16 In Islamic situation, the whole civilization
17 started with a religious reform and because it started
18 with religious reform, religion and the word of God was
19 taken as directly involving the acts of mankind.

20 And so we have that situation in Islam. That
21 does not mean that necessarily the Muslim government or
22 Muslims have to be committed to supporting their own
23 particular faith. In Muslim countries, if we bracket
24 what has happened in some countries now, for example,
25 in some Muslim countries Christians are having a very

1 rough time. Some of that is done under the name of
2 Islam but any Muslim scholar worth his or her salt will
3 see right through it, that this is not according to
4 Islamic traditions.

5 Certainly the Koran says in Chapter 2, verse
6 number 62, that those who do the righteous things,
7 whether they be Jews or Muslims or Christians or
8 sabiens (sp), which could probably mean any other
9 faith, that they have nothing to fear.

10 Muslims in their history have always -- in
11 Spain, the Jews prospered. When the Muslims took over
12 some other countries, there was a concerted effort not
13 to have other religions kill each other off but have
14 peace between religious situations.

15 What has happened to Islam is unfortunate in
16 history because there has been so much colonialism,
17 reaction to colonialism, that any idea practically that
18 smelled of it, was somehow shelved. And partly
19 external policies were made where, for expedient
20 purposes of fighting Communism or what have you, people
21 who are otherwise rational supported governments that
22 were dictatorial. And that is a tragedy I think in
23 Islamic and Muslim countries. That people who knew
24 better supported those other people who ruled those
25 countries, that then did whatever they wanted under the

1 name of fighting Communism or whatever you have, where
2 they could do anything they wanted to do. That was
3 very unfortunate. And somehow our name as Americans,
4 as United States name somehow was associated with some
5 of those people.

6 MS. LEMKE: Excuse me. I m sorry.

7 I think in the interest of time I need to
8 move on. We have quite a queue of questions.

9 Reverend Sands?

10 MR. SANDS: Yes. Doug Sands.

11 I have a question I d like to ask Professor
12 Kirmani. In your discussion -- I want to say how much
13 I appreciate what all of you have done in the limited
14 amount of time that you ve been given. But you spoke
15 of the fact that we needed more dialogue. And I m
16 certain that everybody here would agree with that.

17 At the same time, I d like to hear your views
18 about what might be the more appropriate agency for it.
19 You have suggested that it needs to take place broader
20 than what we re doing, but you can see that it took a
21 great deal of effort for us to get the limited dialogue
22 that we re getting today. And there s always the risk
23 of leaving with even greater misunderstanding because
24 our dialogue is so limited and you ve opened up so many
25 different theses that we cannot explore.

1 But you are from academia. Does that
2 represent an approach that we might expect that more of
3 our universities would be involved in this kind of
4 dialogue?

5 MR. KIRMANI: As an academic, I must say that
6 this kind of very lively dialogue is not necessarily
7 part of our duties. We are more devoted to reading
8 books and writing about it and so forth and teaching.
9 But I do think that there is needed dialogue.

10 Let me give you some examples.

11 Recently in a university in Maryland, at
12 Towson, I was there and they had a Seder, which is a
13 Jewish festival, and they called it a peace Seder. And
14 in which Jews and Muslims together celebrated Seder.

15 I think that our country, of any other
16 countries, perhaps our country affords a situation, an
17 environment in which we can promote such getting to
18 know each other. Because I think most of the
19 difficulties that we have is because we are thought of
20 as strangers.

21 I suspect you; you suspect me, because you
22 don t know me and I don t know you.

23 I think that the government agencies within
24 Departments of Agriculture, within Department of
25 Commerce and so on and so forth there must be people

1 who are Muslims who work there. And I think that maybe
2 those agencies internally could promote dialogue
3 between their workers and the other Muslim workers.
4 That is one way I think of doing that.

5 I think perhaps under the aegis of the U.S.
6 Commission of Civil Rights, where you have maybe a
7 broader opportunity to reach out to the public because
8 of your charter, you can do things that maybe some
9 other departments cannot. Like this dialogue.

10 You can make it possible to hold dialogues
11 under your aegis with your blessings in many different
12 places: in schools, dialogue held by U.S. Commission on
13 Civil Rights; to have a dialogue in a high school
14 between Muslims, Christians and Jews and Hindus and
15 Sikhs and what have you; in colleges, to promote this
16 kind of thing.

17 And still I think we can keep the church and
18 state separate because we are trying to promote not a
19 church but we are trying to promote understanding among
20 citizens.

21 I have a lot to say on that but I will hold
22 back.

23 MS. LEMKE: Thank you.

24 Imam Hindi.

25 MR. HINDI: To add to what my colleague said

1 here, I think schools have a lot to do. I have myself
2 participated in a quite good number of events sponsored
3 at schools where they invited me and clergymen and
4 women from other communities to speak about what we
5 share, to speak about our agendas for the future.

6 And I have seen honestly great deal of
7 success that I have not seen before September 11.
8 Churches or Christians in general, religious
9 institutions or worship sites could also play a role in
10 that.

11 I have given over 350 lectures after
12 September 11 at religious institutions. I would say 70
13 percent of them were with other clergy of other
14 religions speaking about our civil rights, speaking
15 about how to dialogue, speaking about -- giving the
16 audience some kind of guidelines of how to dialogue,
17 how to understand each other and how to bring about
18 less hatred and more love and acceptance.

19 Public libraries can also play a good role in
20 that. Classes. I just finished teaching a class along
21 with a rabbi and a priest at Georgetown University.
22 It s called the History of Spirituality. The three of
23 us are there every week for three hours and we divide
24 the three hours into like 15 minutes, 15 minutes, 15
25 minutes, then open dialogue between the students and

1 the three instructors on a certain theme every week.

2 As we got the evaluation late last night, I
3 would say 99 percent of the students were asking to
4 have this be done again.

5 One of the questions was: Would you attend
6 such a class if it were to be given at the public
7 space? And 100 percent of them said yes.

8 So I think doing something of that sort
9 elsewhere would be very, very helpful.

10 Thank you.

11 MS. LEMKE: Mr. Chun had a question.

12 MR. CHUN: I think this is my only change. I
13 will be very selective here.

14 In one sense I have too many questions I
15 would like to ask but in the interest of time, I guess
16 I have to limit it to one, so let me make it a two-
17 sided question, if I may.

18 One is you have spoken about various sources
19 of this misfortune that we all face as a society,
20 mistaken notions or premises -- I m thinking about what
21 you said -- and the alleged hatred about anti-
22 Americanism and some of the unfortunate conduct of
23 public officials and all that. Put that together. But
24 we have a serious situation here.

25 So I m asking on one side, do we know

1 something about so-called misunderstanding about Islam
2 as a function of some definable demographic
3 characteristics or is it just all across the board?

4 If we know where it comes from, is it among
5 the, shall we say opinion leaders? Is it more so with
6 the less educated? Is it more so with certain atheists
7 or certain religious groups?

8 If, to the extent we can identify the profile
9 of anti- or mis-Islamic understanding, that I think may
10 begin to give us an idea of how to cope with this. And
11 I haven t heard or learned anything about that kind of
12 a sophisticated survey, analytic survey.

13 So if you know, I d be very much interested
14 in hearing about that.

15 And the other side of the question is, yes,
16 dialogue is needed. But I think we all have limits
17 both as individuals and as public institutions,
18 whatever organizations we belong to. Advisory
19 Committee certainly has more than its share of
20 restrictions, starting with resources and whatnot.

21 So the question really boils down to -- I
22 mean, democracy, they say is the worst form of
23 government but the best we have. And I think we have
24 to live with that. And in that light I take some of
25 the concerns or even the fear that you spoke of very

1 seriously.

2 So the question then becomes what can we as
3 Advisory Committees to the U.S. Commission Civil
4 Rights, what can we do to allay that fear that you
5 spoke about? Because in my view, participation is an
6 essential ingredient in the democratic process. Not
7 that participation leads to anywhere. I m not that
8 naive to believe that. But like it or not, since we
9 have a democratic process in place and that we are all
10 abiding by and following, participation we just cannot
11 ignore.

12 So the question then becomes I don t see how
13 anybody can become a participant if there is this
14 inhibiting overwhelming fear. So I m asking you as a
15 panel who have thought about this problem, what can be
16 done. What can we do.

17 MR. HINDI: Only very briefly, I would say you
18 have to engage the leaders of the communities in this
19 process. I talked about the 350, but I also spoke with
20 other colleagues about speeches they have given
21 elsewhere. And I tried to study what is really going
22 on; who is inviting the Muslim community to come in and
23 speak.

24 And I came up with three Christian well-known
25 entities in the U.S.A. that have been doing this

1 throughout the nation, coast to coast. And I went back
2 and studied their websites to discover that the leaders
3 of these three very well-known religious entities made
4 the effort of asking their memberships everywhere in
5 the country to reach out to Muslims.

6 And therefore, the leadership has to be
7 engaged with you.

8 I know you have limited resources of money,
9 of personnel and this and that, but if you engage the
10 leadership in each community, it will become the role
11 of that leadership to go back to their local
12 communities and get more activity.

13 The other thing is about your first answer.
14 I think it depends on the experience one would have. I
15 might say, well, I think religious communities seem to
16 be more interested in dialogue than politicians.
17 Others may say no, politicians sound to be more
18 interested. It depends on the experience one comes
19 from.

20 Thank you.

21 MR. KIRMANI: Dr. Chun, I have what might seem
22 like a simplistic answer to the second part of your
23 question.

24 MR. CHUN: That's a good place to start.

25 MR. KIRMANI: And that is when people are

1 MR. KIRMANI: Well, let's take a look at how
2 many people there are here. There aren't that many
3 people. Today is a working day and many people
4 working, so many, many people in my community
5 are a lot of doctors and lawyers and teachers and
6 professors, but many are taxi drivers and many people
7 work in airports and so on and so forth, and they don't
8 have that kind of facility that perhaps I do in terms
9 of canceling my class. I've got to go over there.

10 They cannot do that.

11 So maybe we could have meeting like this
12 maybe after hours. Maybe we don't have to have the
13 meeting in a place which is obviously very official and
14 so on and so forth, but maybe in a more -- this is a
15 very congenial place so I'm looking for a word.

16 MR. LOBENSTINE: Have it in a mosque.

17 MR. KIRMANI: Not in a mosque. In a school
18 maybe.

19 MR. LOBENSTINE: Or a mosque or a community
20 college.

21 MR. KIRMANI: A high school or so forth.

22 The other thing is what your difficulty is --
23 I really sympathize with that difficulty. I don't know
24 what to help you with that one. As Imam Hindi has
25 said, get to the leaders.

1 afraid, and my own children, for example, when they are
2 afraid about something at home, I find I have to
3 constantly reassure them that they will not be harmed.

4 And I think that's on the part of an official
5 like yourself or somebody who is a public figure, an
6 assurance to the Muslim community that you can in fact
7 talk openly in the United States and you will not be
8 harmed.

9 I think that as simple as that is going to
10 bring some people out to talk about it.

11 MR. CHUN: How can we mobilize or encourage
12 attendance of members of the affected communities to
13 attend such events. For instance, this morning it is a
14 small effort on our part, even though a lot went into
15 planning. Well, you look around at the cross-section
16 of the audience we have, there aren't too many -- I'd
17 say less than half of the attendees are persons of the
18 affected communities.

19 We've done our best. We've sent out more
20 than a thousand press notices and made lots of lots of
21 phone calls. So we've reached our limits in terms of
22 reaching out. Yet, I hear you.

23 So how do we -- what are the possible ways we
24 can try to encourage that participation so that we can
25 really do the kinds of things you're recommending?

1 It's so difficult to find leaders. Who's the
2 leader in the Muslim community? That's such a vexing
3 problem and I fully sympathize with that one.

4 There are many, many people; many, many
5 institution; many directors; many presidents. Who is
6 the leader? I don't know. I think we just have to go
7 and approach them all.

8 The other thing is that I think we need to
9 involve young people, students, high school students,
10 so on and so forth, somehow to get into this act. And
11 we need to reach out to people who are going to be
12 highly opposed to what we're doing because there's not
13 much fun -- you don't get anywhere preaching to the
14 choir. What we want to do is talk to people who will
15 really stand up and say, You damn Muslims, what the
16 heck you are doing here. You are polluting our
17 country. Get out of here.

18 That's the kind of person I want to talk to.

19 MS. LEMKE: Mr. Lobenstine had a comment.

20 MR. LOBENSTINE: Too, in response to your
21 comment about -- Diane Neck has a wonderful quote
22 the work that she's done, and she knows more about
23 religious pluralism than anybody else in America from
24 her four-year leadership at the Harvard Center for the
25 Study of Religions, a project there.

1 And she has said that the world is most
2 deeply divided not between those of different religions
3 but between those of each religious tradition who hold
4 their faith in an open-handed and generous way and
5 those in each religious tradition who hold their faith
6 in a closed-fisted and narrow way.

7 It is the difference between those who feel
8 firmly grounded in their faith by virtue of building
9 walls and those who feel firmly grounded in their faith
10 by virtue of deep roots.

11 Sana Kirmani and I shared the podium recently
12 at a church, and he shed some new light on that passage
13 for me. And he said that because of colonialism, Islam
14 really had to be in the camp of those who built walls
15 because in the midst of all the humiliation and
16 degradation of colonialism, that was one thing they
17 could hold on to.

18 So I think part of that challenge for Muslims
19 today is to move from that position to one of greater
20 readiness for dialogue and interaction.

21 At yesterday s conference, Muslims in the
22 Public Square, Lubi Ishmael, with connecting cultures,
23 spoke about a demographic group that she had some very
24 close friends with, and that was the evangelical
25 community. And she said despite deep close friendships

1 and emails from her, she s not had a single call or
2 email back since 9/11 from these evangelical
3 Christians. And these were -- you know, very good
4 friend who went to an extremely conservative college
5 and stuff.

6 But I think you have that with Pat Robinson,
7 with John Ashcroft s statements and others. And you
8 have a group of people that are building a great wall
9 between them and others and how they approach life and
10 understand other religious traditions. And that
11 presents an enormous hurdle to overcome.

12 And I appreciate Sana s willingness to want
13 to fight -- go seek to do work there.

14 MS. LEMKE: I need to move on, I think, to the
15 next questions.

16 MS. GRAAE: I was very moved by your accounts
17 of bias and injustice.

18 You may have looked the entire program. This
19 afternoon we have a panel on implementing the U.S. A.
20 Patriots Act, and several speakers from the Department
21 of Transportation and one from the Department of
22 Justice. And we are told that the Department of
23 Justice speaker we expect from the Inspector General s
24 Office ought to be able to answer questions in a
25 variety of areas.

1 My question to you. I wonder if each of you
2 could tell me a question you would ask at that panel.
3 especially if you re not going to be here this
4 afternoon. What would you like to know from them?

5 MS. HADDAD: Why did they do it?

6 MR. LOBENSTINE: Specifically, the raids.

7 I wanted to say in regards to this question,
8 I think your challenge as a U.S. Commission and as the
9 three State Advisory Commissions, the biggest challenge
10 you have is the actions of other departments of
11 government and your ability to get Muslims, Arabs and
12 others to serve on your Advisory Commissions or on the
13 Commission will be a long time coming until other parts
14 of the government, INS and the Department of Justice,
15 change what they re doing.

16 MS. GRAAE: More specific your questions to
17 the members of the panel, Panel III; the more helpful
18 it will be.

19 MS. LEMKE: Ms. Graae, would it be appropriate
20 for them maybe to write the questions and give them to
21 you?

22 MS. GRAAE: That would be fine. If you wrote
23 down questions, that s fine. If you have something you
24 want to share now, that s also good.

25 MS. LEMKE: Was there someone who hadn t asked

1 a question yet who would like to?

2 I can t see your name tag.

3 MR. ANTHONY: Lewis Anthony.

4 I want to thank you for coming today and
5 thank you for the usefulness of our insights,
6 individually and corporately.

7 I m curious to hear from you all about how
8 you think how ubiquitous is the idea that Americans or
9 the American government, because of it s foreign
10 policy, doesn t particularly favor the Muslim position,
11 which then gives rise to these expressions of extremism
12 or perhaps creates an environment whereby extremism can
13 have more adherents and thrive.

14 I was particularly taken by the three points
15 about Iraq and Palestine and the military presence.
16 But I m also interested to hear your opinions as it
17 relates to this issue, as it relates to foreign aid and
18 the absence, that I can discern, of any effort to do in
19 Muslim and Arab places what happened in Germany or what
20 happened in Europe or something of this nature.
21 Marshall Plans and things of that nature.

22 MR. SACIRBY: Daily I might with people from
23 foreign country and from United States coming to
24 American Muslim culture to inquire about our position
25 and our conditions. American Muslims are new in this

1 country and we have intention to be bridge with country
2 of origin.

3 We represent Muslims in this country trying
4 to show the best face what we have because we come with
5 respect for America, with love for America. We are not
6 sick people to come in an environment where we are
7 hated or where we will hate.

8 Consequently, we consider ourself American
9 patriot.

10 We have one very important reason. Most of
11 the Muslims from the country of Asia and Africa that
12 were colony, but not American colony. America never
13 was colonial power. America was anti-colonial force.
14 Consequently, respect for America was very deep coming
15 up.

16 In 1918 we did have just five independent
17 Muslim countries. All of them were colonies of
18 British, French, Spanish, Portugese. These five
19 independent countries were Afghanistan, that was
20 created to be some kind of space between Czarist Russia
21 and British Crown Colony, India. It was some kind of
22 artificial state supported to exist as barrier, but not
23 really as functional state.

24 On other side we did have Turkey, Iran, Saudi
25 Arabia and Yemen. All others were colony. Then this

1 have problem with this question about Palestine.

2 It is not question that we are anti-Jewish.

3 We are pro-Jewish. We are pro-Jerusalem. The Koran is c
4 Koran. They are people of book. But we are not to be
5 slave of anyone, including Jew.

6 And we support Mastrick meeting and
7 agreement, Oslo agreement, resolution of United Nation
8 242 and so on that everything what America support. And
9 Sharon all the time was against it.

10 When you look at the war, you will see.
11 President Bush say Sharon is man of peace. I don t
12 know how many people in America think so, but I know
13 that the rest of the world think that Sharon is man of
14 the war, and many of them think Sharon is the man of
15 segregation, enemy of peace and war criminal.

16 Definitely, we like to stop these things. We
17 would like to have better understanding but we hear
18 voices from outside. We hear voices from inside.
19 Because we would like to see peace together.

20 MS. LEMKE: I have to cut us off now to go to
21 one more question.

22 Mr. Kurzman, did you have a question?

23 MR. KURZMAN: I really don t want to get into
24 the politics.

25 MS. LEMKE: Thank you.

1 country became independent. They did that independent.
2 They did that inside of what colonizators (sic) left:
3 the concept of country, the concept of education, the
4 concept of freedom, and everything else.

5 It means they look on Europe in particular
6 and the West, because when we talk about America for a
7 while, it was excluded.

8 We, too, have ambition here to present
9 America as country of free and we have ambition to make
10 America impartial.

11 But this question about Iraq. Muslims don t
12 like war with Iraq but don t like Saddam Hussein
13 either. We hate him. When you see him on TV, you
14 don t see him as Arab. You see him as European with a
15 hat and Winchester gun.

16 Consequently, we would like that he will
17 disappear from political scene, but without paying ten
18 thousand Iraqi life.

19 The second thing. This question about Al
20 Qaeda. It is ulcer on Muslim s body and we would like
21 that that ulcer will disappear as soon as possible
22 because it gives face to Muslims that is not our face.
23 There is no Muslim country, there is no Muslim
24 organization in this country that didn t give
25 contribution to the fight against Al Qaeda. But we do

1 MR. KURZMAN: Because I don t think that helps
2 what we re trying to do here. And I very much regret
3 that some panelists feel they have to do that.

4 Now, it may explain some of the phenomena
5 that we are asking about.

6 I am very troubled personally though that
7 nobody has given any credence to the fact that the
8 highest levels of our government have repeatedly tried
9 to reach out to the country, to the world, starting
10 with the President of the United States and the
11 Secretary of State of the United States, and numerous
12 other public officials -- Congress repeatedly -- to
13 reassure the Muslim and Arab and other affected
14 communities in the United States since September 11 and
15 to try to educate other Americans to the need to avoid
16 discrimination and retaliation. And I regret that fear
17 still exists.

18 And I think the suggestions that have been
19 made are important but we should keep in mind that thi
20 is a very different climate from what happened in some
21 of our earlier unfortunate periods of American hist
22 where not enough was done at the highest levels of
23 government and society to combat the backlash. I think
24 it s just terribly sad that even with this, what I
25 perceived as a very determined effort, that fear is

1 still there.

2 So, my colleague's question I think is a
3 terribly important one. We need to be very specific,
4 particularly with our government officials who come
5 before us later about how they're responding.

6 MS. LEMKE: I'm going to need to move the
7 audience pretty quickly. I had one more question from
8 Ms. Gilmore.

9 Mr. Kurzman, I didn't mean to cut you off but
10 I do need to move the audience.

11 MR. KURZMAN: No. That's fine.

12 MS. LEMKE: Did you have another question
13 you'd like to pose?

14 MR. KURZMAN: No. Thank you.

15 MS. LEMKE: Okay.

16 Let me just give a little point of how we're
17 going to proceed. I had one more question from a
18 Commissioner. Ms. Gilmore had a question. Then I'm
19 going to move to questions of the audience, this
20 gentlemen in the back of the room who signaled me about
21 30 minutes ago.

22 So we'll start there and I'll try to
23 recognize you as best I can.

24 You had a comment?

25 MS. HADDAD: Just one thing. There's a

1 teaching because you have -- and they teach hatred of
2 Muslim and they kill them.

3 And there is this fear that is international
4 that I found. I was at a conference in London that the
5 Archbishop of Canterbury and Blair hosted. And it was
6 this fear of the Muslim community worldwide that we
7 have declared war on Islam. They don't see it as war on
8 terrorism.

9 And this is what I'm worried about because
10 when I'm over there, I read this stuff. I come here.
11 I read what they're writing. And I see a total
12 misunderstanding based on a raid.

13 I want to know why we felt it was important
14 to raid people who actually we recognize as the leaders
15 of Muslims, who produce the Imams for our military. We
16 went into the schools that produce the Imams that we
17 have in chaplaincy and we raided the office of the
18 Yeshura Council, which is an effort by six, seven
19 Muslims to come together and figure out a way of how
20 Muslims should live in America.

21 The highest authority we recognize as
22 government, we raided. And the question is why. Do
23 you have any evidence? This is why I said we've moved
24 from secret evidence to no evidence. And personally, I
25 have no stake in it. I'm an observer.

1 difference between what our government said. And we
2 recognize that. Both Clinton -- I mean, people are
3 very grateful to the stand he took at Oklahoma City
4 when people were saying it has the modus operandi of
5 people from the Middle East. We have never forgotten
6 that.

7 George Bush has come out in support. But
8 then the policies are different. There's a difference
9 between the words and the acts, because what is
10 happening, when I was in Cairo at the World Council of
11 Churches meeting between Christians and Muslims, some
12 of the Muslims told me that our government, the United
13 States Government, is really censoring textbooks
14 throughout the world. And I thought it was funny. I
15 didn't believe it. And then the former Assistant
16 Secretary of State for Middle East told me it's true.

17 And the Muslim guy told me. He said, I don't
18 mind if they interview my principal, my teachers, they
19 check the textbook, but they can't tell me what Islam
20 is. And it is this great quest for moderate Islam that
21 we have.

22 And what he finally said is I want them to
23 also check what the Yeshivas are teaching because they
24 produce these people who come to the West Bank and hate
25 the goyim. I want them to check what the Hindus are

1 MR. PATRICK: Because there are going to be
2 questions from the audience, we had indicated on our
3 program that it would go until 12:15, but we will
4 extend that so that we get sufficient questions from
5 the audience.

6 MS. LEMKE: All right.

7 Ms. Gilmore has withdrawn her question, so
8 I'll go to the gentleman in the back of the room, in
9 the leather jacket.

10 Could you come up to the microphone so we can
11 all hear? And again, in the interest of time, if we
12 could be very clear and concise with our questions it
13 will help us move on.

14 MR. PATRICK: Could you use the mike, please?
15 Thanks.

16 AUDIENCE: No problem. My name is Blair
17 Ewing. I just have a question for the panel.

18 First, I'd like to thank you very much. I've
19 learned a lot from your presentations.

20 You touched on this, some of you, the
21 question I'm about to ask, in the various statement you
22 made. Tell me how and why and just how Islam and
23 democracy can be reconciled.

24 MR. HINDI: I guess the question should be is
25 there a contradiction between Islam and democracy?

1 AUDIENCE: Yes.

2 MR. HINDI: And I believe as the spokesperson
3 for the Islamic Jurisprudence Council of North America,
4 as we have indicated many times, there s no
5 contradiction between Islam and democracy.

6 What makes Islamic law Islamic law, for
7 something to become an Islamic fatwa, an Islamic
8 answer, the following have to be observed.

9 Number one, the safeguarding of the intellect
10 and the freedom of expression of each and every human
11 being lives under Islamic law.

12 Number two. The safeguarding and the
13 protection of the right to accumulate wealth of every
14 and each individual who lives under Islamic law.

15 Number three. The safeguarding and the
16 protection of the very dignity of each and every human
17 being who lives under Islamic law.

18 Number four, and the law. The safeguarding
19 and the protection of the freedom of religious
20 expressions of each and everyone lives under Islamic
21 law.

22 Next. Islamic law and Islam speaks about
23 that people should be governed by an elected body, and
24 that elected body decides on what is good or bad for
25 the community, as long as it does not contradict with

1 The gentleman who asked about the Huntington
2 theory of civilization is not here, but I would like to
3 make a brief comment.

4 First of all, his theory was totally
5 discredited before September 11. Unfortunately, that
6 horrific, horrible event happened and now we ve got so
7 much and so much hoopla about that theory.

8 And if you look at the theory, there are no
9 clear-cut boundaries in the world. There are no
10 monolithic Muslim world that you can classify that this
11 is one, two, three, four. And these are the
12 characteristics of the Muslim world. And that s why
13 there are different coalitions.

14 And here is, we have a monolithic Western
15 civilization which -- which enjoys Chinese food, enjoys
16 Middle Eastern food. So I mean there s no monolithic
17 civilization in the world, and especially in this day
18 and age where we have what you call the information age
19 where we have the environment of globalization.

20 So to say that these two civilizations are
21 inherent in conflict is totally wrong.

22 MR. PATRICK: Sir, not to interrupt you but
23 there is going to be a comment period later on from
24 5:15 to 6:15. I see there are other questions here.
25 So if you can direct your questions to one of the

1 the four points I just mentioned.

2 The foundations of democracy are not in
3 opposition to the foundations of Islamic teachings.
4 When we speak about universal principles, we speak
5 about three universal principles: universal brotherhood
6 and sisterhood, interfaith and interracial dialogue,
7 and freedom of religions.

8 I can go on and on to convince you, however
9 there s no time to do that now, that I do not see
10 myself violating any of my teachings as a Muslim, and I
11 am considered an orthodox traditionalist imam, living
12 in the United States of America. And if anything, I
13 hope we would do one thing in the Muslim world is live
14 by the Islamic principles of rules or call it
15 democracy. To me it s the same. A difference in who
16 is talking.

17 Thank you.

18 MS. LEMKE: I have the gentleman here in the
19 queue.

20 AUDIENCE: My name is Fez Raman and I m -- we
21 shared the opportunity that the Commission gave all of
22 us here to benefit from such a useful discussion here.

23 Too much happened. Too much was talked
24 about. I have a comment, a brief comment, and then
25 just a brief question.

1 panelists so that we get a full spectrum of the
2 knowledge of the panel, if one panelist can perhaps
3 answer the question and then we can move on.

4 AUDIENCE: Yes. That s what I said, Mr.
5 Patrick. My idea was to make a brief comment and then
6 go to the question.

7 And then the last question about democracy
8 and Islam. If you look at, for example, Malaysia.
9 Malaysia is an Islamic country, a classic example of an
10 Islamic country and they have democracy. So is
11 Bangladesh and so many other countries.

