

UNITED STATES COMMISSION ON CIVIL RIGHTS

MOUNTAIN STATES REGIONAL OFFICE

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June 4, 1975

James E. Bouley
Bouley, Schlesinger, Profitt and DiCurti
187 North Church Avenue
Tucson, Arizona

Dear Jim:

Once again, thank you for a fantastic job. We have reviewed the May 10 transcript and find it to be excellent. Our office has made several minor corrections which should be noted for the record.

The fourth word on line 24, page 12, should be "professions." On line 16, page 18, the third word should be "except." On pages 24, 35, 46, 47, 48 and 87, the word "AMCAT" should be "MCAT." The third word on line seven, page 34, should be "organic." "AMCAP" should be "MCAP" on page 47, line eight. Dr. Prugh's first name on line one, page 112, should be "Dane." The acronym on page 118, line four, should be "WICHE." The fifth word on line seven, page 122, should be "obvious." It is my recollection that the percentage on line three, page 130, should be "6 to 7%."

In volume II, the next to last word on line three, page 158, should be "two." On line 13, same page, the second word should be "1967." The ninth word on line 18, page 159, should be "above." On page 162, line 12, the seventh word should be "has." The street on page 171, line 21, is "Yukon Court." The fourth word on line 16, page 175, is "admissions." The professor referred to on line 18, page 181, is "Alan Merson." On page 195, line eight, it should be "Krendl." The fourth word on line six, page 197, should be "women." The third word on line 19, page 198, should be changed to "past seven." On page 233, line seven, the eighth word should be "weakness." The street on line 22, page 243 is "Lipan." The eighth word, line nine, page 263 should be "students." On page 277, line 13, the fourth word should be "Defense." The fourth word on line one, page 303 is "torts." The last word, line 11, page 304, should be "Jarmel." On page 311, the fourth word, line 21, page 311, is "Holme." Line 18, page 315, is a question, not an answer. On line 19, page 326, and line 25, page 329, the name is "Reuler."

Again thanks for everthing. We hope to work with you soon.

Sincerely,

Bill

WILLIAM LEVIS
Regional Attorney

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I N D E X

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1 AFTERNOON SESSION

2 1:30 p.m.

3
4 (For this session, Mr. Gary Jackson is Acting
5 Chairperson)

6
7 THE CHAIR: Ladies and Gentlemen, if I may call this
8 meeting to order. My name is Gary Jackson and I'm the
9 Chairperson for this afternoon's session of the Colorado
10 Advisory Committee to the U.S. Civil Rights Commission.

11 We had a meeting here this morning which basically
12 dealt with access of minorities and women to the medical
13 profession.

14 The meeting started this morning at about 8:30 and
15 I think it went until about 12:30.

16 We have a number of different people who will re-
17 spond and -- to our questions here this afternoon. However,
18 what I'd like to do is basically read a statement to you,
19 just so that you know the format of this meeting that we're
20 having this afternoon. And this meeting is being held pur-
21 suant to rules applicable to the State Advisory Committee and
22 other requirements promulgated by the U.S. Commission on
23 Civil Rights.

24 The Commission on Civil Rights is an independent,
25 bipartisan agency of the U.S. Government, it was established

1 by Congress in 1957 and authorized by the Civil Rights Act.

2 As I indicated, this session today is an informal
3 hearing, and it is not an adversary hearing. I know that
4 we have a lot of law students here and a lot of lawyers,
5 and it may be difficult to deal with it, but we are going
6 to have -- this is not an adversary hearing.

7 The questions will basically come from the members
8 of the committee, they will be directed to the participants.
9 If any member of the audience has a statement that they
10 want to make, they will have an opportunity to do so. How-
11 ever, it will only be done so after they have been inter-
12 viewed by either a member of our staff or a member of this
13 committee. And if any participant or any person in the
14 audience has information that they want to give to us, they
15 can do so within any 30-day period of time after this
16 meeting, they can provide us with information.

17 Now, the individuals that have been invited here
18 today are appearing here voluntarily, as you all know,
19 because of the time limit we have not been able to invite
20 everyone to speak. So, what we have attempted to do is to
21 invite people that would speak in different areas and
22 represent different positions.