12 My question would be for the panel. Since we
13 see so much trouble around the world and, as some of
14 them said, that the sources of these problems are
15 basically political, they re political in nature. So
16 do you think the interfaith communities around the
17 world should continue -- for a while forgetting about
18 the separation of church and state and maybe
19 contributing to the solution of these conflicts rather
20 than just leaving everything to the politicians. Would
21 that health? I think Mr. Lobenstine would be better
22 perhaps to answer this question.

23 MR. LOBENSTINE: I certainly agree. And
24 there s wonderful examples of that.

25 Key religious leaders in the Middle East, the

1 chief Sephardic and Ashkenazi rabbis of Israel; the
2 Grand Mufti of Jerusalem, the Latin, Greek and Armenian
3 Orthodox primates of Jerusalem and others have signed a
4 document called the Alexandria, Egypt Declaration,
5 which is hardly known in this country, calling for a
6 religiously sanctioned cease fire and acknowledging
7 that in all religious traditions that no religious
8 tradition calls for the killing of civilians, and four
9 other points.

10 There will be an interfaith prayer service at
11 the Washington Cathedral on May 5th at 7:30 supporting
12 that, and we'll have very important Muslim, Christian
13 and Jewish leaders participating.

14 The United Religious Initiative is an
15 international group of people that is doing creative
16 work in many parts of the world bringing together very
17 diverse people of faith to build bridges of peace and
18 to do concrete projects and development to help that.

19 There are six other international interfaith
20 organizations that do much good work, and certainly in
21 many communities. There is certainly more interfaith
22 work in the United States than anywhere else. Because
23 of our long tradition of the separation of church and
24 state, this created a more equal playing ground among
25 the smaller and larger religious tradition and newer

1 on a declaration that Christians and Muslims will live
2 as brothers and sisters and will not allow more fights
3 in the name of religion in Indonesia.

4 Three days later I was in Kuwait to
5 participate in another conference sponsored by the
6 local Christian community of Kuwait and the Muslim
7 community of Kuwait, also signing on another
8 declaration, the need to live as brothers and sisters
9 and fellow citizens in one country in Kuwait. That was
10 quite uplifting.

11 Thank you.

12 MS. LEMKE: Thank you.

13 Your question, please?

14 AUDIENCE: My question goes mainly for Yahya
15 Hindi. Islam is being based upon a Koran and Sura and
16 on interpretation. He would be supporting religious
17 fundamentalism or other nonpolitical fundamentalism.
18 So what type of religious fundamentalism you are
19 willing to support. As far as there is different
20 interpretation of Islam. One interpretation of Islam
21 might put you outside stuff like what happened in the
22 Sudan. --

23 You could be taken to be secular, which in
24 Islam, as I have studied practices. I made notes
25 during -- I studied practices. Being secular is that

1 and older ones in this country. But there are
2 important work being done by religious communities
3 around the world.

4 And the final comment would be that the
5 Pope's calling together 250 religious leaders of every
6 major world religious tradition in Assisi January 24th
7 and their joint declaration was another powerful
8 witness for the common cause and the power of the
9 religious community speaking with one voice around
10 these issues.

11 MS. LEMKE: All right. We're into our last 10
12 minutes, so I'll remind the audience and the panelists
13 again to keep your questions as concise as possible and
14 your answers as concise as possible.

15 I saw this gentleman earlier. Would you
16 approach the microphone?

17 MR. HINDI: Can I make a comment, please, on
18 the earlier question? Just a half a minute.

19 MS. LEMKE: Yes, while he's going to the
20 podium.

21 MR. HINDI: Sure. I just, as I said, came
22 back from the Middle East and Asia. I was quite happy
23 to see that a few leaders and the leaders of the Muslim
24 community of Indonesia have gone to meet with the
25 leaders of the Christian community in Indonesia to sign

1 you are anti-Islam.

2 And we have a very famous incident in Sudan -
3 - it happened in 1985 -- where a Muslim scholar, who
4 was the age of 78, he was assassinated by an Islam
5 government based on Suria.

6 MR. HINDI: Well, I'm not an expert on Sudan
7 so I don't know if that's fair for me or for Sudan to
8 ask such a question and expect an answer from me. I
9 have never been to Sudan. I have never really studied
10 what's going on in Sudan. It is not just for me to
11 answer that question.

12 Back to the issue of fundamentalism.

13 I spoke about my definition of
14 fundamentalism. I said if religions were to be willing
15 to -- or religionists -- to follow the fundamentals of
16 their faith, they will find more room for dialogue and
17 more room for inter-religious relations.

18 I'm not talking about religion details that
19 Christians or Jews or Muslims may get into. I'm
20 talking about the basic foundations and the
21 fundamentals of Judaism, Christianity and Islam that I
22 believe are 100 percent the same.

23 MS. LEMKE: All right.

24 Another question from the audience. I saw
25 the lady in the yellow jacket.

1 AUDIENCE: Good morning. I am part of this
2 advisory board. Next time I maybe will sit at the
3 table.

4 Let me stay something and I want to get the
5 real question the man asked back here, because I think
6 that s the most fundamental thing that s been asked
7 today.

8 You ve made comments in your opening
9 statements that contradict or do not fit mutually
10 exclusive of the rhetoric that we hear when you say
11 this is Islam, this is Islam.

12 I think I m like most Americans. I don t
13 want to hear rhetoric. And when I hear things like --
14 particularly the two gentlemen, Mr. Kirmani and the
15 director of your council -- both of them said equal on
16 creation. And Dr. Kirmani said it -- the other
17 gentleman inferred it -- about different stations in
18 life.

19 Now, see, that s just not what we re about.
20 We re a Commission on Civil Rights because we don t
21 believe in different station in life. Have been
22 fighting for that most of my life.

23 So when I hear you say that, that very much
24 upsets me. And I don t see that as compatible with
25 democracy.

1 By the way, it was Winston Churchill who said
2 democracy is the worst form of government except for
3 all the rest. But we try.

4 What I want to hear from you is not that
5 you re having councils and -- listen, I don t have any
6 problem with religion. This country was formed on a
7 religious basis. Part of my family goes back to
8 Jamestown. My grandfather s name was Lindbergh. My
9 parents were Baptist. I m Presbyterian.

10 MS. LEMKE: Ma am, we re running into --

11 AUDIENCE: Okay.

12 MS. LEMKE: Form your question for me, please.

13 AUDIENCE: I think they know what my question
14 is. It goes right back to this gentleman s question.
15 I don t want rhetoric. I just want to know --

16 MS. LEMKE: Can we allow our panelists to
17 answer?

18 AUDIENCE: Yes.

19 MS. LEMKE: Thank you.

20 MR. LOBENSTINE: And I would like to ask you
21 if you re asking the same question of fundamentalist
22 Christians who believe very strongly in men and women
23 having different stations in life, and yet we don t
24 question their commitment to democracy.

25 But you could go into Christian bookstores

1 and find books and books and books and books about
2 women needing to stay at home, women having different
3 roles in life. And that reflects a perspective that is
4 also in parts of Judaism, also in parts of
5 Christianity, Islam and elsewhere.

6 I don t think that s the basis for
7 questioning Islam in this situation.

8 AUDIENCE: And I accept that choice. Okay.
9 And I accept that choice, that that s that woman s
10 choice to make.

11 MR. LOBENSTINE: Well, a woman s choice in
12 some cases and in other cases very much a matriarchal
13 determined set of roles for men and women to play, not
14 making it a woman s choice.

15 It s a woman s choice, absolutely. She stays
16 home. She works. Whatever. And you ll hear from Imam
17 Yahya Hindi as I heard in Hagerstown when I moderated
18 the first interfaith dialogue there with 300 people at
19 the community college, all that he s done writing about
20 the roles of women and men. And one of the interesting
21 things that got some good clapping in the audience was
22 that his check had to go into a mutual bank account for
23 the family. Her check did not.

24 He could only spend her check when it was
25 with her permission.

1 MS. LEMKE: Professor Haddad, please.

2 MS. HADDAD: I want to just point to one
3 thing.

4 AUDIENCE: Thank you, too, for the history.
5 You can t have future without history.

6 MS. HADDAD: Right. But there s one question
7 about the women. I teach a course on Muslim women and
8 it s always interesting to me that whenever we talk, my
9 students always say why don t they allow their women to
10 drive.

11 Now, maybe there are four million Saudi women
12 that are not allowed to drive. And that s Saudi
13 Arabia.

14 Why do they cover their women? That was the
15 Taliban. That is not necessarily what Muslim women are
16 about. And we forget that there are four nation states
17 that have a woman head of state: Indonesia, Bangladesh,
18 Pakistan and Turkey.

19 We haven t even nominated one for Vice
20 President.

21 Now, why don t we say what is there in Islam
22 that makes them elect four women as head of state?

23 I m not saying that it s wonderful. All I m
24 saying is we hang on to one stereotype and we say this
25 is what Islam is. There s the other part.

1 There are women doctor. There are soldiers.
 2 They are lawyers. They re everything. It just happens
 3 to be one interpretation in one particular place.
 4 And there are Christians -- you know, the
 5 Mennonites have a different position for women. There
 6 are some Jewish people who have a different position
 7 for women.
 8 So why do we blame Islam? Why don t we blame
 9 the interpretation?
 10 MS. LEMKE: We need to move to Mr. Darden s
 11 question, please.
 12 AUDIENCE: I did want to hear from you and I
 13 appreciate those answers.
 14 MR. PATRICK: Any more comments from the
 15 panelists on the previous question?
 16 (No response.)
 17 Okay.
 18 AUDIENCE: I m bringing a question not for
 19 myself but out of some of the preparation that we did
 20 getting ready for this, and it goes to one of the
 21 earlier comments about the diversity among Muslims.
 22 This happens to come from the perspective of
 23 a person who was born in a Muslim country but then
 24 converted out of the faith into a non-Muslim faith.
 25 And I understand that when that happens that the person

1 who leaves Islam is under quite a bit of pressure or
 2 maybe you can tell us what happens when that occurs.
 3 And the question is how then within the
 4 Muslim community is the conversion out of the community
 5 dealt with and whether that is seen as consistent with
 6 democracy.
 7 MR. HINDI: Well, the Islamic Jurisprudence
 8 Council of North America answered such a question three
 9 weeks ago when our members met in Chicago for three
 10 days. We dealt with different questions. This was one
 11 of the questions.
 12 And the answer was there is nothing in
 13 Islamic law -- and we re not trying to be apologists.
 14 There s nothing in Islamic law that prevents a Muslim
 15 from turning away from Islam. On the contrary, we know
 16 in our history where people have turned away from Islam
 17 at the time of Prophet Mohammed and after Mohammed and
 18 they were left free to live under Islamic rule.
 19 Has there been violation of this? I m sure.
 20 But it also happened on the other side.
 21 I know for example in Jordan when three
 22 people converted to Islam from the Christian community
 23 they were persecuted by fellow members in their own
 24 churches. But does that speak on behalf of
 25 Christianity? I do not believe so. And therefore, I

1 hope and pray that we do accuse Islam of things because
 2 people who happen to be Muslim happen to do these
 3 things.
 4 For example, that doctor who attacked Itzak
 5 Rabin and assassinated Itzak Rabin, the Prime Minister
 6 of Israel, he was not speaking I believe on behalf of
 7 Judaism or Jews.
 8 Hitler, the baptized Catholic, was not
 9 speaking on behalf of Catholicism or Christianity when
 10 he killed over six million Jews and I believe six
 11 million other than Jews.
 12 So Muslims I m sure may do this. Christians
 13 may do this; Jews or other religions. But that is not
 14 what Islam teaches.
 15 Thank you.
 16 AUDIENCE: It is true then that a person who
 17 leaves the faith is not under some symbolic death
 18 sentence or anything like that?
 19 MR. HINDI: It happens all the time.
 20 MS. LEMKE: The gentleman in the gray shirt on
 21 the second row.
 22 AUDIENCE: First, it will be best to start
 23 with As-Salaam Alaikum, which the gentleman there --
 24 MR. HINDI: Peace be with you. By the way,
 25 it s not a Muslim greeting. When you go to church, you

1 do use it all the time also.
 2 AUDIENCE: Agreed. Right.
 3 So, however, I have some comments and I have
 4 some answer for, with all due respect --
 5 MS. LEMKE: Excuse me. I hate to interrupt
 6 you again, but I will have to restrict you to a
 7 question at this point. We have a comment time in
 8 another period.
 9 AUDIENCE: All right. Well, Mr. Richard
 10 there, he was talking about how we could communicate
 11 with the Muslim community.
 12 I am one of the pioneers, with Mrs.
 13 Pennygross here, and the Kaleidoscope Group, which we
 14 have started from zero. I was with it from othe
 15 beginning up til now and I m still a participant.
 16 . When I first came in here, they didn t know
 17 nothing about Islam, where I have started explaining to
 18 them about hajad and about Islam and everything and
 19 there was a very great response where I have actually
 20 invited Ms. Pennygross and all the panelists to come to
 21 the mosque, where we have had a very great
 22 communication. And we are still doing it.
 23 Number two. This is a little comment here
 24 for an Arab American that he was a third generation.
 25 He had a question on the Internet, When I will be an

1 American? He was third generation and when that
2 disaster of 9/11 took place, he is no longer American.

3 Now, I would go also here to answer the lady
4 here about what do we have to do in making more
5 understanding with the government.

6 The first door I would knock on is the media
7 because the media in here completely ignore Islam. And
8 if they give any show, it will be so limited to the
9 point that, for example, with all due respect to what
10 they have done to the Cuban child, Ilian, they give him
11 coverage for months but they never give coverage for
12 people that are dying of lack of medicine and food in
13 Iraq or in Sudan or many other countries.

14 Therefore, here in the media they always come
15 up with some movies to show that Muslims are savages,
16 are criminals, are killers and all that stuff.

17 MS. LEMKE: Sir, I really will have to get you
18 to give us a question.

19 AUDIENCE: I have no question here but I m
20 trying to tell the gentle lady here that we can do
21 better if the media takes some fairness.

22 MR. LOBENSTINE: And I d like to note that PBS
23 on May 9th is having a major two-hour program on
24 Muslims, and in the Fall will have another major
25 program on Mohammed. And those have been very

1 agencies. We should encourage religious diversity.
2 Especially, we should encourage Muslims who are born
3 here or who have been here since very young and who
4 still here to join institutions like the State
5 Department so they can feel a stake in the United
6 States policy.

7 I think this feeling of disenfranchisement
8 that they do not have control of United States policies
9 is quite harmful. So I really applaud your point of
10 view here. I think it s very important to do so.

11 AUDIENCE: (Off mike.)

12 MS. LEMKE: I m sorry. We need to record it.
13 I m okay with you standing there but the recorder needs
14 you for our report.

15 AUDIENCE: Okay. I was very impressed by the
16 panel discussion this morning about Islam and what the
17 authentic or the pure version of Islam is according to
18 the Koran. And I totally believe that is true.

19 And all religions in their pure form are that
20 way, are good religions. But what do we do when this
21 religion takes a distorted route.

22 So my question to the panel is we can say
23 that we don t own this part of the religions which has
24 gone astray or has gone distorted. My question is is
25 there any effort on the part of these scholars or pa

1 creatively and positively developed as very good
2 examples of what media can do for Islam and other
3 faiths.

4 MS. LEMKE: I have a question from a Committee
5 member and then I have a lady here in the third row who
6 would like to end the question section.

7 MR. KAPLAN: I was curious in hearing some of
8 the recommendations about actions that the SACs could
9 take and the Commission could take. I didn t hear any
10 mention of actions that could be taken to encourage
11 diversity in employment in federal and local government
12 agencies.

13 Traditionally, that s always been a role that
14 makes a significant difference in promoting
15 understanding and moderating government policies. And
16 I m curious if the panelists could comment on that; how
17 important it is; and what can be done in colleges and
18 universities and the other ways in which you all are
19 involved to promote that activity.

20 MR. KIRMANI: Thank you for asking that
21 question. That was something I really intended to add
22 to my comments anyway.

23 I think that in recruitment in colleges the
24 government agencies should encourage, as we have
25 encouraged minorities, to join various government

1 to take care of the distorted form of the religion?
2 And what are we going to do about it? Because I think
3 what American people or what we see in the media or in
4 general is the distorted version.

5 So we can do a lot of education of the
6 society in terms of what the authentic religion is but
7 how are we going to deal with the distorted version of
8 the religion?

9 MR. ANTHONY: If I could just -- because that
10 was part of my concern. You ve stated my concern very
11 eloquently.

12 In other words, I m interested also to know
13 is there any internal corrective? Is there something
14 that the tradition requires people to do, given the
15 distinctions that are unique to the Islamic tradition?

16 Is there something that requires that the
17 other members of the community have to somehow correct
18 extreme expressions of inappropriate behavior? Is
19 there any discipline that can be applied, not
20 necessarily by some civil authority but in an Islamic
21 situation, the people that are not practitioners of the
22 faith?

23 MS. LEMKE: Okay. Let s let our panel address
24 it.

25 AUDIENCE: Actually, my question was the self-

1 correction process.

2 MS. LEMKE: Self-correction. Self or
3 organizational.

4 MR. SACIRBY: If I may, we are an open
5 society. And when are talking about our children and
6 what they are doing, we are talking about peer
7 pressure.

8 Peer pressure exists among us, too. We
9 influence each other. Practical talking here to each
10 other, asking questions and responding, we are
11 correcting, influencing and forming our own thinking
12 and opinion. It is very important.

13 The second thing. We Muslims in America
14 didn't come here to impose Islamic law. We are here to
15 respect American law, to obey American Constitution and
16 to enjoy the protection that the Constitution will give
17 to us. Otherwise, if we will take differently, there
18 is no place for us in America.

19 What we are discussing here about civil
20 rights, we are not discussing about religious teaching.
21 We are discussing about the right of each particular
22 citizen of this country regardless of race, but in this
23 section in particular about us Muslims.

24 We don't want to be treated different.

25 MR. ANTHONY: Well, with all due respect, and

1 not to interrupt, but the issue is helping our
2 understanding as it relates to the issue of whether or
3 not there's something that inheres in the tradition
4 that says there's an affirmative obligation.

5 MR. SACIRBY: I just would like to comment
6 because we didn't come here to be lost in the sea of
7 America but we are here to add to the diversity of
8 America and to preserve our faith. On the basis of
9 American law in America, to practice this, to practice
10 our faith.

11 MS. LEMKE: Imam Hindi and Professor Kirmani
12 would like to also answer.

13 MR. PATRICK: And I might add that we are
14 running into our next session, and so if you could keep
15 your comments brief so we can get --

16 MR. KIRMANI: I will make my comments very
17 brief.

18 There's no central authority in Islam that
19 tells anyone this is right and this is wrong. And I
20 hope there never will be. Because that has allowed us
21 to develop. That has allowed us to have difference of
22 opinion. And that is very basic to growth of a culture
23 that that should be.

24 And I think that's why Islam is suited for
25 democracy, if a democracy is allowed to grow in Islamic

1 countries. Unfortunately, sometimes it is not.

2 So there is no such central authority to
3 correct the sense people take.

4 The Prophet said that when my community will
5 act and discuss together, it will save itself from
6 error. And that is really the cornerstone of America,
7 of Islamic democracy. That's why I insisted that the
8 issue of secularism and non-secularism is sort of a
9 slippery slope to slide on.

10 The issue of democracy and the issue of what
11 we know as the Prophet saying that my community will
12 not fall into error if they act -- if they discuss
13 things together and then act. I think that's where the
14 issue is, not in having somebody sitting up there
15 trying to tell, no, you've got to believe this.

16 So we have tremendous difference of opinion.
17 And sometimes we fight amongst each other. And
18 sometimes people hate me for what I say. This guy, you
19 know, he is controverting Islam. Sometimes we have
20 these differences of opinion.

21 MR. HINDI: A Christian lady told me once --
22 and she was in her 80s. Thanks to 9/11, because it
23 brought Christians, Jews, Muslims, Hindus, Baha'i and
24 Sikhs together.

25 I hate what happened on 9/11, of course, but

1 if anything good I think it did to the Muslim
2 community, it forced us to do what I would call soul
3 searching. And it has been happening after September
4 11, honestly, more than ever before.

5 And number two. What has happened not only
6 in our community but in each religious community, the
7 majority opinion has been completely silent and the
8 minority, extreme minority, has been vocal and loud.

9 And I have been saying to the Muslim
10 community after September 11, maybe it is about time to
11 have our voice become more vocal and more loud than
12 ever before.

13 Answering your question about if there's
14 anything within the tradition that calls on that? Yes.
15 Because the concept of (in Arabic) -- enjoining the
16 good and forbidding the evil. This is considered by
17 some scholars one of the articles of faith without
18 which the faith would not exist.

19 So enjoining the good and forbidding the evil
20 has become one of the most important -- will get
21 elaborated on issue within Islam throughout history,
22 the concept of our rituals.

23 The minute I finish my prayer, I have to go
24 through that attendant process of self-questioning: How
25 have I done? What am I going to be doing?

1 Again, the month of Ramadan, in the month of
2 Haj, the pilgrimage when we go to Mecca, we go through
3 this self-searching, self-criticism: what is it that I
4 have done; what it is that I need to do; where have I
5 failed and where do I need to succeed in the future.

6 So it is really an integral part of the
7 tradition and the religion.

8 Thank you.

9 MS. LEMKE: Thank you very much. I will have
10 to end this part of the session.

11 I d like to thank our panelists for the
12 information in their presentations. I d also encourage
13 you if you have anything written, a statement or any
14 written pieces that you would like to share with the
15 Commission, that could become part of our report and
16 we d really encourage that.

17 Thank the audience for their insightful
18 questions and their patience, as well as the Committee.

19 We will reconvene at --

20 MR. PATRICK: 1:30.

21 MS. LEMKE: We will reconvene at 1:30. I
22 really would encourage you all to stay.

23 MR. PATRICK: And my thanks to the panel, too.

24 (Whereupon, the luncheon recess was taken at
25 12:34 p.m.)

1 coalition representing a number of ethnicities and a
2 number of civil rights and civil liberties and legal
3 organizations, recognizing that when an attack against
4 one group of people is made, it s much more effectively
5 dealt with by others who recognize the attacks and
6 similar to those that have been done to them before.

7 I wanted to just again, as Jim said, to do
8 just sort of a quick history on the way that the
9 government tends to pursue what it understands as
10 politically based crime because it s really a long and
11 fairly straightforward history that varies little
12 except by who gets rounded up this time.

13 If you look at the beginnings of the FBI, the
14 founding of the FBI, it was founded around the time of
15 the Palmer raids, with criminal acts, with bombings
16 that took place. But the government s reaction to that
17 was not so much to go -- and in fact, they never found
18 the perpetrators. But their reaction to that was to
19 round up immigrants, to round up anarchists, to round
20 up what they perceived to be troublemakers, by the
21 thousands. Hold them in jail for a long period of time
22 and deport many of them. Not bring criminal
23 proceedings against them. Not directly accuse
24 individuals of the group of particular crime, but just
25 round them up and try to deport who they could dep

1 AFTERNOON SESSION

2 1:34 p.m.

3 MS. GAGE: Let me just say by way of
4 background that I not only direct the First Amendment
5 Foundation, I also direct a group called The National
6 Committee Against Repressive Legislation, which started
7 out as the National Committee to Abolish HUAC, the
8 House Un-American Activities Committee.

9 It comes out of a long tradition of defending
10 the right of political belief, political expression.

11 And as well, I ve been fortunate enough to
12 coordinate a relatively new coalition, The National
13 Coalition to Protect Political Freedom, which has
14 worked very explicitly since 1987 with the Arab
15 American and Muslim communities in the United States,
16 following the passage of the 1996 Anti-Terrorism Act,
17 recognizing that the likelihood was that the government
18 would be pursuing Arab Americans and Muslims using
19 methods which we thought would be violating their
20 Constitutional rights. And indeed, that certainly
21 proved to be true.

22 And so as a coalition, we worked on legal
23 cases, we worked in the media, we worked on education
24 to try to deal with those issues, not just coming out
25 of the Arab American and Muslim communities but as a

1 That was the beginning. That s the not-so-
2 honorable beginnings of the FBI.
3 And I think that you can look historically
4 also at sort of a wave of change. Following those
5 kinds of attacks came the New Deal. And I think that
6 you saw a lot of recognition within the government, and
7 certainly outside, that people working for political
8 change represented a very important movement at a very
9 critical time in the U.S. government and in the life of
10 the United States with the Depression.

11 And you found groups like the National
12 Lawyers Guild, which for the first time let in people
13 of color to a legal bar association. You found lots of
14 political change movements with somewhat less
15 repression because it was somewhat more accepted at
16 that moment.

17 Then, again, with the coming of World War II,
18 you had here again the same thing as, Mr. Anthony,
19 you ve pointed to, with the rounding up of Japanese
20 Americans, not German Americans, not Italian Americans,
21 who arguably faced -- should have been, if you follo
22 the logic of this, as threatening as Japanese
23 Americans.

24 But no, again, you just go after one
25 particular group, defying your own logic, holding them

1 in jail, not charging them with crimes, not pursuing
2 them for crimes, not accusing them of crimes, but
3 holding them without really any access to legal
4 redress.

5 The next war is clearly the Cold War with
6 similar kinds of patterns that you see over and over
7 again. Criminalizing of membership in organizations;
8 again, separate from activity, separate from criminal
9 activity, so that anyone, by virtue of their membership
10 in an organization or membership in a similar kind of
11 organization -- if you look at the term of subversive.
12 Subversive fits very nicely into the ability to round
13 up almost endless numbers of people who you don't like
14 or somebody turns in or something like that, so that
15 you don't again have -- you're not talking about a
16 criminal nexus.

17 You're not talking about the government
18 determining that particular people are engaged in
19 particular acts except for their speech or association
20 and not urging people toward a particular activity that
21 is criminal.

22 And you look again. You look at the Palmer
23 raid round-ups. In retrospect, there's no rationale
24 for that, the detention of those folks. The
25 deportation didn't serve anything but a racist purpose.

1 The detention of Japanese Americans again had
2 no rationale except for being able to point at people
3 and say those people are bad; we're good. And in that
4 sense, trying to serve a patriotic -- I clearly think
5 misguided patriotic war effort.

6 And the McCarthy era was no different.

7 My former boss, Frank Wilkinson, always
8 chastises me when I call it the McCarthy era. He says
9 it's the Hoover-McCarthy era. It wasn't just one man
10 who was in the Congress who was misguided. It was the
11 entire law enforcement as headed up by J. Edgar Hoover,
12 who orchestrated this. And to understand that, you
13 understand that it was part of an orchestrated plan by
14 the federal government. Again, like previous efforts.

15 The self-same Frank Wilkinson was so
16 dangerous, he went around the country following the
17 HUAC as it met city by city, and organizing people,
18 saying you have the right to be a member of
19 organizations. You have the right to speak out. You
20 have a right to protest government activity.

21 For this terribly dangerous activity, he
22 himself became subject to HUAC. In a famous Supreme
23 Court decision, by one, he was incarcerated in a
24 federal jail for taking the First Amendment and saying
25 the government has no right to demand that I tell you a

1 membership in any organization.

2 It's clear from that kind of example the
3 government found speech, found political change
4 movements dangerous and has found them dangerous. It's
5 counter-intuitive, given the Constitution, given the
6 Bill of Rights, which clearly explicitly envisions that
7 people will engage in activity like that to create
8 peaceful political change. But it has often been and
9 continues to be seen by the government as dangerous.

10 And it's then again the requirement of those
11 people, often those who were attacked, to remind the
12 government -- no, this isn't dangerous. There is a
13 Bill of Rights. It's okay. We can talk. We can be
14 members of organizations. It doesn't overthrow the
15 government to be a member of an organization.

16 I think more dangerously, Frank was merely
17 jailed. If you look at the Black Panther Party
18 example, the Black Panther Party was destroyed by --
19 essentially destroyed by this activity through
20 COINTELPRO.

21 Fred Hampton was killed as a result of a
22 collaboration with the FBI and the Chicago Police
23 Department. He was killed, outright murdered. You
24 don't have to believe me. It was found in a court of
25 law and his widow was given compensation for that.

1 It's a very sad history in this country but
2 it's one that we clearly have to understand because
3 it's a continuing straight line history.

4 I'm not saying the government today is doing
5 exactly -- I mean, I'm not seeing them go into people's
6 houses and shoot them, but I do see the kind of
7 intimidation today that was similar to the same kind of
8 intimidation before.

9 Again, following COINTELPRO, you saw I think
10 a very successful people's movement saying enough is
11 enough. You saw the Pike and Church committees. You
12 saw lots of Red Squad suits, which told police, which
13 told the FBI that it wasn't okay to engage in this kind
14 of activity and to put in place Attorney General
15 guidelines, other kinds of mechanisms to try to limit
16 law enforcement activity to going after crime and not
17 to going after political activity, not go after speech
18 and association.

19 I was part of a move to try to get the FBI
20 First Amendment Protection Act passed over a period of
21 years. It failed. And interestingly, a small part of
22 that was inserted into a bill. And shortly thereafter
23 the FBI removed that in a subsequent crime bill and put
24 a page in explaining why it had to remove that
25 dangerous section that said the FBI shouldn't be

1 engaging in investigation essentially based on First
2 Amendment activity.
3 It said it couldn't do law enforcement and
4 certainly couldn't do anti-terrorism law enforcement
5 with that provision in. I thought that was
6 extraordinarily chilling and telling, that there is an
7 ongoing problem of law enforcement understanding the
8 difference between going after crime and going after
9 association.

10 The Anti-Terrorism Act of '96 put in place
11 that if you give material support to particular
12 organizations which the U.S. has determined to be
13 foreign terrorist organizations -- and the definition
14 is very broad -- you're committing a crime.

15 You can give diapers to an orphanage in an
16 area that's under control of a foreign terrorist
17 organization and your gift of those diapers under '96
18 law was a crime. Under the USA Patriot Act, the
19 penalties have been expanded for that kind of activity.

20 The U.S. has been using secret evidence in
21 denying bond for people it wants to deport, saying that
22 they're heinous terrorists, but not charging them as
23 terrorists. Deporting them.

24 It always seemed to me as I was looking at
25 these cases, and a couple of dozen happened over the

1 that's a really important lesson when you look at the
2 USA Patriot Act and all the range of things that have
3 happened since that, beyond the Act.

4 I'll just quickly wrap up. My vision of the
5 dangers of the USA Patriot Act and other things
6 massively increases the secrecy, making it much harder
7 for everybody, not just for anyone who's accused.
8 Everybody to find out what the government's involved
9 in, what its plans are, what its theory is of things,
10 for an individual to find out, for example, the charges
11 against them.

12 It further criminalizes dissent activities.
13 It makes enemies out of the courts, which is a critical
14 matter. And I say that because time after time after
15 time the courts are kept out of the process.

16 You can't appeal to the courts. The courts
17 can only consider very limited areas of jurisdiction of
18 a different matter.

19 And the reason for that, if you look at it,
20 is the courts are sort of troublesome. If you get the
21 courts in mucking around with government policy, they
22 say, well, no, wait a minute. There's a Bill of Rights
23 here. You can't do this. You can't do that. You
24 can't use secrecy. You can't have closed hearings Rabi
25 Haddad's case. You can't use secret evidence here.

1 law five years or so. If these are terrorists, if
2 people are as bad as the U.S. says, they shouldn't be
3 deporting them. They should be bringing criminal
4 charges and putting them in jail because that's what
5 the language is.

6 But no, they were holding them in jail --
7 several of them more than three years -- and denying
8 them bond, denying them the opportunity to see the
9 evidence against them and effectively be able to rebut
10 it. It was impossible. And trying to deport them.

11 So they're basically just being held. It's
12 going around the criminal process. We'll just hold you
13 in jail until three or four or eight years or however
14 long it takes. Then we might get around to deporting
15 you if some country will take you after all these bad
16 things we've been saying about you.

17 We, through a lot of political pressure got a
18 lot of that secret evidence released, and it was very
19 clearly -- in case after case it was garbage. It was
20 the kind of stuff which if it had seen the light of day
21 originally we would have said no, they guy wasn't
22 living there. He never made phone calls to there. No.

23 The government, when it has an opportunity to
24 use these kinds of tactics, tends to abuse them. And
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1 You can't do this and that.

2 So you end up looking at the courts and
3 saying get out of here. We don't want you messing
4 around with our policy.

5 Foreign Intelligence Surveillance Act used to
6 be just used against foreign spies. It's now able to
7 be used in a much more broad way, which means that you
8 can have what's called sneak and peek. You can have
9 people going into your home without you knowing it.
10 You can have the kind of things that the FBI used to
11 call black bag jobs where you don't see the warrant.
12 You don't know that your home's been broken into.

13 But because there was some initial
14 investigation because they thought that you had a
15 connection to something foreign, they get a warrant to
16 go into your home and you don't -- I mean, they don't
17 get a warrant. They have the authority to go into your
18 home without you seeing their authority. And you may
19 not see it until six months or more later.

20 MR. ANTHONY: One minute.

21 MS. GAGE: So let me just -- I think that the
22 connecting issue here is terrorism has a horrible
23 feeling to it because it's meant to intimidate, but at
24 its heart it is crime. And where the government
25 instead of going after the crimes, instead of doing

1 good law enforcement and saying let s go find the
2 people who did this crime, instead it goes after entire
3 ethnicities. Arab Americans rounded up for
4 investigation, rounded up for deportation, rounded up
5 for questioning.

6 When you function in that capacity instead of
7 going after the crime, you re going after people
8 because of their ethnicity, because of their religion,
9 and you end up looking at so many people, so many more
10 people, basically you ve expanded your possible
11 perpetrators to a number that you can t possibly find
12 the real perpetrators.

13 So I think the policies end up being wrong
14 law enforcement policies as well as being massively
15 discriminatory.

16 Thank you so much.

17 MR. ANTHONY: Thank you so much.

18 Sir?

19 MR. DEMPSEY: Well, again, Mr. Chairman, good
20 afternoon, members of the Advisory Committees. Again,
21 let me say it s a pleasure and an honor to be here this
22 afternoon.

23 At the outset, I want to address one issue
24 head on in the hope of setting it aside, and that is
25 the question of the nature of the threat that our

1 And what I ve been particularly troubled by in the
2 debate over terrorism, both before September 11 and
3 certainly since September 11, is the concept that civil
4 liberties and civil rights are at odds with national
5 security in a zero sum game, such that if we give up
6 some of our civil rights, give up some of our civil
7 liberties, we will automatically purchase some quantity
8 of security in return.

9 And I think it s very important to have a
10 historical perspective on this problem because, among
11 other things, it shows us that that formula, that
12 equation is not the truth. Time and again it s been
13 proven to be an incorrect tradeoff.

14 Obviously at some level there is a balance in
15 every society between civil rights and civil liberties
16 and the interests of law enforcement and national
17 security. But I don t think we ve been anywhere close
18 to having the examination of that balance.

19 As I said law Fall, questions of
20 effectiveness were ruled out of order in the
21 congressional debate. Nobody ever was forced to come
22 forward and say how anything in that Patriot Act would
23 make any difference, how it would at all improve our
24 ability to fight this very real and serious threat.

25 Now, looking back over the history that Kit

1 nation faces.

2 Those of us who talk about civil rights and
3 civil liberties, particularly in the context of
4 terrorism and national security, often find ourselves
5 accused of not appreciating the severity of the threat,
6 of not accepting that September 11 represented
7 something very important to our nation, of
8 underestimating what needs to be done to respond to
9 this threat.

10 And I want to say at the outset that I think
11 all of us here recognize the severity of the threat. I
12 think we have no doubt that there are right now in this
13 country people who are planning terrorist activities.

14 If you look at the history of Al Qaeda, it s
15 been roughly six months to a year between major acts of
16 theirs, which means I think we re due for another
17 attack or another attempt. And it could involve
18 biochemical materials. It could involve nuclear
19 radioactive materials.

20 And those of us who live in this area and
21 work in downtown Washington are basically at ground
22 zero.

23 So I don t think we at all underestimate the
24 seriousness of the threat. But that only says we ve
25 got to get this right. It doesn t tell us what to do.

1 Gage has outlined, I think we see three themes
2 recurring time and again, and which we re seeing now
3 played out in our country in a very unproductive way.

4 And those three themes are, first of all,
5 guilt by association; the stereotyping of people and
6 the use of race, ethnicity or political beliefs or
7 religious beliefs as an investigative lead, as a
8 targeting device.

9 The second element that recurs time and again
10 is that of secrecy, that of taking the governmental
11 procedures, the vitally important procedures, and
12 cloaking them with secrecy, usually invoking claims of
13 national security. And the government says we know
14 things that if you knew them, too, you would agree with
15 us, but we can t tell them to you.

16 And that secrecy leads to the third theme
17 which appears again and again, which is the lack of
18 oversight and accountability, the lack of the
19 procedures by which we determine whether the actions of
20 the government are producing correct results or not.
21 So the government operations become insulated from
22 accountability.

23 Now you see this time and again in the
24 Japanese American internment when the government did
25 not have to justify in any way, did not have to prove

1 in any way, and did not seek to prove in any way the
2 need for that.

3 Years later -- years later government
4 officials admitted that there in fact was no evidence
5 of sabotage on the part of Japanese Americans and they
6 knew it at the time of the internment. They said we
7 have evidence of Japanese sabotage. We just can't give
8 it to you. We cannot expose it to public review. In
9 fact, there was no evidence.

10 In the case of Frank Wilkinson that Kit Gage
11 referred to, who was sentenced to prison on the basis
12 of a witness's testimony cited by the Supreme Court in
13 affirming his conviction for contempt of Congress.
14 Sent to prison on the basis of the testimony of a
15 witness when the FBI had in its own files at the time
16 of the trial and at the time of the Supreme Court
17 appeal a document saying that in the FBI's view this
18 witness was unreliable. And all that file was secret.
19 It was secret for 30 years.

20 It took a 10 year long litigation to get that
21 file out. And Frank Wilkinson, years after he had been
22 released from prison, found that the witness against
23 him wasn't even believed by the people who put him in
24 jail.

25 In COINTELPRO, which was the counter-

1 intelligence program of the 1960s, when the FBI
2 targeted everybody from Martin Luther King -- it was
3 shameless, the harassment of Martin Luther King. It
4 was all conducted under the name of counter-
5 intelligence, the ground that there was some Communist
6 influence.

7 That investigation lost any connection with
8 foreign influence. It investigated the women's
9 feminist movement, environmental movement and civil
10 rights movement, of course. Totally done in secret.

11 The tactics in that were illegal. The FBI
12 knew that they weren't even trying to arrest people
13 because if they arrested them, they couldn't admit in
14 public the tactics by which they had been investigating
15 these people because they were illegal. And they knew
16 it. But that was all secret.

17 In the Cispus investigation, which was an
18 investigation in the 1980s against Central American
19 activists, the same secrecy. The same guilt by
20 association.

21 There was a kernel of an allegation there
22 that a group in Texas, the Texas Chapter of the Cispus
23 organization, was engaged in planning terrorist
24 activities, an allegation which later proved to be
25 false. It was the fabrication of an informant who was

1 making things up and a gullible agent who believed him.

2 But it was an allegation which merited
3 investigation. They didn't know at the time that the
4 guy was making it up. But what they did was they took
5 that allegation related to some people in Texas and
6 they opened a nationwide investigation of all the other
7 chapters of that group. And then they opened
8 investigations of all the other groups that were
9 affiliated with them or shared offices with them or
10 showed up at meetings with them or shared the same
11 philosophy.

12 An investigation that had been an
13 investigation of one group of people in one city in
14 Texas became a nationwide investigation of hundreds of
15 groups and thousands of individuals and was all
16 conducted under the cloak of secrecy until the House
17 Judiciary Committee and the FOIA began to drag out the
18 information.

19 And then we have the 96 Act, the 96
20 Counter-Terrorism Act which was based upon the notions
21 of guilt by association and secrecy and said that the
22 government could deport aliens who were alleged to be
23 members of certain designated groups which the
24 government admitted at the time of designating them
25 were involved in both legal and illegal activities.

1 And the government said, we can use secret evidence to
2 prove membership in these groups.

3 Now, the critical point about all of these
4 techniques throughout our entire history -- the use of
5 guilt by association, secrecy and the shielding of
6 government action from oversight and accountability --
7 is that these tactics do not work and we've proven that
8 time and again.

9 COINTELPRO. Millions of dollars. Tens of
10 thousands of agent years spent tracking down civil
11 rights activists, anti-war activists, other political
12 activists. And the GAO at the end of it all
13 investigated that, looked at those files, and found
14 that not a single incident was turned up in that
15 investigation of someone planning violence where the
16 investigation uncovered it. And very few cases of
17 actual criminal activity of any kind was uncovered by
18 that massive investigation.

19 The Cispus investigation. Zero evidence was
20 turned up of wrongdoing.

21 The PFLP investigation in Los Angeles. Zero
22 evidence. The FBI Director admitted in testimony
23 before Congress that those people were carrying out
24 activities which if engaged by United States citizens
25 could not have been touched.

1 But we don't even have to go back to
2 COINTELPRO or even to the 70s or 80s. The 96 Act
3 which I argued against at the time, which came in the
4 wake of the Oklahoma City bombing and the first World
5 Trade Center bombing, which said -- the government was
6 so adamant. They were so -- the FBI, the Justice
7 Department, they were so strenuous in their assertion
8 to Congress that they knew who the terrorists were and
9 they could deport them but they couldn't let the
10 evidence be shown in public, so they needed this secret
11 proceeding.

12 And they went forward and they got that
13 authority. They used it. They claimed they had other
14 authority in the law. And they went forward and
15 brought deportation proceedings against aliens using
16 secret evidence.

17 And a group of lawyers, my co-author David
18 Paul and others, some of whom Kit helped organize, took
19 those cases up and down the system time and again
20 teasing out this evidence. And over time every single
21 one of those cases -- there were about 20 or 30 of them
22 -- every single one of them fell apart.

23 The evidence was newspaper clippings, it was
24 some guy's wife who was engaged in a child custody
25 dispute with her former husband and thought if she got

1 the White House. And they got away with it.

2 They were able to do it. They didn't go to
3 mosques. They didn't go to demonstrations. They
4 weren't politically active. And this guilt by
5 association secrecy bound exempt from oversight
6 procedure never found them.

7 So, in other words, we took all the rules
8 off. We took all the constraints off and it didn't
9 work.

10 Now, how has our society -- what lessons have
11 we learned. One of the questions that the organizers
12 of this event asked me to discuss: What lessons have we
13 learned and what should we be doing today in the face
14 of this incredible threat.

15 And if you look back, the lessons that we
16 learned from the Japanese internment, from COINTELPRO,
17 from the Red Scare, again and again was the government
18 should have the power it needs. We give our government
19 awesome power and we have a lot of good law enforcement
20 people and you'll be hearing from some of them in the
21 course of these hearings. We deserve to have that
22 power.

23 The government has the power to read your
24 mail, listen to your phone calls, search your house,
25 take away your property, put you in jail, take away

1 him deported as a terrorist she could get custody of
2 the child. It was allegations that people hosted
3 meetings in houses and towns where they later proved
4 they never live. And this had to be teased out over
5 the years because the government said we can't tell
6 you.

7 They started out telling these people we
8 won't even tell you the name of the terrorist group
9 that you are alleged to be a member of it's so secret.
10 Now how are you going to defend yourself against an
11 allegation that you're a member in a group and the
12 government won't even tell you what the group is.

13 And judges again and again looked at this
14 evidence in camera and said it doesn't add up. It is
15 purely political in nature. It is purely guilt by
16 association and none of these guys are engaged in
17 illegal activity.

18 And what was the outrageous thing about this?
19 While the government was proceeding secretly under this
20 authority that they claimed so desperately they needed
21 to get rid of the terrorists that they claimed they
22 knew about but insulating themselves from
23 accountability and oversight, 19 people were in this
24 country planning to hijack airplanes and fly them
25 into the World Trade Center and the Pentagon and maybe

1 your life and we have not denied any of those powers to
2 the government. And I'm not here to argue that we
3 should deny any of those powers to the government.
4 Some of them are highly controversial still. I'm not
5 arguing that we should deny them to the government.

6 But what we have done is we have wrapped them
7 around with a set of rules and constraints and
8 limitations in order to ensure that those powers are
9 properly applied. And in the 60s and 70s we
10 instituted a lot of those powers, in addition to what's
11 in the Constitution. The courts became more active. A
12 lot of the Constitution had been a dead letter for much
13 of the history of the Bill of Rights until the courts
14 began, partly because of the push of the civil rights
15 movement to enforce it.

16 We developed the Freedom of Information Act
17 both federally and at the state level in most states in
18 order to allow citizens access to records. We created
19 constraints on the intelligence agency operations in
20 the United States. We created judicial oversight for
21 wiretapping and other intrusive techniques. We created
22 a whole concept of congressional oversight where the
23 Congress was supposed to be able to get access to
24 information.

25 We created watchdog organizations. We now

1 have a host of organizations in this country. One of
2 the things that s protecting us I think from a repeat
3 of the 40s and of the 60s is the number of non-
4 governmental watchdog organizations representing
5 different ethnic groups that are so strong and
6 undeterred in the wake of September 11 in defending the
7 rights of individuals.

8 We created entities like the Civil Rights
9 Commission which, of course, dates back to the 50s.
10 But it took on an increasing and continual role.

11 Now, since September 11, we ve seen a lot of
12 these checks and balances -- and that s what they are.
13 They are Constitutional checks and balances, the whole
14 system of our government. They ve been eliminated or
15 pushed aside or suspended.

16 At a certain level after September 11,
17 watching those buildings go down, you would want to
18 say, hey, let s do what we have to do. Let s figure out
19 who did this. Let s make sure nothing else is going to
20 happen. But now it s been six months and we ve had
21 people in jail for six months under secret evidence,
22 probably based on guilt by association.

23 We ve had a series of interviews based solely
24 on ethnicity, 100 percent, age and gender, too. It s
25 all males between a certain age, but other than that,

1 it was all ethnicity based.

2 Across the board we re seeing a crackdown on
3 access to information. We re seeing an effort to avoid
4 judicial oversight.

5 If you had members of the House and the
6 Senate here, they d tell you how little information
7 they ve gotten from the Administration, so the
8 congressional oversight process -- Senator Patrick
9 Leahy, Chairman of the Senate Judicial Committee, can t
10 get his inquiries answered from the Attorney General.

11 Lawsuits have had to be filed; still not
12 resolved in terms of access to information and access
13 to these detainee.

14 MR. ANTHONY: You ll have to summarize, sir.

15 MR. DEMPSEY: The question posed by the
16 Commission was: Can violations of civil rights and
17 civil liberties be defensible or justified in the face
18 of the national security concerns and can there be
19 successful anti-terrorism strategy that respects the
20 Constitution and civil rights?

21 And my final point here really is -- and I
22 welcome your questions and a dialogue, but my
23 concluding point is that civil rights and civil
24 liberties are not antithetical to an effective anti-
25 terrorism strategy. They are part of an effective

1 anti-terrorism strategy.

2 We don t allow coerced confessions not only
3 because the coercion is an affront to human dignity
4 We don t allow coerced confessions because we know
5 they re unreliable. We don t have a rule favoring
6 cross-examination and the right to confront your
7 accusers because -- not only because as a matter of
8 human dignity you should have the right to confront
9 your accusers but also because we know cross-
10 examination produces the truth.

11 One scholar called it the greatest engine for
12 the truth ever invented.

13 We don t have judicial review just in order
14 to go in and file lawsuits. Judicial review provides
15 the scrutiny that Executive Branch officials left
16 alone, acting under pressure, feeling these great
17 demands -- we know they will cut corners. We know that
18 they re going to make decisions that are not based on
19 sound evidence. So we put these reviews in.

20 So I say that the civil rights and the civil
21 liberties principles -- we shouldn t start from the
22 principle that they are at odds with security and that
23 they somehow need to be given up in increments so we
24 can purchase more security in return. These are the
25 things that will help us have an effective anti-

1 terrorism policy and they need to be reasserted and
2 brought back to the center of our counter-terrorism
3 strategy.

4 Thank you.

5 MR. ANTHONY: Thank you both for very
6 insightful and brilliant presentations.

7 And now, I will receive first inquiries and
8 comments from members of the panel and then we will
9 involve our friends and colleagues in the audience in
10 discussion.

11 So are there any members that have questions?

12 Reverend Sands.

13 REV. SANDS: Ms. Gage, I wonder do you discern
14 any difference in the response to the militancy of
15 speech of one person and the effect that same level of
16 militancy has when it is organized among many?

17 Does that have an impact on the response that
18 the government is likely to have?

19 MS. GAGE: Let me just see if I can refine
20 your question.

21 Are you saying should the government be more
22 fearful of an individual using incendiary speech versus
23 an organization which advocates the same kind of
24 position?

25 REV. SANDS: Yes. What I m asking is does

1 that seem to be the situation; that the government
2 responds differently to an organized group doing the
3 same thing that an individual may do and the government
4 not respond?

5 MS. GAGE: I think certainly if you look at
6 the government's anti-terrorism policy dating at least
7 from '96, their policy is largely based -- it's group
8 based. It's foreign terrorist organization based.

9 So I think clearly from that the government
10 believes that an organization which does whatever an
11 organization does -- I mean, it has presumably beliefs
12 and maybe actions of some sort, whether criminal or
13 not, that those are more dangerous than an individual
14 holding the same kinds of beliefs.

15 If you're asking me whether I think that's a
16 rational decision for the government to do that, I
17 don't because of the same kinds of things that I think
18 I said and I think Jim said, which is it's not so much
19 -- you have to look at what's being said.

20 When you talk about crime, lots of people say
21 I'm going to go wring my husband's neck if he throws
22 dirty clothes on the floor again. You have to look at
23 the credibility and the likelihood of something
24 happening as to whether or not you go after that.

25 And if you look at organizations, again it's

1 the same kind of thing. Is that organization -- do you
2 have information that an organization which advocates,
3 for example, the creation of a state of Palestine and
4 that group is in the United States, what are they
5 doing? Are they engaging in, are there members of that
6 organization who are engaging in criminal activity?

7 And I think it's not that they as a group
8 hold that position but rather are individuals in that
9 organization -- do you have evidence that individuals
10 in that organization are engaged in crime which could
11 be prosecuted by the U.S. And the government shouldn't
12 just say because the position of that group is at odds
13 with the foreign policy of the United States. That
14 shouldn't be the rationale for targeting that group.
15 And I think too frequently that's what we've found.

16 When a group is at odds, whether it was
17 activists about Central America policy, that was what
18 irritated the U.S. It was that they disagreed with
19 U.S. foreign policy.

20 So I think that that's really the risk when
21 you go after a group because of its beliefs that it
22 tends to backing.

23 MS. GILMORE: I'm Lea Gilmore and I have a
24 question.

25 MR. ANTHONY: You really need to come to the

1 microphone. And if you could continue to sit there,
2 that would be useful, as well.

3 MS. GILMORE: Much more official right here?

4 Hi. I'm Lea Gilmore from the Maryland SAC.

5 I have a question about the Freedom of Information Act.

6 If I'm not mistaken, I believe that a group
7 of organizations did form a coalition to actually find
8 out the names of the detainees who are currently being
9 held for the last six months. And I'd like to know
10 what the status of that is.

11 And another portion of that question is have
12 you seen a reluctance from this Administration to
13 actually let persons use the Freedom of Information
14 Act.

15 MR. DEMPSEY: Well, you're correct that a
16 lawsuit has indeed been filed. My organization is one
17 of the co-plaintiffs on that and I assume Kit's
18 organization.

19 So far that lawsuit has forced the government
20 to give out some information. In many cases, not the
21 names of the individuals but some information about the
22 cases.

23 I think it's been revealed that the
24 government's not sure exactly how many people --
25 doesn't have a good centralized list of how many people

1 have been arrested and released and how many are still
2 detained and what for and so on.

3 There's a little bit more information
4 available. If you go to our cdt.org website and go to
5 our page devoted to responses to September 11, you'll
6 see information on that lawsuit and you can get the
7 most up to date information on the case.

8 The case raises a broader issue with the
9 Freedom of Information Act, which is that over the
10 years, despite Congress's clear intent to cover
11 national security information under the FOIA, the
12 courts have almost always at the end of the day
13 deferred to the Executive Branch claims of national
14 security for withholding information under the Freedom
15 of Information Act.

16 So this reform which was put in place and
17 which has been extremely positive in many ways and a
18 model for the rest of the world, in this particular
19 arena, the law enforcement and national security arena
20 has not been effectively enforced by the courts. And
21 they have, in my view, been unduly and
22 unconstitutionally deferential to the claims of
23 Executive Branch officials.

24 Again, following evidence that the Executive
25 Branch officials will misstate the case, as they did,

1 for example, in the Pentagon Papers case where there
2 the court did not defer, fortunately, and an important
3 precedent was set. But years after that. Irwin
4 Griswold, the Solicitor General for the United States
5 at the time, who defended the interests of the United
6 States Government in court and claimed national
7 security interests, admitted years later that he knew
8 and other government officials knew at the time that
9 there was not a national security harm that would be
10 caused by release of the Pentagon Papers case.

11 But the courts have generally under FOIA.
12 deferred.

13 MR. ANTHONY: Mr. Okura.

14 MR. OKURA: It s been 60 years since President
15 Roosevelt signed Executive Order 9066 placing those of
16 us of Japanese ancestry beyond barbed wire fences in
17 internment for a period of three years. The Supreme
18 Court has never decided or will not decide whether it
19 was right or wrong.

20 The federal government admitted their error
21 and provided reparations for \$20,000 to each of us who
22 were still living. All of our parents were deceased by
23 that time. There were 10 in my family; eight of them
24 are gone. There are two of us left.

25 Now, despite all of the history that you just

1 repeated of our errors and so on, my question is what
2 can we do in the year 2002 of what s happening under
3 the Patriots Act. We re making the same mistakes in
4 dealing with the Arabs, Muslims, the group that s being
5 persecuted now.

6 Now, 60 years. You d think we d made some
7 progress. Well, I m 90 years of age and I know what s
8 happened in the last 90 years; my parents and all of
9 the discrimination in the 20s and 30s as I was
10 growing up and so on. However, we haven t made a great
11 deal of progress in the whole area and we re seeing a
12 repetition of history all over again.

13 Now, what do you suggest is the answer to our
14 dilemma that we find ourselves in now.

15 MR. DEMPSEY: I think that the first step is
16 what you re doing here using what power and authority
17 you have to ask the questions. Ask the questions of
18 the government officials, of the local police and
19 county and state police who are cooperating with the
20 FBI, and of the Justice Department: How are you
21 carrying out these activities? How many people are
22 being held? What are they being held for?

23 Publish the answers. I m not sure you re
24 going to get all the answers. Obviously others have
25 tried. But still, I think every group that has any

1 stature or position needs to pursue these issues, as
2 you are.

3 Push the full Commission to do the same and
4 push your elected representatives in these three
5 jurisdictions to pursue these questions
6 congressionally.

7 Kit, I and other groups are fighting. And I
8 think one difference between -- we need to be clear.
9 There are differences between today and 50 years ago in
10 our past. And as I said, we do have strong advocacy

11 organizations who are trying to invoke the judicial
12 processes and are trying to educate the public. And I
13 think this Commission as well has a role to play in
14 education in the public. And specifically in terms of
15 the dialogue with the law enforcement agencies and the
16 federal agencies on this question of effectiveness.

17 I think those who support civil rights and
18 civil liberties should never defer, never give up on
19 this effectiveness question. How is this really
20 working? How do we really know that we re any safer
21 now than we were on September 10? How do we really
22 know that you re getting the right people?

23 If we can t see the evidence and if it s not
24 subject to cross-examination because we know in case
25 after case both of a political nature and of an

1 ordinary nature that it s that process of scrutiny,
2 cross-examination, public trial, public accountability
3 that we get the best results. And in this respect, the
4 national security field is not that different from the
5 ordinary criminal justice field.

6 Obviously, future plans, what day we re going
7 to attack Iraq, those kinds of questions are
8 appropriately secret and should be secret. But in
9 terms of what s going on now, who s being held and how
10 do we know that they deserve to continue to be held, I
11 think those are appropriate questions to ask.

12 MR. OKURA: When you ask those questions, the
13 answer you get is that we re at a war now. We re under
14 the act that was recently passed and so on. That we
15 can t consider those questions that you re asking and
16 that you re unpatriotic for asking those questions, so
17 we have no answer for you.