23 Now, we have invited faculty members, we have invited
24 members of the administration, we have invited students,
25 we have invited lawyers, we have invited people that are on

1 the bar examiner. And when I talk about faculty and admin-
2 istration we're talking about people both from the Uni-
3 versity of Colorado and the University of Denver.

4 Since this is an open meeting, we will probably have
5 the press coming in back and forth. They will have cameras,
6 they will have recording devices, and they will be, you
7 know, taking pictures, etcetera. And recording what the
8 different witnesses say.

9 As you can see, we do have a Court Reporter here,
10 and he is transcribing what everyone is saying. However,
11 because this is not an adversary hearing, no one is under
12 oath, any person that speaks, if he feels that he does not
13 respond -- does not want to respond to a certain question
14 he may refuse to do so.

15 Now, we are also concerned that no individual be
16 the victim of any type of slander or libel. And that,
17 you know, since most of us are involved in the legal pro-
18 fession this is the main reason that if somebody wants to
19 give a statement, they will be interviewed previous to any
20 statement that they would make.

21 I'm talking about anybody from the audience. All the
22 different participants in this hearing have previously been
23 interviewed.

24 During this meeting today, the advisory committee
25 will examine the issues surrounding the crucial question of

1 access by minority groups, persons and women to the legal
2 profession here in Colorado. We want to explore the areas
3 of recruitment, admission, the retention of minorities
4 and women in the law school, we want to talk about faculty
5 hiring policies and practices, and we want to talk about the
6 difficulties faced by minorities and women in passing the
7 state bar examination.

8 In regards to the bar examination, we will hear from
9 an expert witness that has been hired by the U.S. Com-
10 mission who will discuss the statistical validity of the bar
11 examination.

12 And in this area, we are cooperating with the Colo-
13 rado Supreme Court.

14 This meeting will provide the basis of a written
15 report prepared by this advisory committee. It will con-
16 tain findings and recommendations about the issues raised
17 today. I'm sure some of you are probably familiar with the
18 findings and recommendation that this same committee made
19 last year in regards to a prison study. So, on behalf of
20 the U.S. ~~Civil~~ Rights Commission and the Colorado Advisory
21 Committee to this group I'd like to welcome you all here.

22 I want to introduce a few of the people that are up
23 at the table here with me. This is Bill Levis, he is one
24 of the staff members to the Colorado Advisory Committee.
25 To my left is Min Yasui, he is a committee member. To the

1 left of him is Mr. Bob Frye, and then last is Ms. Leslie
2 Speed.

3 And I'm going to turn it over to Leslie so that she
4 can give a brief overview of what aspect of the study
5 that we've already accomplished and what we intend to do
6 today.

7
8 LESLIE SPEED

9
10 A (By Ms. Speed) Thank you, Gary.

11 This afternoon the Colorado Advisory Committee will
12 focus upon some of the issues and problems affecting the
13 access of minorities and women to the legal profession.

14 While the number of minorities and women attending law
15 schools and entering the legal profession is increasing
16 the percentages of minorities and women so doing do not
17 nearly approximate their proportion of the national and
18 state populations.

19 Although minorities make up 17% of the country's
20 population they comprise only seven and a half percent of
21 those students attending law schools. Nationally, women
22 presently make up over 50% of the population and 39% of the
23 labor force, yet only 20% of all law students and three and
24 a half percent of all attorneys are women.

25 In order to enter the legal profession, minorities

1 must compete with growing numbers of nonminority students
2 for a limited number of openings in the nation's law schools.

3 Law schools depend primarily upon the standards
4 for making the decisions on admitting a student to
5 their programs, a student's undergraduate grade point
6 average and his or her scores on the law school admissions
7 test. Numerous studies of the law school admissions
8 test have concluded that minorities generally tend to
9 score lower than nonminorities.

10 In addition, minorities, for various reasons, tend
11 to have lower undergraduate grade point averages than non-
12 minorities.