18 MS. GAGE: I think one of the most wonderful
19 things about having lived through the history that we
20 have, which you ve played a part in, is that we can
21 come to the table with that history and say we know
22 what happened to Japanese Americans. We know what
23 happened to the civil rights movement. And people who
24 lived through that come to the table.

25 You re at the table and we have that history

1 to be able to say to the government, no. What Jim has
2 said about -- we have to do something that works, not
3 just round up the usual suspects. That doesn't work.

4 MR. DEMPSEY: If you had asked these questions
5 on September 10 to the FBI the CIA, they would have
6 said we're in a war against terrorism. We can't tell
7 you the answers.

8 And guess what? They didn't have the
9 answers. So that didn't work. We tried that approach.
10 We tried, oh, it's national security. Oh, it's a war.
11 Oh, we can't intrude upon it. We tried that and it
12 failed and 3,000 people died.

13 MR. ANTHONY: Let me proceed to other members.
14 Peter Kaplan and then Chester.

15 MR. KAPLAN: Following up on the most recent
16 remarks then about the need for effectiveness, can you
17 be more specific about what specifically -- what should
18 be the appropriate effectiveness measures that we
19 should call upon that would allow us to determine
20 whether or not the action being taken are producing the
21 accountability that you believe would be appropriate in
22 this case?

23 Specifically, what are the kinds of questions
24 that should be asked? What kinds of measures, what
25 kinds of evidence should be holding the government

1 agencies responsible in these areas to produce to make
2 those judgments.

3 MR. DEMPSEY: I think it goes back to some
4 lessons learned that the Chairman was referring to in
5 the dissenting opinions that you quoted from in
6 Koramatsu case -- dissenting opinion which proved to be
7 right, which is it has to be based on individual guilt.

8 I think at the end of the day, that's all we
9 have. We hold people responsible for their individual
10 actions, which means rather than using guilt by
11 association and either ethnicity or religion as a
12 guide, we need to do the hard work of identifying
13 individuals who are engaged in criminal activity. And
14 we either have them or we don't. And how do we know?
15 We prove it under court procedures, subject to cross-
16 examination.

17 Now, a lot of this starts overseas and it
18 starts with our intelligence agencies or CIA, other
19 agencies who are operating overseas.

20 Now, by the way, a lot of people blame
21 privacy for our problems here, the privacy rules and so
22 on. There are no privacy rules that apply to
23 surveillance conducted overseas. And we need to go --
24 and I think we have collected substantial information
25 in Afghanistan. We've got better relationships with

1 other governments, starting with Pakistan, which after
2 all for years sheltered and supported the Taliban and
3 Al Qaeda. I don't know that we're getting everything
4 from them that we deserve and need.

5 We're working more closely with international
6 and with other governments. And every single one of
7 those things is hard work. It's not easy. There's no
8 underestimating the challenges. But we have to trace
9 that information down and run it back here and not get
10 lazy with guilt by association or secret evidence.

11 Therefore, the people who are on these
12 material witness warrants -- the material witness
13 statute says the government can arrest you if you're a
14 witness to a crime, which is an extraordinary thought.
15 Most people would not dream of the fact that if you're
16 a witness to a crime you can be arrested, but you can
17 be under our legal system. A witness who can be
18 arrested and held only so long as is necessary to
19 preserve your evidence.

20 MR. ANTHONY: Which could be forever.

21 MR. DEMPSEY: No. Either you're going to talk
22 or you're not. Either they come and they interview you
23 and you give a statement or not. But instead, that's
24 being used to hold people.

25 Now, the government says, yeah, we know

1 they're guilty but we can't prove it or we know they're
2 guilty but we can't prove it in public. And to me, I
3 say they may be guilty. They may not be. But if
4 they're not, then that means we've got to be looking
5 somewhere else because we've got the wrong guys.

6 MS. GAGE: Let me just add one thing. We
7 haven't yet learned the lessons from September 11. We
8 passed a whole bill and all these Executive Orders and
9 regulations and memos and everything without that
10 information without that information.

11 We've got to look and see what mistakes we
12 made. We've got to look and see specifically how to
13 increase our security, if there are additional laws
14 that were not passed that should have been passed. But
15 none of that hard work has been done. It's the same
16 kind of hard work. You've got to figure out what went
17 wrong before you really effectively can address it.

18 The government has only now announced that
19 it's going to begin to do that. It's going to do it in
20 secret, which is -- entirely in secret, which is of
21 concern to me. But that's -- you learn the lessons.

22 MR. WICKWIRE: Mr. Chairman, can I put in a
23 plug for the book that Jim Dempsey and David Cole co-
24 authored? The book, Terrorism and the Constitution:
25 Sacrificing Civil Liberties in the Name of National

1 Security. Look. Everyone of you should have this
2 book.
3 Your foundation, Kit, published it; right?
4 MS. GAGE: Right.
5 MR. WICKWIRE: It s indispensable.
6 MR. ANTHONY: We hope you brought a few
7 copies.
8 MR. DEMPSEY: We did bring a couple.
9 MR. ANTHONY: Good.
10 MR. WICKWIRE: In 60- 61 at Hopkins, we
11 brought Frank Wilkinson to speak on the campus. And a
12 guy in the geography department, George Carter, who
13 fingered Owen Lattimore -- tried to get me fired
14 because he said that because we brought Wilkinson, it
15 was a sign we were the center for Communism, anti-
16 religion on the campus of Johns Hopkins University.
17 That, obviously, I d say, was not true.
18 One other thing I wanted to say. We re not
19 watching as we should be. We re asking what we should
20 be doing but, for instance, in Maryland, there s sort
21 of mini-legislation that s just been passed that
22 expands wiretapping and give access to email and
23 websites without warrants. We haven t been paying
24 attention. ACLU has been but most of us have not even
25 been aware that this kind of thing has been going on.

1 One question. There are a lot of questions
2 I d like to ask, but one question here.
3 I take it you feel that there can be a
4 successful anti-terrorism strategy that fully respects
5 the Constitution.
6 MR. DEMPSEY: Absolutely.
7 MS. GAGE: Oh, yes, absolutely. But on the
8 other hand, just like the U.S. will never eliminate all
9 crime by passing laws to outlaw it. The same is true
10 of terrorism.
11 We d like to stop those kinds of acts but it
12 is at the base on some level impossible. So we do our
13 best. We minimize it. We try to avoid it if at all
14 possible. But the bar should not be there will never
15 be a crime; there will never be a terrorist act, but
16 rather try to find it, go after the people who are
17 planning it. Certainly go after the people who ve
18 committed it. And within the grounds of the
19 Constitution.
20 Again, knowing that if you don t use torture,
21 if you allow due process, if you can rebut the
22 evidence, you re the likeliest to get the right people.
23 MR. DEMPSEY: if I could just be clear. It s
24 not the Constitution that leads to imperfection.
25 Imperfection is inherent to the human nature so I don t

1 want to suggest that adherence to the Constitution
2 makes our efforts against terrorism less than perfect.
3 MR. WICKWIRE: Would either one of you want
4 define terrorism?
5 MR. DEMPSEY: Well, terrorism is the use of
6 violence or threat of violence, directed against
7 governments or civilian populations in an effort to
8 change governmental policy. Politically motivated use
9 of violence.
10 MR. ANTHONY: Do we have some other members
11 that would like to ask questions?
12 I m going to hear from Mr. Kurzman.
13 Before you leave, I m going to leave just a
14 smidgen of time so that both of you could give us, for
15 the benefit of the record, your view as to -- and some
16 little bullet points, about how you think there can be
17 a proper harmonization between Constitutional
18 requirements and the legitimate interests of government
19 to protect its citizens.
20 As I recall, in the Karamatsu case, the court
21 interpreted the statute in such as way so as to suggest
22 that in times of war or national exigency -- in effect,
23 they said without really saying it directly, there s a
24 little bit more latitude that we would grant than we
25 would under normal circumstances.

1 The other point is that I gather that your
2 comments that you ve given to both of us apply to both
3 citizens and non-citizens. So your concerns would
4 cover both instances.
5 MS. GAGE: Yes, they would.
6 MR. KURZMAN: I was just curious. You did
7 cover the question of the Freedom of Information Act as
8 a legal tool. As to whether habeas corpus has been or
9 could be used for those who have been detained for a
10 long time without charges, and if not, why it hasn t
11 been used and if it has, what the outcome has been.
12 MR. ANTHONY: Could you share for the audience
13 who may not know a great deal of Latin what you mean by
14 that?
15 MR. KURZMAN: Well, it dates back I guess to
16 English common law. It s a legal technique by which
17 one may go to court on behalf of a person detained by
18 government, either federal or state or local and demand
19 to know before the court on what basis they are being
20 held.
21 And normally, this is a way where someone has
22 been arrested and not charged to find out whether there
23 is a Constitutional basis for holding them.
24 Is that a fair description?
25 MR. DEMPSEY: That s a correct description of

1 it and I would have to say that I do not feel competent
2 to go beyond that description of it. I m not close to
3 being an expert on habeas corpus and its ins and outs.
4 And it s something that was amended in the 96 Act and
5 has been changed multiple times in terms of the actual
6 procedures.

7 I note that on the next panel there are
8 several witnesses on the subject of detention and
9 profiling and I hope that one or more of them might be
10 in a better position than I am to discuss that.

11 If not, and if that question is still open at
12 the end of the day, your staff could let me know and
13 I ll try to answer that question.

14 MS. GAGE: Let me just add. There are a
15 number of cases being brought under habeas for the
16 people who are being detained both in New Jersey, the
17 people who are being detained just on -- in deportation
18 proceedings and who have been denied bond, but also
19 some of the other folks. And some of the folks in
20 Guantanamo as well are in habeas proceedings.

21 So that s certain been -- that s being used
22 increasingly.

23 Let me just say it s really -- a lot of this
24 takes a long time. Initially when Mr. Ashcroft said,
25 well, why aren t there all these lawsuits. I knew of

1 MS. GAGE: They didn t know where they went.
2 They would be arrested in California and just be gone.
3 They didn t know for days because the government didn t
4 let them -- they let them have one phone call a week
5 for the first few weeks. One phone call. And the
6 numbers they gave them for legal help, one of them was
7 wrong.

8 It s hard to find out those people.

9 MR. KURZMAN: But by now, I assume --

10 MS. GAGE: By now they ve pretty much been
11 accounted for, as far as I know.

12 MR. OKURA: Is there a statute of limitations
13 on habeas corpus?

14 MR. DEMPSEY: No. I mean, habeas corpus is
15 the right to challenge an unlawful detention, so long
16 as you re detained you have your habeas corpus right.

17 MR. OKURA: I filed in 1943 because I was
18 declared the most dangerous Japanese American in the
19 country. My attorney died and he said this is not the
20 right time. It s late. And then I was told later, the
21 statute of limitations has run out. Sorry. Your case
22 is no good.

23 MR. DEMPSEY: Once you had been released, you
24 no longer could use habeas to challenge it. There
25 might have been other grounds to challenge it although

1 one being filed. It was being filed the next day. We
2 didn t know in New Jersey, the detained people in New
3 Jersey. It took a lot of figuring out to figure out
4 that people were all being moved from all over the
5 country to New Jersey to be put in deportation
6 proceedings. It was like disappeared people in the
7 United States.

8 We asked what their names were. We said
9 who s there? Why are you doing this? And it was all -
10 - well, it s privacy that we have to do all of that and
11 keep them in secret.

12 So a lot of odd laws and policies get used to
13 do I think unconstitutional things.

14 MR. ANTHONY: Are there other members that
15 wish to --

16 MR. KURZMAN: Can I just ask this to follow up
17 on one point there.

18 If there are family members here or friends
19 who know that they ve been detained, they of course
20 have the power to bring a suit.

21 MR. DEMPSEY: Although before I think they can
22 file a suit, they have to know where the person is in
23 order to establish jurisdiction. They ve had a hard
24 time finding out what state these people are being
25 held.

1 ultimately that case failed, as well.

2 MR. PATRICK: Now, I should say that I ve been
3 informed that we re running close to the end of time
4 here. So in the instance of preservation of these
5 boundaries, I will hear from the member, hear from this
6 gentleman that I see, and hear from the lady in the
7 back. And then we will hear your little bullets about
8 how you think you can harmonize what in the minds of
9 some is something that can t be harmonized.

10 For those who are asking questions, may I
11 respectfully suggest that you limit your
12 interrogatories to interrogatories and the fuller
13 expression of your sentiments are available toward the
14 end of the day.

15 MS. FROMAL: What I m hearing and what
16 concerns me most is the judges.

17 MR. PATRICK: Could you speak in the mike?

18 MS. FROMAL: Judges. And judges set the
19 precedent and then it becomes what happens over and
20 over again, whether it s law or not. What happens when
21 judges just become part of this system and is it
22 happening? Are judges more and more just feeding into
23 government action, agency law, and what do we do about
24 it?

25 MR. DEMPSEY: Well, the first half of the

1 question is easier to answer than the second half
2 because the answer to the first half is yes.

3 Just as we saw judges become handmaidens to
4 the war on drugs, I think that judges are not
5 exercising their critical faculties and their judicial
6 role adequately in this instance.

7 What to do about it? I guess two things.
8 First of all, we have seen over the years political
9 criticism of the independence of the judiciary and
10 we've seen when judges have suppressed evidence in drug
11 cases or have criticized government search and seizure
12 activity or other activities in the name of fighting
13 drugs that those judges have found themselves
14 criticized.

15 And the message has gone out to the
16 judiciary, I think, to not play that independent role.
17 And so I think there needs to be a constant defense of
18 the independence of the judiciary, the power of the
19 judiciary to stop Executive Branch action that's going
20 too far.

21 Also, I think it has to do with the process
22 of selecting judges, which of course is political
23 trench warfare at its most intense.

24 MR. PATRICK: If I may, dear lady, forgive me
25 for not knowing your name. Could I ask you to approach

1 refusing to give information about them.

2 I wanted to know is that going to be a new
3 site of collection of people or not, as it was New
4 Jersey, and why is that, if you know anything about it.

5 The other thing is the arrests yesterday at
6 Reagan and Dulles Airport were mostly of people who
7 were very low on the ladder and have been there for
8 years and years working and not new immigrants. And I
9 wanted to know what the thinking is of the government -
10 - what you think the thinking is of the government
11 behind doing that and was it meant just to strike fear
12 in people's hearts or what.

13 The last part is there seems to be an
14 escalating type of activity that's being carried out by
15 our different government agencies that seems very much
16 like what in other countries is called marshal law.
17 And is what we're experiencing substantially different
18 than marshal law and could the U.S. on the pretext of
19 being in a war situation that presumably is going to go
20 on forever, could declare marshal law and do even more
21 things.

22 MR. PATRICK: And before you respond, could
23 you share your question as well, sir?

24 AUDIENCE: Sure. Just two quick questions.

25 One, I'd like both of you to comment very

1 the podium now, because our friend here has been
2 diligent to be with us all day and I want to give
3 everybody at least one shot, and then you will have the
4 final question.

5 MR. DEMPSEY: Anyhow, it's a good question and
6 I think you're on to something.

7 MS. FROMAL: In other words, that's an area
8 that needs a lot of examination.

9 MR. DEMPSEY: Yes. Definitely.

10 MS. FROMAL: And what about our agencies. I
11 feel like so many more of our government agencies are
12 themselves involving themselves in criminal activity.

13 MR. DEMPSEY: I wouldn't --

14 MS. FROMAL: Wouldn't go so far as criminal.

15 MR. DEMPSEY: No. Absolutely not.

16 MR. PATRICK: A creative stretching of the
17 Constitution.

18 Dear lady?

19 AUDIENCE: My question is for both of you. I
20 didn't hear everything you have said but I wanted to
21 know first of all, recently they have been starting --
22 you said they were before collecting people to New
23 Jersey and now a new site is the York County Detention
24 Center in Pennsylvania. And there's a large number of
25 people that have been collected there and they're

1 briefly on something I haven't heard yet on the
2 detentions based on the material witness provisions.
3 I'd like to hear you both comment on that.

4 And also, is it your opinion that the changes
5 in the law or changes in government powers resulting
6 from the Patriots Act, which are primarily now aimed at
7 immigrants, do you believe that these are essentially
8 stalking horse provisions and are contemplated by the
9 government to be introduced and enforced on U.S.
10 citizens.

11 MS. GAGE: Neither of us know particularly
12 about York County except that I have been hearing about
13 other people getting arrested and we know that they're
14 being taken to other facilities. And the way that we
15 find out about that is sort of because of the kind of
16 secrecy that goes on is sort of a hunt and peck.

17 We hear from families about my loved one has
18 been taken. I don't know where they are. And so it's
19 sort of the activists, the civil rights groups that are
20 working on these issues are really forced to reach out
21 to all of their people to say let us know what's going
22 on, and then we try to mobilize to deal with what we
23 see is the most egregious problems.

24 In terms of marshal law, explicitly I think
25 there are some aspects of marshal law, if not

1 explicitly at least -- I mean, not necessarily an
2 entire mode of action but the kinds of government
3 authorities that have been taken in a number of
4 different areas do resemble marshal law.

5 And I think especially given that we are not
6 in a declared war, that the President has declared that
7 we are in essentially an endless war, this is of great
8 concern because there are no parameters.

9 It was designed and envisioned for a
10 particular kind of condition which now has been made
11 essentially open-ended, which I think is another one of
12 the issues we have to take on.

13 MR. ANTHONY: Do you have a summary now?

14 MR. DEMPSEY: I think that the four most
15 important elements of an effective counter-terrorism
16 strategy, one that would be both effective and
17 consistent with the Constitution, are the following.

18 Number one is the focus on criminal activity
19 rather than political activity. Bombing, hijacking,
20 money laundering. These are criminal activities and
21 should be punished as such. And it s a crime also to
22 conspire to carry something out, so we re not saying
23 that you need to wait until the bomb goes off.

24 Within the criminal law, the government has
25 ample authority to investigate the planning of criminal

1 activity and the preparation for criminal activity and
2 the support of criminal activity. The criminal
3 standard should be the focus.

4 Secondly, and related to that, is the concept
5 of particularized suspicion, which is inherent to the
6 Constitution, the Fourth Amendment, the Fifth
7 Amendment, the Sixth Amendment. The whole focus of an
8 investigation should be to narrow, become more narrow,
9 not to become wider.

10 It s not as if ideology is irrelevant here.
11 We believe that all the people who hijacked the
12 airplanes on September 11 were ideologically motivated
13 and they all shared an ideology. And others sharing
14 that ideology, I believe, are now planning additional
15 acts against the United States. But the idea is to
16 narrowly define that ideology and to focus it down on
17 particular individuals who are planning the criminal
18 activities.

19 The third is the concept of judicial review
20 and judicial control which goes both to the initiation
21 of investigations and to the use of techniques and to
22 the holding of people and to the imposition of
23 punishment.

24 And fourth is the concept of oversight and
25 accountability. That we need strong congressional

1 oversight. We need strong internal oversight within
2 the Justice Department and we need strong oversight by
3 organizations like the U.S. Commission on Civil Rights
4 and its State Advisory Committees and by citizen
5 organizations.

6 MR. ANTHONY: We thank you both for very
7 thoughtful, informed and exciting presentation and we -
8 - I m, sure I speak for all of the membership in that
9 we re greatly benefitted in our nation that there are
10 persons such as you who will maintain the constant
11 remembrance and that all of us need to recall that
12 we re as good as our principles and we re better when
13 we keep them.

14 Thank you so much for coming.

15 MR. PATRICK: We will take a short break and
16 get ready for our next panel, which is Implementing the
17 U.S. Patriots Act of 1991: Civil Rights Impact.

18 (Off the record.)

19 MR. PATRICK: (Back on the record.)

20 Good afternoon. My name is Richard Patrick.
21 I m the Chair of the Virginia Advisory Committee.

22 Welcome back again. And we ll go right into
23 our next panel. We re trying to do a little bit of
24 catch-up. And to moderate this session will be Cynthia
25 Graae, a member of the D.C. State Advisory Committee.

1 Cynthia.

2 MS. GRAAE: AS noted in our last panel, the
3 USA Patriots Act and the implementing regulations raise
4 questions regarding government protection of civil
5 rights.

6 The Washington metropolitan area has a very
7 diverse population and immigrant base and civil rights
8 issues are of great importance to us in this community.

9 Among the issues of most concern to the
10 inter-SAC are the questioning and detention of Arab and
11 Muslim men by federal authorities, immigration
12 practices, specifically investigation of visa
13 violations, procedures used at immigration and
14 deportation hearings, protection of civil rights at
15 airports and by air carriers, new missions or policies
16 of federal agencies, and federal oversight mechanisms
17 over agency activities.

18 Other issues of interest include government
19 access to student records, tracking foreign students
20 who enter the USA and allegations of employment
21 discrimination.

22 I would like to introduce our SAC members and
23 then I ll introduce our panelists and we ll go from
24 there. Everyone will have 10 minutes. When we get to
25 nine minutes, I ll give you a signal to let you know,

1 and then we will follow.

2 Our inter-SAC members will ask questions and
3 then in the public questioning. Maybe some of you
4 would like to question each other as well. That would
5 be fine. You can participate in the questioning since
6 we have two separate groups here essentially. We have
7 government officials and we have members of the private
8 sector interest groups, ACLU and so forth.

9 Our members of the inter-SAC are Patrick
10 Okura, from the Maryland SAC; Richard Patrick from
11 Virginia; Peter Kaplan from DC; Chester Wickwire from
12 Maryland, Sheila Carter-Tod from Virginia; Michelle
13 Morales from D.C.; and Jorge Figueredo from Virginia.

14 MR. PATRICK: He may have had to leave.

15 MS. GRAAE: I haven't seen him.

16 MR. PATRICK: He was here earlier but he
17 probably had to leave.

18 MS. GRAAE: Our panelists today are Laura
19 Murphy, who is the Director of the Washington National
20 Office of the ACLU; Raj Purohit, who is Legislative
21 Council, the Washington Office, Lawyers Committee for
22 Human Rights; Kelli Evans, an attorney for Relman
23 Associates. I'm sorry that she is not able to be here,
24 however, she has given us a statement which Chester
25 Wickwire is going to read for us.

1 In fact, the Justice Department had
2 unsuccessfully sought many of the proposals well before
3 September 11 to bolster routine drug cases and other
4 non-terrorism investigations.

5 I dealt with that personally in the context
6 of the anti-terrorism legislation that followed the
7 Oklahoma City bombing. Many of the provisions that
8 were rejected by the Congress at that point reappeared
9 in the anti-terrorism legislation, the USA Patriots
10 Act.

11 Some skeptical members of Congress argued for
12 a sunset provision under which the law would expire in
13 several years, forcing congressional reconsideration
14 under less frenzied circumstances. But in the end, a
15 four-year sunset provision in the law applies to only a
16 handful of the eavesdropping sections in one title of
17 the bill.

18 Among the most far-reaching provisions in the
19 law are the following.

20 Sensitive information about American citizens
21 obtained through grand jury investigations and wiretaps
22 may be disclosed to intelligence agencies without
23 judicial review of the justification for such
24 disclosure. And this again applies to routine federal
25 investigations, not just to terrorism investigations.

1 From federal agencies we have Paul Martin,
2 counselor to the Inspector General at the U.S.
3 Department of Justice; Blane Workie, trial attorney at
4 the U.S. Department of Transportation, Office of
5 Aviation Enforcement and Proceedings; Kathleen Connon,
6 who is the national external program manager of the
7 Department of Transportation, Federal Aviation
8 Administration Office of Civil Rights.

9 Rochelle Granat, who is the deputy chief
10 counsel for general law at the Department of
11 Transportation, Transportation Security Administration,
12 regrets that she was unable to be here but other
13 members of the Department of Transportation will be
14 able to take questions.

15 Let's begin with Laura Murphy.

16 MS. MURPHY: Thank you.

17 The title of my presentation I believe is
18 Implementing the USA Patriots Act of 2001: A Civil
19 Rights Impact.

20 I think it's important first to discuss what
21 the USA Patriots Act does.

22 The USA Patriots Act gives abundant new
23 enforcement powers to the federal government. Most of
24 its provisions are not limited to terrorism offenses
25 but instead apply to all federal investigations.

1 There is a new statutory authority to engage
2 in so-called sneak and peek warrants under which
3 government agents can execute a warrant and conduct a
4 physical search of the premises, computers, et cetera,
5 without providing notice to the subject.

6 Right now, if you're presented with a warrant
7 you have the ability to go in and challenge the warrant
8 in court if it's inaccurate. There might be 10 Rachel
9 Kings in a community and they may have the wrong Rachel
10 King. So when you're presented with a warrant, you're
11 able to assert your due process and Fourth Amendment
12 rights.

13 And with the use of sneak and peek warrants,
14 that right is not -- you're not able to assert that
15 right because you're not aware that the federal
16 government has come in and invaded your privacy and
17 searched your belongings.

18 And again, that applies to routine criminal
19 investigations. Has nothing to do directly with the
20 investigations of 9/11.

21 The courts are required to issue an order
22 under the Foreign Intelligence Surveillance Act -- and
23 I'm sure Jim Dempsey talked about FISA before I arrived
24 -- compelling the production of books, records or other
25 items upon receiving a law enforcement certification of

1 relevance, whether or not the judge agrees that the
2 information is relevant.

3 In other words, what does that mean? It is
4 much easier to compel the release of documents from
5 private parties under the Foreign Intelligence
6 Surveillance Act because you only have to show a
7 limited relevancy to the terrorism investigation.

8 Once again, it's easier for the court to gain
9 information about you and your belongings and your
10 political activities, for that matter.

11 The police may obtain information about
12 private internet communications under a meaningless
13 standard of judicial review. In other words, there is
14 a greater ability for the government to surveil where
15 you surf on the net, what documents you look at. And
16 it's very, very difficult for a court to reject a
17 request by the government to surveil your internet
18 activities under this new law.

19 Student records must be turned over to a law
20 enforcement agent based on a mere certification by the
21 agent that the records are relevant to an
22 investigation. So right now, it's much easier for the
23 federal government to go to a college or university,
24 insist on seeing student records. And student records
25 often contain a lot of personal information. They

1 in the amount of time that the Attorney General can
2 detain a non-citizen. The Attorney General asked for
3 indefinite detention. We were able to get the Congress
4 to agree that there should be seven days, no longer
5 than seven days before criminal or deportation charges
6 are brought. But thereafter, an individual may be
7 detained indefinitely in six-month increments without
8 meaningful judicial review.

9 And so as narrow as these protections are,
10 the Administration has essentially ignored them in its
11 subsequent detention of individuals in this post-9/11
12 environment.

13 The bill was signed into law on October 26
14 and yet while negotiating with members of Congress
15 about the scope of the new authorities in the bill, the
16 Administration was in the process of issuing a number
17 of regulation that would expand its powers and was also
18 in the midst of increasing the number of individuals
19 who were detained, individuals of Arab and South Asian
20 descent.

21 And to just briefly review some of the things
22 the Administration has done since the USA Patriots Act
23 was enacted is that it issued a military order calling
24 for the use of military tribunals. It issued
25 regulations allowing the government to eavesdrop on

1 contain health records, financial records. It's not
2 just the transcript of your grades.

3 A similar provision allows enforcement and
4 intelligence agencies to obtain sensitive personal
5 business information. So if they want to know about
6 your activities, they can go to Mastercard and Visa and
7 American Express and demand the turnover of your
8 financial records. And again, the standard for
9 judicial review is really meaningless.

10 In other words, the courts have to say that
11 this is not related to an intelligence investigation.
12 And oftentimes when the intelligence agencies seek this
13 information, they go to the court to get approval to
14 get this information, they assert that it's relevant
15 and for classified reasons they cannot disclose exactly
16 what cases they are investigating. So there really
17 isn't meaningful judicial review on a lot of these
18 provisions of the law.

19 The immigration provisions of the bill are
20 also very expansive. The Attorney General may order a
21 non-citizen detained, incarcerated, if the government
22 believes there are reasonable grounds to believe the
23 individual may be a threat to national security.

24 Now, we were able, a group of us who lobbied
25 on the USA Patriots Act, were able to get a reduction

1 attorney-client conversations without the need of going
2 to the federal court to get a warrant to eavesdrop on
3 those conversations.

4 Again, the eavesdropping provisions apply to
5 all individuals in federal custody. The regulations
6 were not narrowly tailored to apply to only the
7 individuals related to the September 11 terrorist
8 attack but all individuals in federal custody.

9 So in many ways, this incident was an excuse
10 to ram through a series of proposals that federal law
11 enforcement had wanted for years.

12 Again, with regard to the military tribunals,
13 one of the interesting aspects of those is that the
14 government asserts the power to detain non-citizens at
15 Guantanamo Bay indefinitely without even a tribunal.
16 And to detain individuals who are acquitted by a
17 military tribunal. So it is flaunting some of the
18 provisions of the USA Patriots Act already through its
19 treatment of those individuals who are being held at
20 Guantanamo Bay.

21 I guess the ACLU has been in a unique
22 position because we are a lobbying organization. We're
23 a litigating organization and we try to engage in
24 public education. And we --

25 MS. GRAAE: One minute.

1 MS. MURPHY: Okay.
 2 One of the things that I want to say to this
 3 body is that I want to thank you for doing what you re
 4 doing because many people are not following the fine
 5 print in terms of what the government action is in this
 6 post-9/11 environment. And there are severe
 7 consequences for our civil rights and civil liberties.
 8 And I think creating a record such as you re
 9 planning to do is a very very important contribution to
 10 at least educating the public about what issues are at
 11 stake, what rights are at stake, and what if any
 12 recourse the public has in stopping the abuses of power
 13 that we believe are occurring by the federal government
 14 in the aftermath of September 11.
 15 We want to see the United States safe but we
 16 also want to make sure that it maintains its liberties.
 17 And we believe that it is not a false dichotomy to
 18 assert that we can be both safe and free.
 19 Thank you very much.
 20 MS. GRAAE: Thank you.
 21 Malea Kiblan.
 22 MS. KIBLAN: Yes. I want to thank the panel
 23 for inviting me to speak. I am going to address the
 24 issue of detentions and I bring to you -- I m in -
 25 private practice. I m an immigration attorney. I ve

1 was unsuccessful. So I wrote to the Attorney General,
 2 to the Commissioner of INS and to the head of the FBI
 3 and stated that I was the attorney for the above-named
 4 individuals and that I represented their Embassy as
 5 well, and that I wanted to know whether they were in
 6 the custody of the United States, and if so, where they
 7 were located. And I wanted immediate access to them.
 8 I was called by someone at the Department of
 9 Justice, very cooperative and very decent human being,
 10 who told me I m in receipt of your letter. I may not
 11 be able to tell you the information that you re asking
 12 for but maybe I can tell you whether we don t have
 13 them. And I said, that would be very helpful.
 14 About four days later I received a call back
 15 from him telling me that they were not in the custody
 16 of the United States.
 17 Now, that was at least information that I
 18 could pass back to the family, but as an attorney, I
 19 asked this question: I don t know how General Ashcroft
 20 can assert that he is not interfering with the right of
 21 people to counsel if, as the retained attorney of two
 22 individuals, I wrote to him and said do you have these
 23 people in custody and was told essentially that if they
 24 were in the custody of the United States, I could not
 25 be told that.

1 been retained by the Embassy of Saudi Arabia to find
 2 legal representation for their nationals that are being
 3 detained and picked up.
 4 Some of that information comes from family
 5 members who call the Embassy to tell them their
 6 children have gone missing. Sometimes from friends who
 7 call up and say their roommate has been detained.
 8 Whatever.
 9 So I have I think a unique perspective to
 10 bring to this panel because I know of cases all over
 11 the United States. And I want to say that it s not
 12 only the United States Patriots Act that I believe is
 13 offensive to the Constitution of the United States.
 14 If I have time, I d like to share with you
 15 the regulatory changes that have been made by Attorney
 16 General Ashcroft that are far more alarming to me than
 17 some of the provisions of the Patriots Act.
 18 But first, what I d like to say is that there
 19 are or have been probably more than 2500 people picked
 20 up and detained since September 11. I am not sure
 21 whether we know the identities of all of the people
 22 that are being detained even to this day.
 23 Two families contacted the Embassy and told
 24 them that their children had gone missing and I tried
 25 to locate them in the city where they were studying and

1 I could not be told where they were located
 2 and I could not have access to them.
 3 If that is not interference with individuals
 4 right to counsel, I don t know what the meaning of that
 5 term is.
 6 I also want to talk about mechanisms under
 7 which people are being detained. Lots of people are
 8 being detained on extremely technical immigration visa
 9 violations. I mean, extremely technical.
 10 I have a young man here in the Washington
 11 area who entered the United States -- and this is a
 12 scholarship student. He entered the United States. He
 13 was issued a valid I20, entered the United States, and
 14 apparently did not have with him the supporting
 15 documentation; i.e., his financial information, et
 16 cetera.
 17 So when he came through Customs, the INS told
 18 him to provide that information and send it to the INS,
 19 which he did. And his I20 was sent back to him and he
 20 didn t read the accompanying letter.
 21 What he had done was to fail to sign the I20
 22 and the letter from INS instructed him to do that.
 23 He was picked up and he s been in detention
 24 now for six weeks.
 25 There are other people here who have been out

1 of status for some time. I think part of the problem
2 is that they don't know what's required of them when
3 they transfer from one school to another. It appears
4 that many international student advisors do not check
5 to make sure that those transfers have been done
6 properly and that the paperwork has been done properly.

7 I think that there is fault on both sides,
8 both with regard to school officials and with regard to
9 the students themselves.

10 People are being picked up on technical
11 traffic violations, such as driving without car
12 insurance.

13 I guess if their student advisors or other
14 people, licensing agencies are not telling these
15 students that they need car insurance and car insurance
16 is not part of the normal routine in the country in
17 which they live, it's easy to understand how they
18 wouldn't know that they're supposed to have car
19 insurance.

20 Bonds are being set indiscriminately. There
21 is no consistency as to the amount of the bonds that
22 are being set. I have paid bonds on behalf of the
23 Embassy ranging from \$5,000 to \$25,000 on technical
24 immigrant visa violations.

25 I think I was supposed to address the issue

1 let's confine it to that. That's profiling, profiling
2 of the worst sort.

3 The way in which immigration proceedings are
4 being conducted. They're being conducted behind closed
5 doors. They are not secret proceedings in the sense of
6 the use of classified evidence at this stage, but they
7 are secret proceedings in the sense that the public
8 cannot come in.

9 There is no reason being articulated as to
10 why all of these cases are being closed. After the FBI
11 has done their review, after the FBI has cleared these
12 students or other visa violators, the immigration
13 proceedings are nevertheless being closed to the
14 public.

15 There is a new regulatory provision that John
16 Ashcroft promulgated the other day. Now telling all
17 detention facilities, whether they're run by the state
18 or by private agencies, that they cannot release any
19 information about detainees, who they are, where
20 they're being held, et cetera. That goes back to the
21 same thing that I opened with with regard to access to
22 counsel, et cetera.

23 These are the kind of issues that cause great
24 concern on my part and on behalf of my colleagues --
25 MS. GRAAE: You have one minute.

1 of profiling. The Department of Transportation will be
2 happy to know that in my mind selecting out of people
3 from the Middle East, particularly young men, in my
4 mind is not essentially profiling. You had 19
5 hijackers, all of whom were from the Middle East. I
6 don't think that selecting people at an airport for
7 extra scrutiny is the kind of profiling that at least
8 in my mind that I'm concerned with.

9 What I'm concerned with is the wholesale net
10 that's been cast with regard to these so-called
11 voluntary interviews, bringing in people of Middle
12 Eastern extraction or Muslims that lawfully entered the
13 United States within the last two years and asking them
14 to come in for an interview with the FBI with no --
15 absolutely no factual basis for believing that this
16 person knows anything about the events of September 11.

17 I'm concerned with the initiation of
18 immigration proceedings, criminal proceedings, et
19 cetera, et cetera, for these technical visa violations,
20 holding people in custody, which is not something that
21 is done for any other ethnic or religious group in the
22 United States.

23 Nobody is held in detention on these
24 technical immigration visa violations except
25 individuals of Arab origin or of the Muslim faith or --

1 MS. KIBLAN: -- that are litigating these
2 cases.

3 I want to do one thing if you'll just give me
4 a moment.

5 I want you to know -- somebody asked a
6 question about material witness warrants. We have
7 people that are being held on material witness warrants
8 with no showing whatsoever that they know anything
9 material or that they have any reason to believe that
10 these people know anything about the events of
11 September 11.

12 We have people that are being shuttled back
13 and forth. They may start out on a material witness
14 warrant. In one case, an attorney asserted this
15 person's Fifth Amendment right against self-
16 incrimination. The federal government dropped the
17 material witness warrant; is proceeding on criminal
18 charges. I've had cases where criminal charges were
19 dropped. They're picked back up on an INS warrant.
20 They're being shuttled back and forth from one holding
21 agency to another holding agency.

22 I want to read to you very briefly the FBI's
23 statement to the Immigration Court yesterday in order
24 to keep the same young man that I told you about who
25 failed to sign his I20, to keep in detention, because

1 the immigration judges will not release somebody so
2 long as the FBI expresses an interest in this
3 individual.

4 The FBI agent says, In the context of this
5 terrorism investigation, the FBI Washington Office has
6 identified individuals whose activities warrant further
7 inquiry. When such individuals were identified as
8 aliens who were believed to have violated their
9 immigration status the FBI notified the Immigration and
10 Naturalization Service. The INS detained such aliens
11 under the authority of the Immigration and Nationality
12 Act.

13 Then there s some other paragraph. And the
14 FBI agent says, At the present stage of this
15 investigation, the FBI is gathering and culling
16 information that may corroborate or diminish our
17 current suspicions of Mr. X. The FBI has been unable
18 to rule out the possibility that he is somehow linked
19 to or possesses knowledge of the terrorist attacks on
20 the World Trade Center and the Pentagon.

21 If that doesn t suggest to you that people
22 are being assumed guilty until proven innocent, I don t
23 know what will. There is absolutely no allegation of
24 anything in this warrant to hold this young man that
25 suggests any concrete fact that would relate him in any

1 Specifically, our clients were denied flight
2 service because of their Arab appearance.
3 One of the things I learned from my work
4 state and federal law enforcement officials across the
5 country is that promoting safety and security and
6 protecting civil rights is not only compatible but
7 necessary. In order to be effective, an airline
8 security system must include adequate safeguards
9 against bias and stereotyping.

10 Bias against someone can cause you to be
11 overly suspicious, reading too much into perfectly
12 innocent behavior. Meanwhile, bias in favor of someone
13 can cause you to ignore facts that are objectively
14 suspicious. This may explain why Richard Reid, a non-
15 Arab man with explosive devices protruding from his
16 shoes was allowed to board a plane, despite his erratic
17 behavior and unusual travel patterns, while our clients
18 and numerous other law-abiding individuals have been
19 removed from flights.

20 Now, the scope of the problem. I d like to
21 provide you with a very broad overview of the scope of
22 the problems of the law in this area. Most of us would
23 agree that being barred from flying because you appear
24 to be of Arab descent is not as bad as being a victim
25 of a hate crime or being detained for months because

1 way to the activities that occurred on September 11.

2 And I have another letter from some attorneys
3 out in Arizona that represented --

4 MS. GRAAE: I m afraid your time is up.

5 MS. KIBLAN: Okay.

6 MS. GRAAE: We now have the testimony of Kelly
7 Evans and Chester Wickwire is going to read that.

8 MR. WICKWIRE: Good afternoon. I would like
9 to thank the Commission for convening this important
10 forum and for inviting me to participate.

11 My name is Kelly Evans. I am an attorney out
12 of a Washington based civil rights law firm, Relman
13 Associates.

14 Before joining the firm, I served as a senior
15 trial attorney in the Civil Rights Division of the
16 Justice Department and did a fair amount of work on the
17 civil rights and law enforcement implications of racial
18 profiling.

19 My firm currently represents four
20 individuals, including a Secret Service agent, an
21 airline employee, a graduate student who worked at the
22 World Trade Center, and a computer security
23 professional, all of whom were removed from flights
24 following September 11, not for any legitimate security
25 reasons but because of their ethnicity.

1 your national origin makes you suspect.

2 Airline discrimination, however, is more
3 widespread than these other problems and is feared by
4 millions of law-abiding Americans who simply want to
5 travel by air. On an almost daily basis, Arab
6 Americans, Muslims and people who appear to be Arab
7 American are being harmed by discrimination that cannot
8 be justified by the requirements of any rational
9 security system.

10 We ve fielded calls from Americans of all
11 backgrounds, including Arab Americans, Latinos and
12 Asian Americans who ve been discriminated against by
13 different airlines since September 11. That s because
14 they appear to be Arab. And some were not allowed to
15 travel solely because airline employees or passengers
16 were uncomfortable having them on board. Others were
17 moved to seats in the back of the plane because of
18 their Arab appearance.

19 We were told that a pilot refused to fly with
20 them, even after they were cleared by the FBI or local
21 law enforcement. In many cases, these individuals
22 detained by law enforcement usually in front of other
23 passengers.

24 Now, this discrimination is far more than
25 simply an inconvenience. Being treated poorly because

1 of the color of your skin, whether it s being asked to
2 stand at the back of the bus or sit at the back of the
3 plane is never just an inconvenience.

4 Discrimination is often devastating to those
5 who experience it and has had a chilling effect on
6 entire communities. Scores of people are opting not to
7 fly rather than risk unjustified detention and ejection
8 from flights, not required by security. Worst of all,
9 this discrimination does not make us safer.

10 Terrorism and security experts will tell you
11 that a security profile that relies on race or
12 ethnicity casts too wide a net and distracts attention
13 from far more predictive factors, like travel patterns
14 and behavior. The bottom line, as the experts will tell
15 you, profiling is good security but profiling that
16 relies on race or ethnicity, racial profiling, is
17 inefficient and ineffective.

18 Allowing flight crews who have not received
19 training in this area to make security decisions based
20 on a passenger s race or ethnicity invites civil rights
21 abuses and does nothing to enhance security.

22 Now, as to the law, this discrimination is
23 not only bad security and divisive, it is also illegal.
24 Some people have said that the FAA regulation that
25 places final authority as to the operation of the

1 discrimination but these laws are not being adhered to
2 by the airline industry. And as a result, millions of
3 law-abiding Americans go to the airport with the
4 knowledge that they may not be allowed to fly because
5 they do not have the right name, skin color or national
6 origin.

7 What can be done? Based on our experiences
8 and those of our clients and other travelers, there is
9 a continuing lack of standardized security policies,
10 procedures and training for airline pilots and flight
11 crews, even in the aftermath of September 11. Because
12 of the lack of guidance to pilots and flight crews
13 currently, there are as many different airline security
14 systems as there are planes in our skies.

15 This is a dangerous situation. One ripe not
16 only for civil rights violations but for serious
17 security breaches.

18 Now, there are a number of clear steps that
19 the federal government can take, building on the
20 efforts already made to prevent discrimination and to
21 enhance airline security.

22 Following the September 11 attack, Congress
23 took an important step to strengthen and improve our
24 nation s aviation security systems by passing the
25 Aviation and Transportation Security Act. In passing

1 aircraft in the hands of the pilot permits the pilot to
2 bar someone from a plane for any reason he or she
3 chooses.

4 Under this reasoning, a pilot could decide to
5 bar all Afro-Americans from a flight or decide that
6 Catholics could not fly on Tuesday. Fortunately, this
7 reading is incorrect, as is made clear by various laws
8 and regulations that prohibit airlines and their
9 employees from discriminating against individuals
10 because of their race, ethnicity, national origin or
11 religion. These laws include 42 USC 1981, which
12 prohibits race discrimination in the formation of
13 contracts and has been held to apply to airline
14 discrimination as well as numerous specific laws
15 relating to air travel, including 49 USC 4127, 41310.

16 These laws were authorized by Congress and
17 the federal agencies in direct response to
18 discrimination, particularly against Arab Americans by
19 airlines.

20 Since September 11, the U.S. Department of
21 Transportation has issued a number of fact sheets that
22 clearly state that singling out Arab, Middle Eastern,
23 South Asian and Muslim people because of their
24 ethnicity or religion is unlawful. These laws and
25 guidelines place clear parameters on a pilot s

1 this law, Congress recognized the critical importance
2 of implementing standardized national aviation security
3 measures.

4 Under the new statute, Congress has
5 explicitly directed the FAA, in consultation with the
6 Transportation Security Administration, security
7 experts and airline representatives, to provide
8 detailed guidance to the airlines regarding training
9 for pilots and flight crews and how to identify and
10 respond to potential security risks.

11 In turn, each airline is required to develop
12 and implement an effective program for its employees,
13 subject to final approval by the FAA.

14 Now, it s essential that the new security
15 guidelines, policies, procedures and training programs
16 address civil rights concerns. Specifically, the
17 government should require each airline to develop the
18 following policies.

19 One. A written policy setting forth what
20 role race, ethnicity, national origin or religion may
21 play in determining whether passengers pose a
22 legitimate security threat.

23 Two. A written policy setting forth what
24 criteria airline employees are to consider in
25 determining whether passenger may pose a legitimate

1 security threat.

2 Three. A written policy setting forth what
3 steps airline employees should take in the event they
4 determine that a passenger may pose a security threat;
5 and

6 Four. A written policy informing pilots and
7 other airline employees of their responsibility to
8 follow all laws and regulations, including those that
9 prohibit discrimination on the basis of race,
10 ethnicity, national origin and religion.

11 The Department of Transportation has
12 unequivocally confirmed that discrimination based on
13 race, ethnicity, national origin and religion is
14 illegal but the airlines have failed to convert the
15 Department of Transportation's guidance into
16 operational policy or procedure. The FAA and
17 Transportation Security Administration should ensure
18 that the airlines train their pilots and flight crews
19 on these policies.

20 Specific guidance and training will not only
21 help to prevent illegal discrimination but also help to
22 allay the understandable fear and concern of the
23 nation's pilots and flight crews providing them with
24 information tools that they currently lack.

25 In order to help assess whether the new

1 policies, procedures and training programs are working
2 as intended, the government should require airlines to
3 develop and implement a system to record all instances
4 in which passengers are removed from flights or
5 prohibited from boarding.

6 Closing. Many people say that laws
7 protecting civil rights were not meant for times like
8 these, times when we feel we're under attack and people
9 are fearful. But in fact, it is precisely for these
10 times that these laws exist. Time after time, we, like
11 nations around the globe, respond to a time of crisis
12 by disregarding the rights of the perceived outsider or
13 even when those outsiders are really our fellow
14 Americans.

15 We do not need to repeat the mistakes of the
16 past. I am absolutely convinced that we can and must
17 make air travel more safe without compromising
18 America's bedrock values of equality and fair
19 treatment.

20 Thank you for hosting this forum and for
21 allowing me to participate.

22 MS. GRAAE: Thank you.

23 Our next speaker is Paul Martin from the
24 Office of the Inspector General at the Department of
25 Justice.

1 MS. MURPHY: You skipped someone.

2 MS. GRAAE: Oh, I'm sorry.

3 MR. MARTIN: I'll cede my 10 minutes.

4 MS. GRAAE: I beg your pardon. Because of the
5 changes, and I have appalling handwriting, I've gone
6 out of order.

7 Raj Purohit from the Lawyers Committee for
8 Human Rights will speak. I apologize.

9 MR. MARTIN: No problem.

10 Could we take a vote and see whether they
11 want to hear from you or me?

12 (Laughter.)

13 MR. PUROHIT: Members of the Commission.

14 Thank you for the opportunity to speak with you today
15 and to share our concerns regarding civil rights
16 violations and the war on terrorism.

17 As mentioned, my name is Raj Purohit and I'm
18 the Legislative Counsel for the Washington Office of
19 the Lawyers Committee for Human Rights.

20 Since 1978 the Committee has worked to
21 protect and promote fundamental human rights, holding
22 all government, including our own, accountable to the
23 standards contained in the universal declaration of
24 human rights and related international human rights
25 instruments.

1 The Lawyers Committee focuses its efforts on
2 how best to protect human rights in a lasting way by
3 advancing international law and legal institutions, by
4 working to build structural guarantees for human rights
5 and national legal systems, and by assisting and
6 cooperating with lawyers and other human rights
7 advocates who are the front line defenders of human
8 rights at the local level.

9 In the weeks and months after September 11,
10 more than 1100 people, mostly Arab and Muslim men, were
11 detained. These detentions were carried out in
12 considerable secrecy, as noted by some of the previous
13 panelists, with the authorities refusing to disclose
14 the identities and places of detention of those
15 detained.

16 Families, advocates and organizations are
17 still struggling to obtain information about those who
18 are still in detention, as well as the many who have
19 been deported. It remains unknown how many of these
20 individuals have been released, but as of April 12,
21 2002, more than 300 still remain in custody.

22 A majority of detainees are held on a
23 variety of immigration violations, primarily visa
24 overstays, which the INS would not have prosecuted
25 prior to that date. There is no doubt that the

1 unprecedented attacks on New York and Washington, D.C.
2 on September 11, 2001 have had a profound impact on
3 domestic policy in the United States. Its full impact
4 is still emerging and will not be clear for several
5 years.

6 One important observation to make at the
7 outset is that even in the face of the devastating
8 attack on the United States, government proposals to
9 curtail rights have been met with argument and
10 opposition from both inside and outside the government
11 that have in many instances lessened the negative
12 content of such measures when implemented.

13 I d like to spend a minute and start talking
14 about the USA Patriots Act.

15 The USA Patriots bills which was signed into
16 law in October 2001 grants unprecedented new powers to
17 the Attorney General to detain non-citizens he
18 certifies as a threat to national security. The
19 Lawyers Committee closely followed the evolution of
20 these provisions of the bill as they were considered by
21 the Congress.

22 Although a number of safeguards that we and
23 others pressed for were added to the original proposal
24 put forward by the Administration, the final bill still
25 raises several very serious questions.

1 endanger national security or the safety of the
2 community.

3 The substantive basis for the Attorney
4 General s certification is subject to judicial review.
5 Such review may be sought at any federal district court
6 nationwide. Earlier versions of the bill, as many
7 people already note, limited review to the federal
8 district court in Washington, D.C. and would have made
9 it extremely difficult for many non-citizens to
10 challenge their detention.

11 While these safeguards are important, they do
12 not provide adequate safeguards against arbitrary
13 detention. The seven day limit on detention without
14 charge, while much better than no limit at all is
15 longer than the standard required in international law.

16 For example, in its general comment on
17 Article 9 of the International Covenant on Civil and
18 Political Rights, the Human Rights Committee has stated
19 that the period of custody before an individual is
20 brought before a judge or other officer may not exceed
21 a few days. After the seven day period, the risk of
22 deportation and detention remains for those ordered
23 deported but who in practice cannot be deported, such
24 as those who face a credible threat of torture in their
25 countries of origin.

1 The original version of the bill would have
2 granted virtually unchecked authority to detain
3 indefinitely any non-citizen he certified as a threat
4 to national security. No time limit was proposed and
5 the draft legislation explicitly stated that the
6 substantive basis for certification cannot be reviewed
7 by any court.

8 As a result of campaigning by U.S. civil and
9 human rights groups and the concern of parts of the
10 media and some members of Congress, important human
11 rights safeguards were incorporated into the Act signed
12 into law on October 26, 2001.

13 These include after seven days of detention
14 the Attorney General must charge a detainee with a
15 crime, initiate immigration procedures for deportation
16 or release the individual. The Attorney General s
17 certification of an individual as a suspected terrorist
18 must be reviewed by a federal court every six months
19 and either renewed or revoked.

20 Individuals who have been ordered deported
21 but are still in detention 90 days after the removal
22 and who the government is unlikely to be able to deport
23 in the foreseeable future may be kept in jail for
24 additional six month periods only if the government can
25 demonstrate to a federal court that their release would

1 Perhaps the most disturbing element within
2 the USA Patriots Act are those which greatly expand the
3 government s powers to detain non-citizens with minimal
4 judicial review or respect for due process safeguards.
5 A feature of the Act are the new discretionary powers
6 granted to the Attorney General to order detentions or
7 instigate surveillance measures against those deemed to
8 be threats to national security.

9 Of key concern is the Attorney General s
10 standard or evidentiary threshold to be used for
11 certifying an individual as a threat to national
12 security. There are disturbing indications that the
13 Attorney General could rely heavily on secret evidence
14 in making such determinations, which will be impossible
15 for detainees or their legal representatives to
16 challenge in any review procedures.

17 The law provides no guidance on what
18 procedures the Attorney General must follow in making
19 and reviewing a decision to certify someone as a
20 suspected terrorist. Nor does it provide guidance to
21 the courts on what evidence they should consider in
22 assessing the reasonableness of the Attorney General s
23 decision, whether detainees will have access to the
24 evidence on which decisions are based, and standards
25 for review of such evidence.

1 One danger is that U.S. authorities may rely
2 on lists of suspected terrorists supplied by other
3 governments. Non-violent government critics and
4 political opponents may be included in such lists. And
5 this is something of real concern.

6 Although the USA Patriots Act granted broad
7 authority to the Department of Justice, it does not
8 appear to have been used in some matters to a huge
9 degree. The authority for long-term or indefinite
10 detention was one of the most controversial issues in
11 the debate on the counter-terrorism legislation, but
12 INS regulations go well beyond provisions of the USA
13 Patriots bill.

14 I d like to focus on the detention of
15 individuals for long periods of time very briefly.

16 The government has used its powers to detain
17 non-citizens often using mechanisms available to it
18 under immigration law prior to the adoption of the new
19 counter-terrorism legislation. By using the less
20 restrictive immigration regulations, law enforcement
21 has broader discretion to detain for long periods of
22 time.

23 In fact, this is one of the more troubling
24 aspects of the investigation by DOJ. Those detained in
25 the wake of September 11, 2001 may be technically held

1 due to a prior deportation order or a discovered
2 violation of a visa or other documentation problems, as
3 addressed earlier.

4 And meanwhile, however, detainees are
5 interrogated by the FBI about their affiliations,
6 political perspectives and other information that is
7 the subject of criminal investigation. Because they
8 are not charged criminally, they have no right to have
9 a lawyer provided to them in this process.

10 Under a new regulation on custody procedures
11 issues in September 2001, the INS may hold non-citizens
12 without charge for up to 48 hours as a general rule and
13 even longer for an unspecified reasonable period of
14 time in the event of an emergency or extraordinary
15 circumstance.

16 The terms used in this provision are broad
17 and undefined. Determining what reasonable means or
18 what constitutes an emergency or extraordinary
19 circumstance is left open to interpretation.

20 The rule is prone to inconsistent application
21 and grants overly broad discretion to INS officials. It
22 applies to all non-citizens arrested without a warrant,
23 including non-citizens who are not even alleged to have
24 any connection to the events of September 11 or any
25 other terrorist activity.

1 Numerous reports, including information
2 obtained pursuant to litigation under the Freedom of
3 Information Act have revealed startling numbers of
4 detainees who have been detained without charge for
5 long periods of time. According to Amnesty
6 International s examination of documents released by
7 the INS, 401 individuals were charged within 48 hours
8 of arrest, while 317 were charged after 48 hours. In
9 36 cases reported by the INS, individuals were charged
10 28 days or more after their arrest.

11 MS. GRAAE: You have one minute.

12 MR. PUROHIT: Thirteen people were held for
13 more than 40 days and nine for more than 50 days.

14 I m going to skip over some of the issues
15 pertaining to -- profiling that has been addressed
16 earlier on. I would like to flag one sort of positive,
17 and I ll quality positive.

18 We are heartened by the news that the
19 Inspector General at the Department of Justice intends
20 to conduct a review in the Metropolitan Detention
21 Center at the Passaic County Jail for civil rights
22 violations.

23 In order for this process to be credible, we
24 hope that the Inspector General will enlist the help of
25 advocates and organizations that have witnessed first

1 hand the difficulties encountered by the detainees held
2 as a result of the government s investigation of
3 September 11, 2001. And I think on a previous panel,
4 Kit Gage sort of articulated who some of those people
5 should be.

6 Many of those swept up in the immediate
7 aftermath have been deported. A survey that fails to
8 take this into account will obscure the reality of what
9 is occurring in the detention centers.

10 There should be public discussion about
11 critical issues such as how many people are in custody
12 and how long; have the detainees been certified as
13 terrorists; what is the basis for the long-term
14 detention of individuals without charge; what is the
15 reason for prolonged detention even after a deportation
16 order or -- departure has been granted.

17 We appreciate the opportunity to provide
18 these comments for you. I ll submit the full testimony
19 for the record.

20 While we encourage the continued monitoring
21 of the implementation of the USA Patriots Act, it s
22 very important for information to be sought on these
23 other issues as well.

24 And I ll stop here.

25 MS. GRAAE: Thank you very much.

1 And now, Paul Martin.

2 MR. MARTIN: Thank you. Thank you for
3 inviting us.

4 Let me start with some general background on
5 who the Office of the Inspector General is in the
6 Department of Justice before describing our
7 responsibilities under the USA Patriots Act.

8 The Office of the Inspector General is an
9 independent entity within the Department of Justice.
10 We report both to the Attorney General, as well as
11 Congress. Our mission is to investigate allegations of
12 waste, fraud or abuse in Department programs and among
13 Department personnel.

14 You should be aware that each major federal
15 agency has its own Office of Inspector General. So
16 some of the issues that you may have questions on may
17 be more appropriate to say the Transportation
18 Department's Office of the Inspector General.

19 Our jurisdiction, again, is Department of
20 Justice programs and Department of Justice personnel.
21 And we have Department wide jurisdiction to
22 investigate, to audit and to inspect. And when I say
23 Department wide, this means the FBI, the DEA, the
24 Immigration and Naturalization Service, the Federal
25 Bureau of Prisons, the U.S. Attorney's office. Again,

1 that would have conferred on the Inspector General's
2 office in Justice government wide responsibility for
3 investigating allegations of not only civil rights and
4 civil liberties, but also ethnic and racial profiling,
5 but these provisions were deleted from the final bill.

6 The Inspector General's Office is addressing
7 our responsibilities in a multifaceted manner. Our
8 Investigations Division processes all complaints that
9 we've received, and to date we have received about 350
10 allegations either by letter, email, over the phone or
11 via referral from the Civil Rights Division.

12 The majority of these allegations, however,
13 don't implicate Department of Justice employees. They
14 deal with allegations of abuse or misconduct by state
15 or local or other federal agencies. And we forward
16 those allegations to the appropriate party.

17 Currently we have opened seven investigations
18 on Patriot Act related issues, most of which deal with
19 allegations of physical abuse.

20 One of the neat things I think about an
21 Inspector General's office is that it can pursue a case
22 either criminally and/or administratively. So with
23 these seven Patriot Act related allegations, the
24 investigations that we have open, we will pursue them.
25 They are potentially criminal cases. And we'll pursue

1 all 132,000 Department of Justice employees.

2 Our office has approximately 380 employees,
3 about half that are based here in Washington, D.C. and
4 the other half work out of 17 field offices we have for
5 our Investigations Division across the country in seven
6 different regional audit offices.

7 The Patriots Act. Section 1001 of the USA
8 Patriots Act has three parts. First, it directs the
9 Inspector General to receive and review complaints of
10 civil rights or civil liberties abuses by Department of
11 Justice employees.

12 Secondly, it directs the Inspector General to
13 advertise through the internet, radio, television and
14 other media how to contact the Inspector General to
15 file a complaint.

16 And third, it directs the Inspector General
17 to report to Congress twice a year on implementation of
18 this particular section.

19 It's important to note that the legislation
20 did not expand the jurisdiction or the authorities of
21 the Office of the Inspector General. We've always had
22 the responsibility to investigate civil rights or civil
23 liberties allegations.

24 An earlier House version of what eventually
25 became Section 1001 contained much broader language

1 them.

2 If we are unable to substantiate the criminal
3 charges, we will pursue them administrative cases.
4 Because even though you haven't perhaps broken the
5 criminal law, you may have violated the Department of
6 Justice rules and regulations and could be sanctioned
7 administratively.

8 Among the other allegations we've received
9 are complaints about verbal abuse by correctional
10 officers, discrimination by the Immigration
11 Naturalization Service, including racial profiling,
12 rude treatment by INS inspectors, inmates who are not
13 permitted to practice the Muslim religion, detainees
14 held without access to attorneys, unlawful or
15 warrantless searches, and detainees who are not
16 permitted to observe Ramadan while in INS custody.

17 In addition to investigating individual
18 allegations, the Inspector General's Office plans to
19 conduct inspections or audits or other reviews that
20 examine systemic issues that we're seeing in our civil
21 rights or civil liberties work.

22 For example, as Raj mentioned, several weeks
23 ago we initiated a review of the civil rights and
24 civil liberties protections that were afforded to
25 detainees in Department of Justice custody post-

1 September 11. Specifically, we re looking at federal
2 detainees housed in the Passaic County Jail in
3 Patterson, New Jersey, and at the Metropolitan
4 Detention Center in Brooklyn, New York.

5 Our review will examine primarily three
6 things. The detainees right to counsel, the
7 timeliness of presentation and disposition of charges,
8 and we ll also examine physical detention conditions.

9 With respect to the advertising provisions,
10 we re moving forward. We ve had ads in the Washington
11 Post and the Washington Times. We have ways that folks
12 can contact us on our internet site or the Department
13 of Justice internet site. We re going to expand our
14 newspaper advertising campaign to papers like the
15 Detroit Free Press as well as some of the papers in
16 Dearborn and Trenton that circulate in some of these
17 affected communities.

18 And finally, we re in frequent contact with
19 staff in the Civil Rights Division s National Origin
20 Working Group, and they have forwarded to us several
21 complaints of allegations of civil rights and civil
22 liberties abuse.

23 MS. GRAAE: Thank you very much.

24 Our next speaker is Blane Workie from the --

25 MS. MURPHY: Excuse me, Ms. Graae. I regret

1 that I will have to return to Washington right now and
2 I know that you -- I didn t realize that the panel was
3 going to on for this long.

4 MS. GRAAE: Would you have maybe five minutes
5 for questions? Would that be acceptable to everybody
6 if we just interrupted our proceedings and we took five
7 minutes of questions?

8 MS. MURPHY: I apologize to the other
9 panelists but I just didn t realize in coming out here
10 that I would --

11 MS. GRAAE: And you will leave us a copy of
12 your typewritten --

13 MS. MURPHY: I didn t bring a copy of my
14 statement but I can get it to you. Absolutely.

15 MS. GRAAE: Including the part that I cut off,
16 the letter that you wanted to read. I feel terrible
17 about that.

18 MS. MURPHY: No. That was her.

19 MS. GRAAE: Oh, that s right. Okay.

20 MR. PUROHIT: I came in with Laura so I m
21 going to have to head out as well.

22 MS. GRAAE: You re going to have to leave?

23 MR. PUROHIT: Similar circumstances.

24 MS. GRAAE: How about 10 minutes for
25 questions. Let s open it to the panel.

1 MR. KAPLAN: I m not actually on this panel,
2 so if you want to give panel members first crack --

3 MS. GRAAE: Go ahead.

4 MR. KAPLAN: I d like to follow up with a
5 question I asked the earlier panel this afternoon and
6 you said you were the better panel to ask and I think
7 the two of you are probably the best to ask this.

8 What is the status of habeas corpus as a
9 remedy, given the provisions in the Patriot Act and in
10 the earlier Anti-Terrorism Act.

11 MS. MURPHY: I m not really a habeas corpus
12 expert. And this is an area of the law where I have an
13 expert on staff. And I would like to give you a written
14 reply. But generally, we have to fight very hard to
15 make habeas available to those people in custody as a
16 result of the Act.

17 And there was a great deal of resistance and
18 there is still a very, very strong feeling in the
19 Congress that habeas affords those in custody an
20 opportunity to bring frivolous claims against the
21 government, and we very much disagree with that.

22 I don t know, Raj, if you have anything to
23 add to that.

24 MR. PUROHIT: Yes. I think the only thing
25 I ll add is -- again, talking to colleagues who ve sort

1 of worked on the habeas issue for many many years. I
2 think there has been a thing on the issue of habeas.

3 It shouldn t be sort of confined at just looking at the
4 most recent legislation but going back over several
5 years, there s been sort of a whittling away of that.

6 Again, I m not the expert in our office on
7 that issue but I think the ACLU and the American Bar
8 Association --

9 MS. MURPHY: I can get back to you in writing
10 on that question.

11 MR. KURZMAN: We d appreciate it.

12 MS. KIBLAN: Can I respond to you briefly?

13 MR. KURZMAN: Please.

14 MS. KIBLAN: Habeas is available but I d like
15 to tell you practically how it works, because I still
16 am litigating a case on behalf of somebody that s been
17 fighting secret evidence for six years.

18 We went into Federal District Court in the
19 Eastern District of Alexandria three separate times on
20 habeas because my client was in jail for four years.
21 We won twice in front of the Board of Immigration
22 Appeals. They found that there was no evidence against
23 him whatsoever but he remained in jail for four years
24 during that litigation.

25 I think you need to remember -- all of us

1 need to remember that judges are human beings. When
2 the government of the United States walks in and says
3 that they have classified evidence that this person is
4 a threat to the national security of the United States,
5 it s not easy for a judge to release that human being,
6 even though there is no real evidence to hold him.

7 And that was my experience in habeas.

8 I have transcripts of about five separate
9 hearings in front of Judge Ellis, who s a brilliant
10 judge. Two of those hearings had to do with whether we
11 had a right to be in federal court on habeas
12 proceedings because of the Immigration Act that was
13 passed in 1996. After it was determined that we did
14 have the right to be there, there were several hearings
15 held on the merits.

16 I don t think that there was an individual
17 sitting in that courtroom -- I can tell you that the
18 judge s clerk certainly thought that my client would be
19 released, but he was not in the final analysis. And I
20 think the reason for that is that judges are sitting
21 there thinking, suppose I release this person and
22 something happens. There s no evidence that this
23 person is going to do anything but the government of
24 the United States is telling me that they have
25 classified evidence that this person is a threat to

1 national security.

2 So, I really appreciate Raj s remarks with
3 regard to the fact that the safeguards that are built
4 into the Patriot Act legislation and to the regulatory
5 sections of law that the government is using to detain
6 people are not sufficient. They re not sufficient
7 because they have to be applied in the real world.

8 And in the real world, judges are afraid to
9 release these people. They are.

10 MS. GRAAE: Next question.

11 MR. PATRICK: I m Richard Patrick. A question
12 to Ms. Murphy.

13 Given the fundamental flaws in the Patriots
14 Act, is it at all possible to fight this Act the way it
15 is without going through having it overturned?

16 MS. MURPHY: Well, the problem with relying on
17 the courts to overturn a federal statute is that first
18 of all, we don t feel in this judicial environment with
19 the backdrop of a catastrophic terrorist attack that
20 the court is inclined to look at the law and say it
21 should be struck down when it s brought as a facial
22 challenge to the law as written.

23 So we have to look at cases where the law is
24 applied in a way that we think violates Constitutional
25 rights. And that is a painstaking process, not only

1 because it takes a while for the government to gear up
2 to enforce -- actually there s been a great deal of
3 alacrity enforcing some of these provisions, but also a
4 lot of the information that the government uses to
5 implement the USA Patriot Act is considered classified.
6 Will come as a result of opening national intelligence
7 investigations that are generated by the CIA and then
8 pursued by the FBI.

9 MR. PATRICK: It s sort of like fighting --
10 you re fighting the government with your arms tied
11 behind your back and blindfolded.

12 MS. MURPHY: Absolutely. It s very similar to
13 what my colleague has said about the judges
14 inclination to go up against the government when the
15 government is alleging that they have classified
16 information that would provide a reason to detain an
17 individual.

18 So, we are engaged in a painstaking set of
19 litigation looking at the detention policies,
20 challenging the government under the Freedom of
21 Information Act. And the Attorney General has said
22 presumptively he s going to deny Freedom of Information
23 Act requests that have anything to do with the
24 September 11 acts.

25 So the Attorney General has been extremely

1 aggressive in defending his turf and making a case to
2 the Congress and creating a record that these
3 extraordinary new powers are necessary in order to
4 fight and in order to prevent future acts of terrorism.
5 And so it s not just the investigations that we have to
6 worry about in the wake of September 11, it s the
7 constant allegations that there are future terrorist
8 acts being planned.

9 For example, in the past week, the government
10 announced that U.S. banks were likely to receive a
11 terrorist -- in this environment it is extraordinarily
12 difficult to get these provisions repealed. So one of
13 the things that the ACLU is doing is developing a
14 community activism core where we can encourage people
15 to put pressure on Congress to engage in oversight
16 hearings and in fact to repeal some of the provisions
17 of the USA Patriot Act. But that s a long-term process.

18 MS. GRAAE: Are there any questions from the
19 audience?

20 MS. FROMAL: Just one clarification.

21 MS. GRAAE: Could you step up to the
22 microphone, please?

23 MS. FROMAL: Just one clarification. You re
24 not looking at the Constitutionality of the law but the
25 unconstitutional application of the law. Therefore,

1 you re going after how the law is applied in violation
2 of Constitutional rights.

3 MS. MURPHY: Correct.

4 MS. FROMAL: Got it.

5 MR. PUROHIT: Can I just chime in with one --
6 just following on from what Laura said.

7 The other thing to consider in terms of
8 getting Congress engaged in this. After the Oklahoma
9 City terrorist attack and the legislation that came out
10 of that there were various components of that bill that
11 members of Congress over the last few years have
12 certified, well, we overreached. How could this have
13 passed on our watch. Let s try to scale it back.

14 And prior to September 11 we were working to
15 get some critical mass to push pieces of that.

16 Now we re in a situation where that s history
17 and we re still working with the Patriot legislation.
18 So that s sort of just to give you an indication of the
19 uphill battle.

20 And the other point to note on the Patriot --
21 the debate surrounding the Patriot legislation. One
22 version of the anti-terrorism legislation that passed
23 the House Judiciary Committee was at least marginally
24 better than what we ended up with. It passed after
25 some vigorous debate and some back and forth. The

1 ACLU, the Lawyers Committee and some others had an
2 opportunity to engage with the members of that
3 committee in sort of a constructive process. And people
4 felt like, well, it wasn t a perfect piece of
5 legislation but there were some safeguards in there.

6 The bill that we ended up with, the one that
7 was voted on in the House, there were actually only two
8 copies of the bill in circulation at the time the vote
9 happened. There were many, many, many members of
10 Congress who will never admit it but had not read the
11 bill. Their staff hadn t read the bill. They probably
12 didn t even physically see it before they voted on it.

13 And that s sort of what we re up against in
14 terms of addressing some of these issues
15 congressionally.

16 MS. GRAAE: Well, Laura Murphy and Raj Purohit
17 -- the last question.

18 MR. KURZMAN: Actually, I have one question.
19 I was going to have two, but I ll try one.

20 Can we turn to the issue of profiling? How
21 specific is there a definition in the Act of racial
22 profiling or to what extent has there been a definition
23 of racial profiling clarified through regulation or
24 through guidelines administered to indicate to what
25 extent at all race can play a part in the process,

1 whether that s by INS personnel or by airport
2 personnel.

3 Specifically, does the USA Patriots Act
4 prohibit race being a factor at all in the process or
5 is there some other standard that permits race to be a
6 factor if there s some other weight to the other
7 factors used?

8 MS. MURPHY: Racial profiling is not addressed
9 in the USA Patriots Act. What is in current regulation
10 right now is the language used by the Justice
11 Department in the Civil Rights Division which goes to
12 consent decrees with local police departments that are
13 being charged with the practice of racial profiling.

14 Just as Raj said, prior to September 11, we
15 were making tremendous headway in repealing the secret
16 evidence provisions of the anti-terrorism legislation
17 that followed the Oklahoma City bombing and then
18 everything came to a halt after 9/11.

19 Similarly, the Congress was poised to pass
20 anti-racial profiling legislation, where we had gotten
21 law enforcement officials and even the Attorney General
22 during his confirmation hearing said that racial
23 profiling was unconstitutional. And President Bush
24 during his presidential campaign.

25 And thank you. My colleague has brought a

1 copy of the language on racial profiling that s in the
2 Conyers bill, which is the language that was really
3 developed with the input of a lot of litigating
4 organizations, such as the ACLU, who bring racial
5 profiling lawsuits against state, local and federal
6 police departments.

7 It says the term racial profiling means the
8 practice of a law enforcement agent relying to any
9 degree on race, ethnicity or national origin in
10 selecting which individuals to subject to routine
11 investigatory activities or in deciding upon the scope
12 and substance of law enforcement activity following the
13 initial routine investigatory activity, except that
14 racial profiling does not include reliance on such
15 criteria in combination with other identifying factors
16 when the law enforcement agent is seeking to apprehend
17 a specific suspect whose race, ethnicity or national
18 origin is part of the description of the suspect.

19 In other words, if someone s robbed a
20 MacDonald s and you put out an APB that this is a
21 Latino person that s six feet tall or Asian looking
22 person, that is not prohibited by the statute.

23 MR. KURZMAN: To follow on, then, what about
24 factors that aren t specific with regard to race or
25 ethnicity but operate to effectively work as a race or

1 ethnic factor?

2 MS. MURPHY: Well, I d have to say that in the
3 wake of September 11 we re seeing a great deal more of
4 these proxies being used. A person is an immigrant.
5 The person has a foreign sounding last name. The person
6 looks to be a Muslim or the person looks to be -- many
7 law enforcement individuals, for example, could not
8 tell the difference between Sikhs and Muslims. They
9 thought because they were Sikh and they wore a turban
10 that they were practicing Islam.

11 No. That s not the case.

12 So we ve had a lot of these proxies for
13 discrimination used especially at airports and
14 especially at the U.S. borders at Customs that turn out
15 to be proxies for people who are darker skinned, who
16 look foreign, who others perceive to be not Christian
17 or Jew, for example.

18 MR. KURZMAN: Does that mean then in following
19 up on these cases you ve got to take them on on a case
20 by case basis because there are no written criteria to
21 take legal action against?

22 MS. GRAAE: I think we need to stop because we
23 have more people who haven t testified. I m awfully
24 sorry.

25 Laura Murphy and Raj Purohit, I really

1 within DOT that play a role in airline security and
2 related issues.

3 First, there is the newly created
4 Transportation Security Administration, which is tasked
5 with developing and implementing airline security
6 requirements as well as investigating complaints
7 alleging discriminatory treatment by federal security
8 screeners.

9 Second, there is the Federal Aviation
10 Administration which is responsible for investigating
11 complaints alleging discriminatory treatment by airport
12 personnel such as airport police.

13 Third, there is the Office of the General
14 Counsel, which is in the Office of the Secretary, which
15 is responsible for investigating security related
16 discrimination complaints, alleging discriminatory
17 treatment by air carrier personnel. These are pilots,
18 flight attendants, gate agents and so on.

19 Members of the public who feel that they have
20 been the subject of discriminatory treatment or actions
21 by air carriers, airports or security screeners may
22 file a complaint to these various agencies within the
23 Department of Transportation.

24 I have available with me today an
25 informational sheet which provides contact information

1 appreciate the very useful information that you gave
2 us, the time that you ve taken to come and make a
3 presentation before us. I d invite you to submit a
4 written statement if you have it.

5 Thank you very much.

6 MS. MURPHY: Thank you.

7 Our next panel member is Blane Workie from
8 the U.S. Department of Transportation.

9 MS. WORKIE: Good afternoon.

10 Before I begin, I want to thank the D.C.,
11 Maryland and Virginia Advisory Committees to the U.S.
12 Commission on Civil Rights for hosting a meeting where
13 government representatives can meet with the affected
14 communities to have an exchange of ideas and to explore
15 ways of ensuring that our air travel system is free of
16 discrimination.

17 Today, my remarks will consist primarily of
18 information on what to do if you are experiencing
19 discrimination in the air travel system as a result of
20 the tragic events of September; an explanation of our
21 complaint processing system; and an update on actions
22 that have been taken since September 11 to protect the
23 civil rights of all air travelers.

24 Let me begin by explaining to you the
25 respective responsibilities of the three agencies

1 to help the public file complaints with the appropriate
2 agency in the federal government. The Department s
3 website, which is at www.dot.gov/airconsumer, also has
4 this information and much more available.

5 I will now explain to you the investigation
6 process for civil rights complaints in the General
7 Counsel s Aviation Enforcement Office, the office where
8 I work.

9 When we receive a discrimination complaint,
10 we enter the complaint in our computerized industry
11 monitoring system and soon thereafter we send an
12 acknowledgment letter to the complainant.

13 Then we mail a copy of the complaint letter
14 to the airline and ask the airline to reply to the
15 passenger with a copy to us. We also request a
16 separate response to us from the airline concerning any
17 information required by law to remain confidential.

18 We review the carrier s response and take
19 further action, as appropriate. Generally, we tend to
20 pursue enforcement action on the basis of a number of
21 complaints on which we may infer a pattern or practice
22 of discrimination. However, where one or a few
23 complaints describe particularly egregious conduct on
24 the part of a carrier and those complaints are
25 supported by adequate evidence, we will pursue

1 enforcement action.

2 The highest priority in the General Counsel s
3 Aviation Enforcement Office is to ensure that the civil
4 rights of air travelers are not abused by the airlines
5 we regulate. We therefore thoroughly investigate each
6 discrimination complaint that we receive.

7 The Enforcement Office is statutorily limited
8 in the remedies it may pursue against airlines for
9 violations of federal anti-discrimination statutes. We
10 may not award monetary damages to the injured party.
11 The Enforcement Office is limited to issuing cease and
12 desist orders prohibiting unlawful conduct by carriers
13 in the future and assessing civil penalties payable to
14 the government.

15 We may assess civil penalties of up to \$2500
16 for each violation. We may only take such action
17 through a settlement or after formal hearing before an
18 administrative law judge.

19 Since September 11, we have received 30
20 complaints from persons alleging that they were either
21 removed from flights or denied permission to board
22 because they are or were perceived to be of Arab,
23 Middle Eastern or South Asian descent and/or Muslims or
24 Sikh. Three of these 30 complaints were received after
25 January 1, 2002.

1 In addition, the Enforcement Office has
2 received approximately 107 complaints -- 105/107
3 complaints alleging discrimination by air carriers
4 based on race, color, ethnicity, religion, national
5 origin or gender prior to boarding. These are at
6 airline checkpoints, passenger screening locations or
7 boarding gates.

8 Twenty-seven of the approximately 107
9 complaints were received after January 1, 2002.

10 Clearly there s been a significant reduction
11 in the number of security related discrimination
12 complaints in recent months, but the Department feels
13 very strongly that even one security related
14 discrimination complaint is too much.

15 The allegations of discrimination which are
16 currently being investigated involve various airlines
17 and passengers across the country. The Department
18 takes these cases very seriously and we continue to
19 take various actions to perfect our authority to pursue
20 these cases, to change airline procedures that lead to
21 these complaints and to increase our resources to
22 pursue these cases more effectively.

23 Next, let me move on to steps we have taken
24 regarding security related discrimination issues since
25 the hijackings and tragic events of September 11. We

1 have, for example, reminded airlines that federal law
2 prohibits air carriers from discriminating against
3 passengers on the basis of race, color, national
4 origin, religion, sex or ancestry.

5 Right after September 11, we sent what s
6 titled a tolerance memo to the airlines on September
7 21st and that also is available at the website I gave
8 you earlier.

9 We have encouraged airlines to take steps to
10 ensure that its employees understand that not only is
11 it wrong but it is also illegal to discriminate against
12 people based on race, ethnicity and religion.

13 We have distributed a policy statement to DOT
14 employees involved in transportation security and
15 inspection services across all modes of transportation
16 a long-standing DOT policy of prohibiting unlawful
17 discrimination against individuals based on their race,
18 color, religion or ethnicity.

19 We have emailed airline liaisons a copy of
20 the statement and recommended that the air carriers
21 pass this guidance along to their own employees,
22 particularly flight and cabin crews and personnel
23 directly involved in security.

24 We ve also mailed letters. We ve been very
25 proactive and mailed letters to the general counsels

1 all the major U.S. carriers requesting the airlines
2 provide us information about incidents that may have
3 occurred between September 11 and December 31, 2001
4 involving the removal of a passenger from a flight for
5 safety and security reasons.

6 We ve issued guidance which was mentioned
7 earlier today to the public on frequently asked
8 questions since September 11 concerning the air travel
9 of people who are or may appear to be Arab, Middle
10 Eastern or South Asian descent or Muslim or Sikh.

11 We have participated and will continue to
12 participate in a number of forums like this sponsored
13 by the Department of Justice, the Department of
14 Education, State officials and others to make sure that
15 the public understands their rights.

16 We ve also met with representatives of the
17 Sikh, Arab, Asian and Muslim communities on numerous
18 occasions to hear their concerns about recent
19 discriminatory treatment in the wake of the terrorist
20 attacks on September 11.

21 In sum, we at the Department of
22 Transportation have and will continue to be vigilant
23 ensuring that the airport security procedures mandated
24 by the Transportation Security Administration and the
25 Federal Aviation Administration and implemented by the

1 airlines are not unlawfully discriminatory.
2 At DOT, protecting the civil rights of
3 airline passengers and all passengers next to safety is
4 our highest priority.

5 And again, I want to thank the Advisory
6 Committees for inviting me to participate in this, and
7 I welcome any questions after Katie has had a chance to
8 talk.

9 MS. GRAAE: Thank you very much.

10 Our last speaker is Kathleen Connon, also
11 from the Department of Transportation.

12 MS. CONNON: Good afternoon. I d like to
13 thank the Advisory Committees for D.C., Maryland and
14 Virginia, for inviting me here today. And my statement
15 is going to follow on from Blane s because I work for
16 the Federal Aviation Administration, which is a mode of
17 the Department of Transportation. And I d like to
18 explain a little bit about what my office s role is in
19 doing civil rights suits that come out of the airline.

20 Actually, my particular area really deals
21 with the airport.

22 The Office of Civil Rights is commissioned to
23 investigate and make determinations of whether there
24 has been civil rights violations at airports.

25 Airports receive federal money. And when

1 And it s confusing to the public because you
2 don t always know when you enter the airport who is
3 working for who. So, one of our roles is to make sure
4 that the public gets their complaint to the right
5 office. And I think that is a huge part of our
6 position. And the Office of Civil Rights is actually
7 getting things to the right offices.

8 Once we ve received that letter, we
9 acknowledge that letter to the member of the public,
10 and then it goes through an investigative process. My
11 office has a headquarters office and then 11 regional
12 offices. And each of those regional offices has a
13 member that does investigations on Title 6 complaints.

14 They investigate that and they make a
15 determination.

16 Most of the work that we do once we ve
17 received a complaint is directly withe airport. One in
18 determining what happened that particular day and then
19 finding out what we can do in order to stop that from
20 continuously occurring.

21 Most of my investigative authority is on an
22 informal basis. We are directly working with the
23 airport. If it moves to a formal investigation, we are
24 looking at stopping grant money from coming to an
25 airport. That means they cannot do construction on the

1 they do receive federal money, they are required to
2 sign grant assurances. And in those grant assurances
3 is a provision that says you must abide by civil rights
4 laws, one of which is the Civil Rights Act of 1964.
5 And it has a provision in it, Title 6, which says that
6 you may not discriminate on the basis of race, color,
7 national origin, sex and creed.

8 In that, that is what my particular office
9 focuses on and what the cases I see deal with
10 particularly. That s not to say that the Federal
11 Aviation Administration doesn t have many other roles
12 in their operation of aircraft and their operation of
13 security measures, but my office is just dealing with
14 this one particular role.

15 What we do is we receive complaints that come
16 in from members of the public that have alleged
17 violations by airport personnel. This being different
18 than the airline personnel that s handled by the
19 Department of Transportation.

20 Our complaint process is similar to the
21 Department of Transportation s in that when we receive
22 a letter from a member of the public we identify that
23 letter and make sure that it has to do with airports
24 and not the airlines and any airport personnel that are
25 working for the airlines. It s a very limited area.

1 airport any more unless they ve reconciled this
2 problem.

3 So for the most part, we have a very good
4 relationship and a very good position with our
5 airports. They do not want to stop their grant money
6 since it s a lot of money for the construction at the
7 airport. And they are very willing to work with us in,
8 one, making sure that they what happened in a complaint
9 and how they can reconcile that.

10 One thing that s happened since 9/11 is that
11 we thought that we would see a great deal of
12 complaints. We have not in our particular area,
13 against airports. We ve only had approximately two
14 cases that have gone to come kind of formal process,
15 and the two cases involved two separate areas of the
16 country. So we re not seeing something that was one
17 airport that got two complaints. It was two complaints
18 over the entire country.

19 Right now they re being processed and we have
20 determined that there was a violation of a member of
21 the public s civil rights, but that we are working with
22 the airport on doing a great deal of training at these
23 two airports in order for, one, that the people at the
24 airport are now familiar with what happened-and we are
25 going through a process of training all the personnel

1 at the airport, including the police officers that work
 2 for the airport that were involved in it, and then the
 3 members of the airport in the structure of the airport
 4 so that from the top through the bottom they are
 5 getting instruction on what type of discrimination
 6 takes place since 9/11; what type of actions they are
 7 doing that they may not have realized was
 8 discriminatory; and how they can handle situations in
 9 the future.

10 It s been extremely positive on both airports
 11 in how they re training their personnel. Also, the
 12 people that we are working with. Members of the public
 13 requested apologies from both of these airports and the
 14 personnel involved in the airports have been
 15 forthcoming about doing that, recognizing that they
 16 made a mistake and that they wanted to correct that
 17 situation.

18 So that s the kind of thing that my
 19 particular office does.

20 We also provide training classes for our own
 21 personnel so that they understood some of the Arab,
 22 Muslim, Sikh organizations -- more information about
 23 what it is their religions have and what it is that
 24 they are doing in the area so that we are familiar now
 25 internally at FAA with what s going on in those

1 directives to the airports. This is something that the
 2 Federal Aviation Administration had done previously and
 3 now they re working together to make sure that the
 4 security directives provided to the airports and the
 5 airlines are what they need to be.

6 The second thing that the Transportation
 7 Security Administration has been very busy with is wit
 8 getting ready to have federal security screeners by
 9 November 19, which is required by statute.

10 On February 17 of this year, the contracts
 11 which are previously held by the airlines -- I m
 12 talking about the contracts at the security checkpoints
 13 -- are now held primarily by the TSA. So they ve been
 14 very busy getting training materials, actually going
 15 out and hiring about 30,000 individuals, as well as
 16 getting them prepared to do the job that Congress has
 17 assigned them to do.

18 MS. GRAAE: Thank you very much.

19 We have about 20-25 minutes for questions.

20 I ll open the floor now to questions from the inter-SAC
 21 members.

22 MR. ANTHONY: I m just curious to know. Are
 23 there uniform screening standards or do they vary from
 24 place to place?

25 MS. CONNON: No. There are uniform security

1 communities. And we ve provided fact sheets along with
 2 the Department of Transportation on what airports can
 3 do so ensure that they re not discriminating.

4 So, these are the things that the FAA has
 5 taken a role in participating with the Department of
 6 Transportation in educating, and we will continue to do
 7 that. And we will continue to process our complaints
 8 and help the public get their complaints to the right
 9 organizations.

10 Thank you very much.

11 MS. GRAAE: Thank you very much.

12 Now I understand that the two of you together
 13 can give some presentation on behalf of Rochelle
 14 Granat. I d appreciate that.

15 MS. WORKIE: Rochelle doesn t actually have a
 16 written presentation but I am willing to answer any
 17 questions anyone might have about the Transportation
 18 Security Administration.

19 As I mentioned earlier, the Transportation
 20 Security Administration is a new entity within the
 21 Department of Transportation that was created as a
 22 result of September 11. And there are two main things
 23 that the TSA does.

24 One is that the Transportation Security
 25 Administration is responsible for issuing security

1 standards that were developed by the Federal Aviation
 2 Administration prior to the enactment of the TSA, the
 3 Transportation Security Administration. They set out
 4 the minimum requirements of the security personnel at a
 5 checkpoint.

6 Now that the TSA has taken over that
 7 function, they, too, have new training that s being
 8 developed today and they will have a minimum set of
 9 standards that they follow.

10 Blane, do you have anything to add?

11 MS. WORKIE: One of the things that I should
 12 mention, especially since we re here today talking
 13 about civil rights, is that the Transportation Security
 14 Administration, their training materials does include
 15 civil rights. It includes civil rights both with
 16 respect to individuals with disabilities, as well non-
 17 discrimination on the basis of race, gender and so on.

18 So the security screeners would obviously be
 19 provided safety and security training, but part of our
 20 training would also include civil rights training.

21 MR. ANTHONY: The other question would be d
 22 they keep a list of the people that they ve pulled
 23 aside? By this I mean at the ticket counter apparently
 24 they re directing some people to step out and then at
 25 the security checkpoints they re getting people to step

1 out.

2 Is anybody keeping a record by ethnicity and
3 whatever about who they pull out and under what
4 circumstances?

5 MS. WORKIE: I guess in order to answer your
6 question, let me kind of backtrack a little bit and
7 tell you the different places that somebody may have to
8 undergo additional security.

9 At the ticket counter it s possible that
10 someone may have been selected for additional security
11 by a system known as CAPPs, which is the computer
12 assisted passenger pre-screening system. And that s a
13 computerized system.

14 And basically, whether somebody s selected by
15 CAPPs is determined based on the information that s
16 available on the passenger reservation system. So,
17 it s not the ticket counter agent that makes that
18 decision.

19 What happens is that the Federal Aviation
20 Administration created CAPPs, and CAPPs replaced what
21 existed before, which was a manual system of selecting
22 individuals for security. CAPPs was created for two
23 reasons.

24 One was that we re able to look at a lot more
25 different factors on why somebody should be selected

1 for additional security, and the other is it takes the
2 subjectivity out of it.

3 Before CAPPs, it was a manual system at the
4 ticket counter, looking at the direction provided by
5 the FAA security directives who would make the
6 determination on whether somebody should be selected
7 for additional security. Now because of CAPPs, the
8 computer would basically tell the ticket counter
9 whether this person is a CAPPs selectee.

10 So, for answering your question, if somebody
11 is selected at the ticket counter or at the gate, which
12 could happen through the CAPPs system, it could be --
13 we re able, for example, if somebody files a complaint
14 and tells me that they were selected at the ticket
15 counter, I can look at the PNR. And because I have
16 received clearance to know what the CAPPs criteria are,
17 I can tell whether somebody was selected -- whether the
18 selection was justified under the criteria.

19 However, what I can t tell is that CAPPs also
20 has a random component. I can t tell whether somebody
21 was selected because of the random component.

22 So if someone sends a complaint to the
23 Department and says they were selected and they believe
24 they were selected based on their race or ethnicity and
25 I find out they were selected because of CAPPs, I can

1 tell them either yes, you were definitely selected
2 because of CAPPs. And CAPPs, which has been reviewed
3 by the Department of Justice, has been found not to be
4 discriminatory.

5 And I can tell them that but I can t tell
6 them the negative, which is if I find out that, for
7 example, they didn t fit a certain criteria, they may
8 still have been selected because of a random component.
9 And the random components -- the entire CAPPs system by
10 law is required to be retained for less than 24 hours.
11 So after 24 hours the records are destroyed. So the
12 airlines do not keep a record of everybody who was
13 selected from CAPPs. They re required to destroy that
14 record.

15 MS. GRAAE: Thank you.

16 The next question is from -- okay. Go ahead.

17 MR. WICKWIRE: All right. I wanted to ask
18 whether or not in terms of the testimony that I read
19 from Kelli Evans, I m wondering whether what you re
20 saying is contradicting some of what she said. And let
21 me - she says because of our experiences and those of
22 our clients and other travelers, there s a continuing
23 lack of standardized security policies, procedures and
24 training for airline pilots and flight crews, even in
25 the aftermath of September 11.

1 Then there s specifically four things she
2 speaks about. She says the government should require
3 each airline to develop the following policies: A
4 written policy setting forth what role, race,
5 ethnicity, national origin or religion may play in
6 determining whether passengers pose a legitimate
7 security threat.

8 Second, a written policy setting forth what
9 criteria airline employees are to consider in
10 determining whether a passenger may pose a legitimate
11 security threat. And then a policy setting forth what
12 steps airline employees should take in the event they
13 determine a passenger may pose a security threat. And
14 then a written policy informing all pilots and other
15 airline employees of their responsibility to follow all
16 laws and regulations.

17 Now are you saying -- maybe you re not
18 referring to this, but that the airlines are really
19 following? They have standardized practices with
20 pilots?

21 MS. WORKIE: There are two different things
22 we re talking. I believe Katie initially was talking
23 about security screeners --

24 MR. WICKWIRE: Right.

25 MS. WORKIE: -- which is different from air

1 carriers. What Kelli Evans -- and actually, we
 2 worked with Kelli on some of the clients she s
 3 representing -- is referring to is what sort of
 4 security directives are available to the airlines.
 5 There are definitely standard security
 6 directives that are available to the carriers but
 7 however she mentions in her statement, and you have it
 8 in front of you so you can read it. But I believe she
 9 talks about written policies that the airlines
 10 themselves have, which is different from security
 11 directives that the Department of Transportation
 12 mandates.

13 Basically, the situation is that the
 14 Department of Transportation has minimal requirements.
 15 The carriers can have additional requirements in
 16 addition to -- in addition to fulfilling the
 17 requirements mandated by DOT. However, it s important
 18 to keep in mind that the additional requirements that
 19 carriers may have cannot be discriminatory. They still
 20 have to comply with federal anti-discrimination
 21 statutes. And I believe at different points in the
 22 statement that you read from Kelli Evans, she addresses
 23 that and says that while pilots, for example, have the
 24 final word in an aircraft, that does not mean that they
 25 can discriminate.

1 presume that the counterpart in DOT s Office of
 2 Inspector General would have the corresponding paralle
 3 authority. So, then the public would be interested
 4 knowing what are actually complainable.

5 MR. MARTIN: Right.

6 MR. CHUN: Thank you.

7 MR. MARTIN: I mentioned this in the original
 8 statement. As I said, we have seven active cases that
 9 are being investigated by our Investigations Division.
 10 Now, most deal with physical abuse either by INS
 11 officials or Federal Bureau of Prisons officials. So
 12 those are some of the actionable issues.

13 With respect to the FBI, it could be unlawful
 14 or warrantless searches. That could be one of the
 15 issues that we could work out with respect to the FBI.

16 MS. GRAAE: We had a question which arose in
 17 the first panel today before you were here and it was
 18 left with me. And I d like to read it to you to see if
 19 possibly this is something that might be within your
 20 jurisdiction.

21 There was considerable concern about the
 22 March raids in Northern Virginia in that pillars of the
 23 community who were viewed as great friends to the
 24 United States, their houses were raided.

25 I m just going to read exactly the questions.

1 There are still applicable federal statutes
 2 which prohibits them from discriminating.

3 MR. WICKWIRE: Thank you.

4 MS. GRAAE: Thank you.

5 The next question is from the Director of the
 6 Eastern Regional Office, Ki-Taek Chun.

7 MR. CHUN: I have a question but you may have
 8 covered this during my absence. I was called away a
 9 couple of times on official business, in which case
 10 just let me know and I can read the transcript.

11 My question is directed primarily to Paul
 12 Martin and possibly to other officials from the DOT.

13 I think I heard you saying that the Office of
 14 Inspector General is empowered to investigate alleged
 15 violations of civil rights and civil liberties by DOJ
 16 personnel.

17 Now, would you be good enough to say sites in
 18 connection with 9/11 and related topics that we re
 19 talking about. In that context, could you be good
 20 enough to site to one example that will be
 21 complainable, that would be in your office s
 22 jurisdiction for investigation let s say by an FBI
 23 person and also INS people?

24 MR. MARTIN: Sure.

25 MR. CHUN: And if that s possible, then I

1 The first question was why. And then
 2 followed up. If the government has a cause for the
 3 search, they should announce it to the public. Their
 4 seizure has left the community traumatized since those
 5 raided were considered middle-of-the-road Muslims.

6 What kind of Islam will America tolerate,
 7 especially since the U.S. government says it s looking
 8 for moderate Islam. And if there is no reason for the
 9 raid and seizure, they wish the government would
 10 apologize to the community.

11 Is that something that your office could
 12 handle?

13 MR. MARTIN: I would have to get into the
 14 specific allegations of what the specific allegation of
 15 abuse is.

16 There s a separate office in the Department
 17 of Justice which reviews the activities of prosecutors
 18 or investigatory agents working with prosecutors. It s
 19 called the Department of Justice s Office of
 20 Professional Responsibility. And I m not trying to
 21 shift the buck, but depending on the specific
 22 allegation it could be a Department of Justice Offi
 23 of Professional Responsibility.

24 MS. GRAAE: Thank you very much.

25 We have a question from my colleague, Patrick

1 Okura.

2 MR. OKURA: Despite the fact that the
3 Secretary of DOT has stated that he is completely
4 against racial profiling, we continually see and hear
5 an increase in profiling by the Department of
6 Transportation.

7 The second question I want to ask. The
8 airports that you were talking about, San Francisco,
9 I'm sure receives a great deal of federal funds for
10 their airports and they are increasing their capacity
11 to carry more passengers, et cetera. Yet they are
12 dismissing several thousand employees of racial
13 backgrounds that are minorities and they're losing
14 their jobs and so on. They probably will never get
15 other jobs and so on.

16 I recognize the economics of transportation
17 and it plays a great part because they're losing money
18 and so on, yet the people who are suffering are those
19 people of color.

20 And I'm just wondering what your explanation
21 could be.

22 MS. WORKIE: I guess -- let me start by saying
23 you are correct that Secretary Mineta has been very
24 clear on the fact that he is against racial profiling
25 and the Department of Transportation has tried to do

1 just clarify what Mr. Okura may have been asking or
2 referencing.

3 Particularly in the West there's been some
4 allegations that non-citizen screeners who are already
5 legally employed by private security firms are now
6 going to be required, when TSA's regulations kick in,
7 to become federal employees. And they cannot become
8 federal employees because they're not citizens and they
9 risk losing their job.

10 So I guess we'd like to know what protections
11 are going to be available for them. Will the deadlines
12 be extended for them?

13 You know, INS, the naturalization process
14 takes years sometimes. And I see Ms. Kiblan shaking
15 her head in agreement.

16 What can be done to protect those jobs?

17 MS. WORKIE: I'm sorry. I must have
18 misunderstood your question. If we're talking about
19 the citizenship of federal security screeners, then you
20 are correct. Congress mandated that. Congress by
21 statute requires TSA to hire security screeners that
22 are American citizens.

23 This is not something that -- this is
24 something again that's a mandate from Congress. I
25 understand that there is pending litigation right now

1 what it can and will continue to make sure that the
2 transportation entities that we regulate understand
3 they have an obligation not to racially profile. And
4 we would take action if we do find instances of that
5 sort.

6 For the situation you mentioned with the San
7 Francisco airport, I'm not familiar with it. But the
8 one thing that I would stress to everybody who's here
9 today is that if you find yourself in a situation
10 where, whether it's an airport, an air carrier, a
11 security screener, has discriminated against you -- you
12 believe they have discriminated against you, please
13 file a complaint to the Department of Transportation.

14 We definitely investigate each one of these
15 complaints. If we don't hear about it, there's not
16 anything we can do about it. So if there are
17 circumstances, whether you have individually -- feel as
18 though you were individually a victim of racial
19 profiling or discriminatory treatment or you have a
20 family member or friend who may have been, the best
21 advice I can give you is to file a complaint so that we
22 can do something about it.

23 MS. GRAAE: I'd like to call on Mark Pantino
24 from the Eastern Regional Office.

25 MR. PANTINO: Ms. Workie, I think I'd like to

1 on this issue, so I'm not sure what more I can add to
2 it aside from -- again, there is a statutory mandate
3 that federal security screeners be U.S. citizens and
4 there is pending litigation on this.

5 MS. GRAAE: My colleague, Richard Patrick, has
6 a question.

7 MR. PATRICK: And this goes to Ms. Kiblan.

8 Given your presentation, you're probably
9 sitting and wondering, having government officials on
10 both sides of you giving answers that suggest that file
11 a complaint and it will be done.

12 In light of your own experience, are you
13 comfortable or satisfied that the responses that you're
14 getting from Mr. Martin and Ms. Workie and Ms. Cannon
15 are sufficient to satisfy your concerns?

16 MR. MARTIN: Be careful.

17 (Laughter.)

18 MS. KIBLAN: Let me be diplomatic in my
19 response. I don't have any doubt that the individuals
20 that are sitting with me on this panel take seriously
21 their job and enforce the law to the best of their
22 ability and investigate these issues.

23 I'm not certain that their jurisdiction is
24 broad enough to take care of some of the issues at
25 least that I have raised.

1 I also want to be very clear that as an Arab
2 American I understand very well the enormity of the
3 events that took place on September 11 and that the
4 government of the United States has an obligation to
5 protect us and to bring to justice those people that
6 were involved in this attack. And I don't envy the job
7 of the government officials that are involved in this
8 investigation. It's not easy by any means and in any
9 way.

10 I also want you to know that this attack of
11 September 11 has not only had devastating consequences
12 on the United States as a whole but it has had super
13 devastating consequences on the Arab and Muslim
14 community, both those individuals that are foreign
15 nationals but those who are lawful permanent residents
16 and citizens of the United States.

17 And so I think maybe my community wants as
18 much, if not more for these issues to be resolved and
19 to be resolved well.

20 What I'm not happy with is the top of the
21 government of the United States, not these individuals
22 that are doing their job. I think Attorney General
23 Ashcroft has done a lot of things that will not help
24 this investigation but will in fact hinder it. And I
25 can give you very concrete examples.

1 Amendment rights. If you want to immunize my client
2 you can talk to my client.

3 If the FBI is unwilling to immunize my
4 client, then they've lost the opportunity to talk to
5 my client. But how else do I prevent what are really
6 many instances, unnecessary charges under Section 1001.
7 Might have been a misunderstanding. It might have been
8 a failure to communicate the question properly. It
9 might have been a failure to translate a question
10 properly. Might be any one of a number of things.

11 I believe that the hard line approach that
12 the Attorney General of the United States is taking
13 instead of a cooperative approach is going to harm the
14 national interest of the United States in the long run.
15 And this is something that saddens me very very much.

16 MR. PATRICK: This may be your opportunity to
17 -- go ahead and --

18 MS. KIBLAN: To read that letter?

19 MR. PATRICK: Yes.

20 MS. KIBLAN: Okay.

21 These are the attorneys that handled the case
22 out in Arizona.

23 It says, Absent unforeseen events, Mr. X
24 will be transferred from the Bureau of Prison's custody
25 this week and will voluntarily depart the United States

1 When you ask people to come forward
2 voluntarily and talk to the FBI and then you arrest
3 those individuals for minor visa violations, for
4 example, it certainly is not going to encourage people
5 to participate in that voluntary process.

6 When you tell attorneys that the FBI wants to
7 talk to your client and they know that this person is
8 not involved but they want to see maybe do they have --
9 they use the term mosaic. You know, every little piece
10 of information. And you voluntarily bring your client
11 forward and this person talks to the FBI. And then that
12 person is later charged under Section 28 USC 1001 with
13 misrepresenting or lying to an investigative agency,
14 that certainly is not going to do anything to further
15 voluntary compliance with this investigation.

16 And what I wanted to read earlier -- and
17 maybe you'll give me the opportunity to do that -- is a
18 letter from the attorneys that were involved in just
19 such a case.

20 What attorneys are doing now -- what we have
21 to do, because remember that ethically and by the rules
22 of my profession I am bound to represent my client to
23 the fullest extent of the law. So if the FBI comes
24 forward and says to me we'd like to talk to client X,
25 I'm going to say to the FBI, I am asserting their Fifth

1 on or about April 22. By then he will have served a
2 full six month sentence in connection with the
3 conviction, as well as serving time as a so-called
4 material witness before his indictment, and several
5 days as a deportation detainee after the completion of
6 his sentence.

7 I think it's fair to say that it's the
8 consensus of all the lawyers who have been involved in
9 this case on the defense side that this case does not
10 speak well for the American criminal justice system.

11 Mr. X is in our view a victim of the
12 disappointing prosecutorial practices of the Department
13 of Justice in the post-September 11 climate. Let me
14 tell you what causes us to reach this conclusion.

15 Mr. X was tried for allegedly making a
16 single false statement to the FBI in connection with
17 his acquaintance with a man identified as one of the
18 terrorist pilots.

19 The prosecution's case turned on what
20 occurred during an interrogation conducted by several
21 FBI agents. Consistent with the almost universal FBI
22 practice, the interrogation was not tape recorded and
23 the report of the interrogation, the FBI 302's, set
24 forth a highly one-sided and, as Mr. X repeatedly told
25 us, inaccurate account of the lengthy interrogation.

1 As has also been typically the case in the
2 post-September 11 world, Mr. X was neither advised to
3 obtain counsel, nor was he told of any rights he might
4 have under the Vienna Convention.

5 He wanted very much to cooperate but
6 understandably he was very nervous and unsettled. Any
7 Saudi student in this country who had an interest in
8 aviation would have been equally concerned. The most
9 disturbing irony of this case is that by every
10 witness's account, before the evening was over, Mr. X
11 did cooperate and did answer the questions put to him
12 by the FBI.

13 The theory of the case at trial was simply
14 that he made material false statements early in the
15 interrogation and only supplemented his statements to
16 provide accurate answers after many hours and after the
17 FBI called in a polygraph expert.

18 As I think you and I discussed, the
19 materiality requirement under Section 1001 of Title 18
20 is minimal and even the modest delay of a few hours in
21 the investigation as held by the Federal District Court
22 Judge to meet that standard.

23 As the trial unfolded, it became clear that
24 the deciding issue would surround the question whether
25 Mr. X had or had not flatly denied having any

1 effort to resolve the case by way of a deferral of
2 prosecution. All prosecution and FBI personnel agreed
3 that Mr. X had nothing even remotely to do with
4 September 11. He had taken successful polygraphs on
5 the key questions and we believe that the local United
6 States Attorney did not think the case worthy of
7 prosecution. But those higher in the Department in
8 Washington did not agree to dismiss without some
9 agreement.

10 Ultimately we came close to an agreement but
11 it failed when the government insisted that Mr. X state
12 in a sealed plea agreement that he had made a false
13 statement. Although the sealed agreement would never
14 have been made public, it would have resulted
15 ultimately in the dismissal of the case and Mr. X's
16 immediate return to his country, he, for reasons of
17 personal, moral and ethical belief, simply could not
18 sign a document that he believed to be untrue.

19 And it goes on.

20 You know, we're sending a lot of ambassadors
21 back to their countries with very, very bitter
22 experiences. And again, I think that this does not
23 bode well for the United States.

24 I think that all of us want to see the people
25 responsible for this September 11 tragedy brought to

1 acquaintance with the hijacker when first asked those
2 questions at the beginning of the interrogation at his
3 apartment. Having read the 302's and having spoken at
4 some length to both the FBI agents involved, we believe
5 that we had a reasonably clear idea about what they
6 would say during the first hours of the interrogation.

7 It was clear that there was considerable
8 confusion occasioned by language deficiencies and by
9 the tense circumstances of the interrogation. All that
10 we had heard suggested to us that there was
11 considerable confusion about whether the hijacker was
12 even mentioned by name during the early hours of the
13 investigation. And if his name was mentioned, even
14 greater confusion about whether Mr. X was asked whether
15 he knew the hijacker or instead knew what the hijacker
16 was about.

17 When the FBI agents testified at trial,
18 however, they provided the jury with a very simple
19 account, one not confirmed by the 302's. At trial they
20 claimed that Mr. X was asked both in English and Arabic
21 whether he had ever seen or been in the company of this
22 hijacker.

23 Anyway, the letter goes on to describe what
24 happened at trial, and they end by saying, I believe
25 you have also been told that we made a very serious

1 justice but what we are doing is implicating every
2 single person of Arab or Muslim origin or belief in
3 this incident. And we are treating people as though
4 they are guilty unless they can prove themselves
5 innocent.

6 And in my mind, this is absolutely contrary
7 to the American system of justice and the United States
8 Constitution. And whatever this panel can do to try to
9 ameliorate this would be something very good.

10 MS. GRAAE: We're almost reaching the end of
11 our time and Mr. Martin has to leave.

12 There's one question from the floor for Mr.
13 Martin.

14 Please step up to the microphone and ask your
15 question. He can take one question before he leaves.
16 So if there's a question for him, then please step up
17 to the microphone.

18 AUDIENCE: Good afternoon, gentlemen.

19 Mr. Martin, this question is directed to you.

20 To me, if somebody gets killed by a bullet or
21 killed by those on crack cocaine, to me the advantage
22 is one is killing and harming the public of the United
23 States.

24 Now, as far we know, there is lots of
25 smuggling of these poison stuff that's killing

1 everybody there. And do I understand that there is
2 nobody causing a harm for United States but Arab and
3 Muslims, quote/unquote. And if so, I hold my peace.
4 If not, why all dirty water should be spilled on Arab
5 and Muslim community only.

6 Thank you.

7 MR. MARTIN: Can you state -- I m not sure I
8 understand your question.

9 AUDIENCE: Okay. My question is like if there
10 is other communities that they are causing harm for the
11 United States public, which I guess there is. There
12 must be. Why all the attention is only poured on the
13 Arab and Muslim community only. And it is not built
14 the same with other people that they cause the harm for
15 in the United States.

16 MR. MARTIN: I m not trying to dodge that
17 question. Again, I m not the investigations part of
18 the Department of Justice. I think you d need to ask
19 the FBI or the INS, the folks that are investigating
20 the aftermath of the terrorist bombing why they re
21 focusing on certain individuals.

22 Again, our purpose here in the Inspector
23 General s office is to investigate any abuses by
24 Department of Justice employees.

25 I m sorry. I know that s not satisfying.

1 MS. GRAAE: Mr. Martin, I d like to thank you
2 very much for testifying today and for all the useful
3 information that you have given us.

4 MR. MARTIN: My pleasure. Thank you.

5 MS. GRAAE: Thank you.

6 With regard to the three other panelists,
7 would you be able to stay for another 15 minutes and
8 take questions?

9 MS. CONNON: Sure.

10 MS. GRAAE: Okay.

11 I have a question from my colleague, Debra
12 Lemke.

13 MS. LEMKE: Yes. On the way down this morning
14 I was listening to an interesting report by NPR on the
15 airport employees in the Baltimore-D.C. area who have
16 lost their jobs, their insecurity, because of false
17 answers to security clearance questions.

18 My question to the panel, those of you who
19 are with the DOT, is there any information on how these
20 individuals were identified? Was this just a blanket
21 investigation of security personnel or were we actually
22 doing some profiling and targeting people we thought
23 might be potential risks?

24 It wasn t in the report and I was just
25 curious to see if this was a blanket investigation or

1 if they were in fact doing some profiling.

2 MS. CONNON: Well, first of all, the employees
3 -- I don t know the specifics about the case that
4 you re bringing up but I can tell you about how we go
5 about doing some of the investigations on that.

6 When the Federal Aviation Administration was
7 in charge of doing -- there s a rule that you have to
8 do a clearance on everyone who works at the airport
9 that s beyond the security checkpoints. That includes
10 the people that work in the concession stands, people
11 who are on the ramp, and anybody who s on the airport
12 property.

13 There s a set of questions that anyone who s
14 hiring -- that MacDonald s has to do an anyone else.
15 That process has a specific set of questions that are
16 answered. When the FAA is doing certain things to make
17 sure that the airport s in compliance, they go through
18 and randomly pick different areas, interview different
19 people.

20 It s not a process where we re looking at
21 just certain people. It never has been. Because,
22 again, we have a lot of rules also that as we re
23 learning to do this and as we do investigations, we are
24 not going ahead and discriminating and ending up
25 ourselves doing that.

1 So, there s a lot of process in there to make
2 sure that that doesn t happen.

3 What I think the cases that you re seeing, if
4 they are the ones that are right before the security
5 personnel, what the process at the TSA right now is is
6 that they are going through all applications. That if
7 somebody s applying to now become a TSA employee, they
8 have to go back and check all the records to make sure
9 that, one, that they re all completed and that they re
10 all updated. And then they go through and look to see
11 what those answers are and do sampling.

12 MS. LEMKE: My understanding from the report,
13 that this was a retroactive post-9/11 scrutiny of
14 security personnel in which they had found after the
15 fact people had not given completely true answers. And
16 the report on NPR, which is from my perspective one of
17 the more credible media sources, the implication was
18 certainly that these were immigrant populations who
19 were more or less targeted. And they were being
20 detained. They were in jail currently.

21 So I was just curious if there s any
22 information you could give us on that.

23 MS. CONNON: Well, like I said, I m not privy
24 to the particular case you re talking about. But just
25 in general, the procedures that we go through to do the

1 random checking of security applications and to make
2 sure that the particular group is following the
3 procedures correctly, they'll go in and look at them.

4 And I'm sure that as we're transferring
5 people from the CS into the TSA from the private
6 organizations, they're going to be re-looking at all
7 those applications again and conducting security
8 clearances on all those people again.

9 I mean, they are in a security position so
10 they're certainly subject to it a lot more than someone
11 else.

12 MS. GRAAE: I would now to open the floor for
13 the audience to ask questions.

14 I'm sorry. There's one more panel member who
15 has not yet had a chance to ask a question.

16 MR. HARRIS: You don't have to defer to me as
17 a panelist. I'm of the audience.

18 MS. GRAAE: Okay. Fair enough.

19 MR. HARRIS: I've been listening all day at
20 what's been going on. And now we have some people from
21 the federal government, the group that we are
22 investigating.

23 This is an investigation. We are
24 investigating you now because of all of what has come
25 into the press regarding how people are being treated

1 since last September. And especially people who are
2 foreign born.

3 Therefore, I'd like to ask just one question.
4 My question has to do with what happens when the
5 airport is trying to get some money from the government
6 to expand their facility. You had indicated in your
7 presentation that you have not had anybody to make a
8 complaint in that regard. What happened? How do you
9 make a complaint against the airport regarding
10 discrimination, whether it's about employees or whether
11 it's about the facilities at the airport?

12 How do you make a complaint and can you
13 explain to us how you do that?

14 MS. CONNON: Okay. Actually, there were two.
15 We did have complaints. We had two complaints from the
16 public against the airports.

17 MR. HARRIS: Since September?

18 MS. CONNON: Since September 11. So we have
19 actually had two complaints against airport personnel
20 acting in a discriminatory manner. So there has been
21 two.

22 If you want to make a complaint against an
23 airport personnel that you feel you've been
24 discriminated against, you can write to the Office of
25 Civil Rights at the FAA and we will handle that

1 complaint. And there's also -- you can do that on the
2 web page or you can do it by writing directly to us.

3 MR. HARRIS: The process that you just
4 outlined and the fact that you only had two complaints,
5 has there been any occasion when somebody made a
6 complaint that would warrant deferring some federal
7 funds?

8 MS. CONNON: Actually, not in the last --

9 MR. HARRIS: I'm talking about since
10 September.

11 MS. CONNON: No. Since September 11, we've
12 had no airport that's had federal financial assistance
13 taken away from them because of a discriminatory action
14 by one of their employees. But maybe something that I
15 might add to this is airport personnel and who they
16 are.

17 The screeners at the checkpoints typically
18 are not employees of the airport. They are typically
19 employees of a security company -- this is prior to
20 September 11 -- a security company that was hired by
21 the airlines. So in those cases, if you are
22 discriminated against by a person at a checkpoint
23 operated by a security company that the airline
24 contracted with, you would end up making a complaint to
25 the Department of Transportation, to Blane's

1 organization, not to the FAA. Because the checkpoint
2 is not controlled by airport personnel.

3 And most of the airport personnel that you
4 would run into would be a police officer who's an
5 airport police officer.

6 So the reason you are seeing very few cases
7 at the FAA is because there are very small numbers of
8 airports in the country that are operating checkpoints
9 with airport personnel. And that's why Blane's numbers
10 of how many complaints she received are significantly
11 different than mine.

12 MR. HARRIS: My final question. Can you tell
13 me how many other complaints regarding complaints about
14 cutting off their funds and what was the result of what
15 you found?

16 MS. CONNON: Well, airport grant funds are
17 occasionally cut off but not necessarily for a civil
18 rights violation. I couldn't tell you the number of
19 how many airports have had funds taken away due to --
20 there's grant assurance violations. For federal money,
21 you sign a grant saying I will do a particular thing.
22 There's many things at the airport that they have to
23 do. Civil rights is one of those things.

24 So for civil rights things, I have not seen
25 any airport grants taken away. As for other things

1 that the airports are required to do, there have been
 2 occasions. I do not have a number for you, though.
 3 MR. HARRIS: Thank you.
 4 MS. WORKIE: Let me just add one thing.
 5 Although I'm not with the Federal Aviation
 6 Administration, I think it's important that people
 7 understand that the fact that federal funds are not
 8 taken away from airports or have not been taken away
 9 from airports for not complying with civil rights
 10 actually speaks more about the power and the authority
 11 the FAA has.
 12 Because the FAA has the authority to withdraw
 13 funds, the airports tend to do everything that the FAA
 14 asks them to do. So, for example, if the Federal
 15 Aviation Administration receives a complaint about an
 16 airport, the FAA is able to resolve it informally
 17 because there's always that stick.
 18 Of course, if the airports do not listen to
 19 what the FAA says and reach a settlement, then the FAA
 20 has that authority. But the airports realize that,
 21 which is why they are more than willing to settle these
 22 cases.
 23 MR. HARRIS: I was getting ready to sit down
 24 but you have made me remember something else.
 25 MS. WORKIE: Sure.

1 MR. HARRIS: I have myself been involved with
 2 the federal government in the Department of Education
 3 and other departments and my understanding and my
 4 experience is that they don't ever want to cut off any
 5 money that has already been allocated, whether it's in
 6 the Department of Education. And you are telling me
 7 now that what you do in the Department of
 8 Transportation is you've got a big stick. They don't
 9 have that stick in the Department of Education. They
 10 do what they want to do. And I suspect that follows in
 11 all of the departments.
 12 MS. GRAAE: Another question from the
 13 audience?
 14 AUDIENCE: I just wanted to ask under whose
 15 jurisdiction this would be and to whom would I
 16 complain. Yesterday I got on an airplane from
 17 Albuquerque, New Mexico coming to Washington, to BWI.
 18 When I got on the flight, the attendant who himself had
 19 an accent -- I was sitting in a middle seat in a row
 20 that had an exit door and I had not opened my mouth.
 21 He never heard me speak. And he raised his voice
 22 loudly and said, You do speak English, don't you?
 23 That's what he said to me.
 24 And then he saw that I was -- I just was so
 25 angry that he had said that to me that I said, Yes, I

1 do speak English. And he saw that I was very
 2 irritated.
 3 So then he went away and he came back and
 4 apology was worse than his insult. He said, I'm sorry,
 5 but I'm required by the regulations to ask you that.
 6 And I said, No, you are not. What you are required to
 7 ask is can I follow the regulations of being at that
 8 exit. You are not required to ask me if I speak
 9 English. To which he shut up.
 10 So who's problem is that? Who do I complain
 11 to?
 12 MS. WORKIE: I'm assuming this is a complaint
 13 -- you said on the aircraft?
 14 AUDIENCE: Yes.
 15 MS. WORKIE: Then that would be the Aviation
 16 Consumer Protection Division. And I will be more than
 17 happy to give you the address and I'll give you my card
 18 when this forum ends so that we can talk about it in
 19 more detail if you'd like.
 20 AUDIENCE: But then, apparently he was not
 21 knowledgeable about what the regulations were because
 22 he came back and said this as loudly as he said, Do
 23 you speak English. I have to ask you this. I'm
 24 required to ask you that.
 25 MS. WORKIE: I guess the one thing I'm

1 wondering, were you sitting on the exit rows?
 2 AUDIENCE: Yes. And he also -- he went even
 3 beyond that. He said, You know, sometimes they put
 4 people in these rows who can't speak English
 5 mistakenly. They make mistakes like that. We're not
 6 supposed to put people in these rows who can't speak
 7 English. That's what he said.
 8 MS. WORKIE: There are FAA requirements this
 9 is the Federal Aviation Administration -- I'll go
 10 ahead and let Katie tell you a little bit about it --
 11 which require that the individuals who sit on the exit
 12 rows -- if, for example, you said this plane was
 13 leaving from Albuquerque.
 14 AUDIENCE: Yes.
 15 MS. WORKIE: If all the instructions on the
 16 aircraft are going to be in English, then the FAA
 17 safety requirements require that the individuals who
 18 are sitting on the exit rows are able to speak English.
 19 And the reason is so that they can understand any
 20 directions that are given by the flight crew.
 21 But again, I guess there are two separate
 22 issues we're talking about here. One is who to file
 23 the complaint to if you have a complaint against an air
 24 carrier. That answer is easy. That complaint should
 25 be filed to the Aviation Consumer Protection Division.

1 And we also have on our website where to file a
2 complaint form because we understand that there are a
3 number of different players at the airports and people
4 may not know where to file a complaint.

5 The second issue that you bring up in terms
6 of whether what happened in your particular case is
7 correct or not, I would only know by investigating your
8 case, see exactly what he said. Even if he s correct
9 with respect to the law, it doesn t mean he s correct
10 with respect to the process and procedure and how he
11 spoke to you and things of that sort.

12 But there is -- I should know though there is
13 an FAA safety requirement for exit row seating and I m
14 not sure until I talk with you further whether his
15 interpretation of that is not correct or not. But on
16 certain flights, it is a requirement that the people on
17 the exit rows speak English.

18 AUDIENCE: Okay. Well, he had made the
19 assumption because of my head scarf that I can t speak
20 English.

21 MS. WORKIE: Right. Exactly. And that s why
22 I m saying the process or the procedure, there s
23 something wrong with that.

24 And just as a side note, simply because an
25 air carrier personnel understands the law does not mean

1 Am I right about that?

2 MS. WORKIE: No. There have been 30
3 complaints concerning denied boardings and removals and
4 107 other security related complaints, so about a total
5 of 137 complaints since September 11.

6 MR. KAPLAN: Okay. And that s offered as
7 evidence of the fact that obviously there can t be that
8 much in the way of wrongful activity underway, or some
9 evidence in that regard. I think that s the point you
10 were trying to make by your testimony.

11 But from the question we got here just now,
12 it s obvious that there probably are very, very
13 significant numbers of incidents that have occurred
14 where people feel that they ve been wrongfully treated
15 and either out of ignorance or out of intimidation or
16 out of lack of knowledge about how to apply or some
17 combination of those factors, those situations aren t
18 being brought to the proper attention of federal
19 authorities, such as yourself, who can investigate
20 them.

21 In my business, when I was involved in cases
22 involving housing discrimination, we had very, very
23 well researched studies to show that there were over
24 two million instances of housing discrimination
25 occurring in the country on an annual basis, and we

1 that they are in essence what they re doing is correct.
2 The fact that he is targeting you for certain questions
3 in itself could be wrong and is the sort of thing that
4 we have told carriers they should not be doing.

5 So again, I ll be more than happy to give you
6 my card when we finish.

7 MS. GRAAE: Are there any more questions from
8 the audience?

9 My colleague, Peter Kaplan, has a question.

10 This will be the last question.

11 MR. KAPLAN: Actually, the question I had has
12 in fact been demonstrated by some of the comments we
13 had here today.

14 I, too, have a good deal of experience
15 working for the federal government and dealing with
16 complaints of civil rights, so I m very sympathetic
17 with some of the problems that those representing the
18 Department of Transportation are talking about today.

19 But on the other hand, by reason of the
20 question that we just got, I think it speaks very
21 dramatically to the fact that obviously there s
22 something wrong with our process. And what I mean by
23 that is the testimony today spoke to the fact that
24 there are 350 complaints I think you said that have
25 been received.

1 would receive in the order of a couple of thousands,
2 tops, nationwide complaints.

3 So complaints filed doesn t always tell you a
4 significant amount of activity. And having a website
5 and a form about where you ought to file may not be
6 enough in the way of providing people with the kind of
7 information that s necessary for complaints.

8 So, specifically, I m interested in what
9 efforts you ve made to develop better outreach
10 mechanisms, better complaint filing procedures that
11 would allow people with complaints to be able to file a
12 complaint with advocacy groups and others who can play
13 a role in seeing that those complaints get to the right
14 place and helping people to understand where they do
15 have grounds and don t have grounds for complaints so
16 that you can be better aware of where wrongful acts are
17 occurring and what can be done to correct them.
18 Because that s your interest and that s the interest of
19 a great many of the people here today.

20 MS. WORKIE: That s actually a great question.
21 And I can definitely tell you a few of the things we re
22 doing.

23 One of the things that you mentioned as a
24 concern to you, which was also a concern for our
25 office, is that the complaints that we receive might

1 not be representative of the number of problems that
2 exist out there.

3 Because of that concern, what we have done is
4 we have gone ahead and proactively sent a letter to all
5 of the general counsels of the U.S. major carriers
6 asking them -- and actually, we've already received it
7 now -- to provide us information about all denied
8 boardings and all removals since September 11 so that
9 we can compare the total universe versus the number of
10 complaints that we ourselves are receiving.

11 In addition to that, one of the things that
12 our office has done a lot more of since September 11
13 are the types of outreach efforts you're talking about.

14 I personally have gone to Detroit, Chicago,
15 been involved in various forums here, plan to go to the
16 West Coast within the next couple of weeks to have
17 basically informational sessions to let people know how
18 to file a complaint, have complaint forms available, as
19 well as meeting regularly -- maybe I shouldn't say
20 regularly. Meeting on numerous occasions with various
21 representatives of the Sikh community, Muslim community
22 and so on so that I can both hear their concerns and
23 also express to them that we would like their
24 constituents to know how to file a complaint with us.
25 That possibly they might want to think about having a

1 link from their website to our complaint form so that
2 we can in turn try to get as many of these complaints
3 as exist, so that we can do something about it.

4 MR. KAPLAN: Might I suggest that the next
5 time you do that travel -- you probably haven't tried
6 this but it might be very interesting and something you
7 might try institutionally. Put a head scarf on
8 yourself and see how you're treated.

9 I don't mean to be facetious by the question
10 -- by the point, actually.

11 MS. WORKIE: I should say something about
12 myself, first. I'm actually foreign born. I'm
13 Ethiopian. Ethiopians are -- probably 40 percent of
14 Ethiopians are Muslim. I'm Orthodox Christian.

15 But Christians also in the Ethiopian culture
16 actually do wear head scarfs. And I can definitely on
17 a personal level relate to the types of problems people
18 are talking about.

19 I know from talking with my godmother who's
20 here right after September 11, her advice to me was not
21 to walk in public with a head scarf on because people
22 might think I was Muslim and in turn want to treat me
23 differently. So I definitely sympathized. This is
24 something personally that I feel strongly about, which
25 is why I really honestly love what I'm doing.

1 MR. KAPLAN: Understand. And I wasn't trying
2 to be funny by my remark. I actually was getting to
3 the point of asking the extent to which you thought
4 about using testing activities to determine the extent
5 to which the kind of behavior we're talking about
6 actually goes on. Because if you had testers, people
7 who dressed appropriately to determine whether
8 discrimination is occurring, you might get a more
9 accurate experience yourself of what's actually going
10 on in the areas that you're concerned about.

11 MS. LEMKE: I know we're pressed for time but
12 I'd like to follow up a comment on that.

13 It concerns me a bit to hear so much pressure
14 being put on the affected populations to come forward
15 and complain when we've heard in the earlier panel
16 there is a great reluctance on the part of these
17 communities to come forward, to be identified. If
18 people are going forward with information and then
19 later being arrested on immigration violations, I think
20 we're putting too much pressure.

21 And this type of testing, which has been done
22 in the housing market for years, would probably be very
23 powerful in allowing us to uncover what's actually
24 happening without assuming that those already
25 frightened and affected populations are going to take

1 up the ball and fix it for us when it's really not
2 their problem.

3 MS. WORKIE: I think the testing idea is a
4 good idea but I think we need to do all of the above.
5 The testing idea is something actually we haven't done
6 with respect to the head scarf, but we have done with
7 passengers with disabilities.

8 I myself have been at the airports in a
9 wheelchair to see how the carriers are following our
10 regulations. So I definitely do think this testing is a
11 possibility and something that I'll take back to my
12 office when I go back.

13 But I also at the same time want to encourage
14 people to file complaints. I want to do more outreach.
15 I think if we put all of these different
16 avenues together, we can get the solution that we all
17 desire.

18 MR. ANTHONY: In that regard, you might also
19 consider in the way of shifting the weight back to the
20 agency that there be some published statements
21 somewhere of what passengers' rights are.

22 See, one of the challenges you have is that
23 you're always hit with this ubiquitous statement about
24 the federal regulations state. And of course, nobody
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1 has them in front of them. Nobody knows what you re
2 citing. And so it s just like you re swept into this
3 abyss.

4 And if you had some short summary about --
5 well, in the event that you think that you are blah,
6 blah, blah -- and print it at the gate. You know, call
7 this number and go through this procedure. Then you
8 might get fuller responses. Because it s not just with
9 Muslims and person who, because of religious tradition,
10 have certain dress, but it s oftentimes with African
11 Americans in different ways -- and you have the same
12 problem, even though you have the right to complain,
13 and if so, to whom.

14 So you might consider that among you
15 remedies, as well.

16 MS. CONNON: I can speak to one of those
17 things. We do require that the airports have a sign at
18 each checkpoint that tells what your rights are if you
19 feel you ve been discriminated against.

20 As I ve spent a great deal of my time in
21 airports, I don t always see them. They re supported
22 to be there. And since 9/11, we ve not republished
23 them and are trying to get them out to the airports,
24 who we ve also done the same as Blane s organization
25 and DOT. The FAA did send out letters to every airport

1 Regional Office for everything they did; tireless work
2 for really months to make this panel happen.

3 And now I ll turn the panel back to my
4 colleague, Richard Patrick.
5 (Applause.)

6 MR. PATRICK: I too, would like to add my
7 thanks to the panel and to the audience.

8 On our scheduled program we have an open
9 session from 5:15 until 6:15. So if you have a burning
10 statement on your mind, something prepared, this is
11 your opportunity to do so.

12 AUDIENCE: For the panelists, since they re
13 still here, can I take advantage of their presence?

14 MS. GRAAE: I think we have one more question
15 from the Director of the Eastern Regional Office.

16 MR. CHUN: Could I -- I know it s overtime.
17 It s an open session. But since nobody s at the podium
18 I thought I would ask a question.

19 I was going to, I wanted to, but time was
20 limited so I didn t.

21 Do you mind if I ask a follow-up question?

22 MS. WORKIE: No problem.

23 MR. CHUN: It s good to hear that there are
24 avenues of recourse in terms of complaint filing. I m
25 glad to hear the details as to where and so on. But as

1 and also asking them to give to all their personnel and
2 their contractors that work at the airport, meaning the
3 screening personnel, the forms and fact sheets that we
4 gave them, identifying what are discriminatory
5 practices.

6 That s also been incorporated into the
7 training programs that we are conducting in assisting
8 the Transportation Security Administration itself.

9 MS. GRAAE: We ve greatly overrun our time. I
10 hope that you ll be able to stay around a little bit
11 after and maybe continue this discussion informally.

12 I want to thank you very much for being with
13 us today. As you can see, you ve provoked a lot of
14 interesting discussion and a lot of thought from the
15 audience and the panel, and I very much appreciate your
16 being here.

17 I also want to thank the audience and the
18 panel for their very insightful questions. I
19 especially would like to thank the group of the inter-
20 SAC who worked to make this panel possible.

21 Even more special thanks to Chester Wickwire
22 who worked very hard to make this panel and Panel II a
23 reality. I think you brought more information to us
24 than any other of the SAC members.

25 And I would also like to thank the Eastern

1 one of our colleagues, Curtis Harris, mentioned, there
2 is a question of credibility in the minds of the
3 public. I don t necessarily mean about DOT as such.

4 That is to say that one aggrieved citizens,
5 oh, there are avenues of recourse. You can file a
6 complaint or this and that. That is a welcome news.
7 At the same time it psychologically creates
8 expectations.

9 We have seen -- we have heard of too many
10 cases of expectations rising and then ensuing
11 disappointment. Disappointment comes from a couple of
12 reasons. One is delay and no response. You file a
13 complaint. You never hear anything about your
14 complaints. You call them back and it s always being
15 processed. Just be patient and we ll get back to you.
16 And that s -- he never gets back to us.

17 But also oftentimes I think disappointment
18 has to do with the nature of resolution. In other
19 words, the complaint that we often hear, Where will we
20 go? Whether it has to do with employment
21 discrimination; whether it has to do with education and
22 whatnot, the public seems to feel that they are not
23 really properly treated respectfully unless they are
24 accompanied by high cost attorneys.

25 You were not here this morning but we heard

1 from several panelists that citizens or members of the
2 affected communities that we are talking about this
3 morning, they have this enormous, incredible, but
4 nevertheless understandable level of fear. They don't
5 even dare to speak up. They don't even dare to raise
6 issues.

7 So you combine that sense of fear and then
8 this very general dissatisfaction about public service
9 rendered by the federal government, which we all
10 support. I, as a taxpayer, as well.

11 So I would be interested in hearing something
12 about your -- shall we say plan how you can expedite,
13 how you can provide better service so that you can be
14 unlike some other existing complaint processing
15 processes which have been operating every since the Act
16 has passed.

17 And also in that comment if you could include
18 for instance we, the Civil Rights Commission or the
19 Advisory Committees can access the processing
20 statistics. Not necessarily for the sake of being of
21 being critical at all but for the sake of conveying how
22 well you are doing to the public.

23 We mean to pursue this topic with the
24 affected community leaders so that we can allay their
25 fear first and also say, you know, indeed our Uncle Sam

1 it takes to investigate a complaint is very case
2 specific. We have some complaints which we are able to
3 close soon thereafter because either the carrier
4 acknowledges that they did something wrong or the facts
5 of the situation are so clear that it doesn't take
6 talking to the captain of the aircraft or talking to
7 different individuals or sending various letters to
8 close the case.

9 We have other cases where it's a lot of he
10 said/she said. And we actually have to go out and --
11 you know, when a carrier send us a response, the
12 response is not enough, which actually leads us to more
13 questions. And we sent out more letters or we actually
14 go out and talk to people.

15 So the amount of time it take to close a
16 case, again, could be several months or it's even been
17 as long as a year or longer. And I can definitely
18 understand why somebody may be frustrated at that.

19 The only thing I can say is that because
20 everything is entered in our complaint database and
21 because we track it, when a complainant calls and wants
22 to know the status of the case, anybody in the office
23 can provide that complainant the status. So at least
24 the complainant knows the complaint is being
25 investigated and it's not just -- you know, hasn't

1 is doing something about it and here are the things we
2 can share with you.

3 I think it will be great if you can share
4 with us sometime, at the appropriate time, some
5 statistics on your processing.

6 MS. WORKIE: I would be more than happy to. I
7 guess just to kind of answer some of the questions you
8 raised.

9 The way complaints are processed against air
10 carriers, I believe some of the material has already
11 been submitted to the U.S. Commission on Civil Rights.
12 But just to kind of let you know, we have a database
13 system where as soon as a complaint comes in an
14 acknowledgment -- it's entered into the database system
15 and an acknowledgment letter is sent to the
16 complainant. So the complainant will know within a day
17 or two of the Department's receiving the complaint;
18 that they've received it and a description of what the
19 process will be like.

20 However, one of the points you raised is also
21 true for the Department, which is you mentioned a delay
22 in responding to the complaints. Personally, I
23 wouldn't categorize it as delay but I can understand
24 how that would be the perception of the public.

25 And the reason is because the amount of time

1 disappeared somewhere.

2 One other thing I should add is I really
3 appreciate being able to participate in events like
4 this and to hear ideas. One of the things, like I
5 said, I'm going to go back and take with me is this
6 tester idea, because while I may think there are
7 different ways of doing things or people in the office
8 may think there are different ways of doing it, it's
9 much easier to brainstorm when there's a larger group
10 and we get more ideas out there and we get better
11 solutions.

12 So any ideas, whether it's the U.S.
13 Commission on Civil Rights Advisory Committees or the
14 public has, I'm more than open to hearing them.

15 MR. PATRICK: Well, this is the period of time
16 that we've set aside for comments from the audience.

17 And I again thank Ms. Workie and Ms. Cannon
18 for being here.

19 Presentations from the audience during this
20 open session is limited to five minutes. So any
21 members of the audience who have statements that they'd
22 like to make so that they can get those statements in
23 the record, feel free to approach the podium.

24 MR. KURZMAN: Or, Mr. Chairman, can't they --
25 they can be submitted in writing.

1 MR. PATRICK: Oh, that, too. And thanks for
2 reminding me.

3 We will keep the record open for 30 days
4 after the close -- after tomorrow, so that if you have
5 additional comments, statements, et cetera, that you
6 would like to bring to our attention, you can continue
7 to submit those even after we close tomorrow.

8 No burning questions or statements from the
9 audience?

10 AUDIENCE COMMENTS: (Off mike.)

11 AUDIENCE: I was going to say that the ways in
12 which you said that you publicize this activity were
13 ways in which Western society publicizes activity. It
14 was on paper. And we're dealing with immigrant
15 populations and they don't deal with paper. They deal
16 with telephone calls. They deal with making
17 announcements in person. They deal with telephone
18 pyramids. They deal with word of mouth. But they don't
19 pay attention to pieces of paper.

20 I don't care if you sent a thousand pieces of
21 paper to them, they might not read any of them.

22 So what you need to do is to concentrate on
23 speaking to people, getting the word out by word of
24 mouth and getting the word out by telephone and also by
25 their own newspapers.

1 want to get an educated public here who are
2 professionals. You might want to get the average
3 person who's blue collar. You have to think it
4 through. Who are you trying to reach. And then you
5 reach them appropriately in the way that you need to
6 reach them.

7 And I think that -- I don't know whether
8 there was a decision made as to what kinds of publics
9 you wanted or just the general public, but if you want
10 the general public and blue collar people who are
11 usually more the brunt of discrimination than anyone
12 else, you should not have it in a police station.
13 Because in many of the countries where they come from,
14 police will kill you and your entire family if you say
15 even one wrong word.

16 So you should never have it in a police
17 station.

18 MR. PATRICK: Other comments?

19 MR. CHUN: Let's be frank and admit that I
20 think there is a noticeable level of anti-Muslim
21 sentiment among some segments of the population
22 unfortunately and we were reminded that there could be
23 a security problem. And indeed, that is a possibility.

24 Which meant then we could have chosen another
25 place and had some security personnel on sight, but

1 There are so many newspapers published in
2 this area in Korean, Vietnamese, in Somali language, in
3 Arabic and Chinese and in Korean. So many languages.

4 They have their own publications. That's
5 where you need to advertise it. Those are the ones
6 they actually will read in their own languages.
7 They're not going to read it in English.

8 MR. PATRICK: But would they come?

9 AUDIENCE: They might come, yes, if they know
10 about it.

11 I'm just saying the one on education, I was
12 the main organizer of that. We got 450 parents out on
13 a school night on a Wednesday, but it was night. And
14 so it can happen. And there were people who had never
15 come out to a town meeting or the school board every in
16 their life.

17 So it can happen if you do it through the
18 right kinds of channels. That's it.

19 And also, I'm not sure whether or not it's
20 clear what level of participation you wanted, what
21 kinds of publics you wanted to address or wanted to
22 draw in.

23 For instance, several of us are here from the
24 Community Resilience Project and we wear some other
25 hats or scarves as the case might be. But you might

1 then that becomes complicated.

2 And we had an impression that this is sort of
3 a community friendly place. At least a perception of
4 the place is. And there's built-in security.

5 So we were somewhat naive in not recognizing
6 what you're mentioning this afternoon, and I appreciate
7 that. But at least we were trying to be sensitive,
8 too.

9 It wasn't just a random pick of one of the
10 places we could have access to.

11 MR. PATRICK: Any further comments from the
12 audience or from the panel members?

13 (No response.)

14 If not, we will get ready to gavel this to a
15 close.

16 Having heard from all those who wanted to
17 speak today, we will resume here tomorrow at 9:30 a.m.
18 And where we can get the word out to those who didn't
19 know about it and those who want to participate, we
20 would be grateful for that.

21 And again, we thank all the members and we
22 thank the panelists.

23 I now gavel this first day to a close.

24 (Whereupon, the proceedings were adjourned at
25 5:51 p.m. to be reconvened on Thursday, April 25, 2002

1 at 9:30 a.m. in the same place.)

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