13 In 1957, the University of Colorado Law School
14 recognizing the need for increasing the number of minority
15 group lawyers, established a special academic assistance
16 program aimed at minority college graduates whose creden-
17 tials, by traditional standards, were below those ordinarily
18 required for admission.

19 The program now includes an eight-week summer session
20 immediately preceding the first year of the law school
21 and additional academic assistance during the first year
22 if needed.

23 The program also offers financial assistance through
24 cash grants, student loans and work study awards.

25 Between the fall of 1968 and the fall of 1974, 193

1 minority students have been admitted to CU's law school,
2 89% of whom were admitted through this special program.
3 As did the University of Colorado, the University of Denver
4 College of Law, began a minority admissions program in the
5 summer of 1967. Since then, over 100 minority students
6 have been admitted to the law school under the program.

7 At least 60 of these have graduated and 57 were
8 enrolled as of the 1974-75 school year. Although it
9 sponsored a summer program for six years, DU no longer
10 offers summer courses as part of its minority admissions
11 program.

12 Statistics compiled by the American Bar Association
13 indicate an increase of about 4% in minority enrollment
14 and 11% in female enrollment since 1970 in the nation's
15 law schools. Separate statistics regarding minority women
16 are not available.

17 Minority enrollment at the University of Colorado
18 Law School for the 1974-75 school year is about the national
19 average, 10% compared with seven and a half percent, above
20 ~~the enrollment for women, 22%~~ compared with 20%. Two per-
21 cent of the current student body at CU are minority women.

22 The percentage of women currently enrolled at the
23 University of Denver College of Law, 27%, is also above
24 the national average. However, only 6.4% of DU's law
25 students are minorities. Minority women comprise 1% of DU's

1 law students.

2 The University of Colorado Law School has employed
3 few minorities and women as full time faculty members.
4 Since the fall of 1972, CU has employed only three women full
5 time faculty members.

6 In 1974, the law school employed 24 full time faculty
7 members, of whom only one was a woman, none were minorities.
8 The only minority faculty member employed by CU Law School
9 during the past three years was a Black visiting professor
10 in 1973.

11 The University of Denver College of Law has also
12 employed few minorities and women as full time faculty
13 members. It has employed approximately 30 full time
14 faculty members during the last three years. One is a
15 minority hired in 1972, and the other is a woman hired in
16 1973. They were the last full time faculty members hired
17 by the college of law.

18 All law school graduates wishing to practice law in
19 Colorado must pass the Colorado Bar Examination, In July,
20 1974, 81% of all those who took the bar exam passed, approxi-
21 mately 60% of the minorities taking that exam passed com-
22 pared to 80% of the nonminority women and 60% of the
23 minority women.

24 In the six bar examinations given in Colorado, from
25 February, 1972, through July, 1974, more than 20% fewer

1 minorities passed the bar exam than nonminorities.

2 The advisory committee will now hear from DU and CU
3 law students and faculty concerning law school programs
4 and from attorneys and a psychometrician concerning the
5 bar examination.

6 THE CHAIR: Thank you, Leslie.

7 Because Dean Yegge has another commitment, I'm
8 going to ask Dean Yegge if he will speak out of order.
9 He's indicated to me that he has to go on a little mountain
10 trip and as a result of that, I'm going to ask Dean Yegge
11 to come forward and I hope you don't mind if the five of
12 us are on one side and you're over there by yourself.

13

14

15

DEAN ROBERT YEGGE

16

17 A (By Mr. Yegge) That's all right.

18 THE CHAIR: But I'm sure you can handle it.

19 A I sincerely apologize to the panel and to the full
20 committee that I can not stay for the entire afternoon.
21 My original understanding that the law schools would be
22 in the morning, and a very important date needed to be
23 established before the end of the quarter, and that's the
24 annual outing for the student bar association senate. They
25 like to and I like to have them up at my mountain home and

1 I'm afraid I better be there when they arrive, so I'm sorry
2 to be out of order but I'm glad to be with you.

3 Q (By Mr. Yasui) Thank you, Dean.

4 For the record, I'm Min Yasui, a member of the com-
5 mittee and also for the record, Dean Yegge, would you please
6 state your full name, your position and address?

7 A I am Robert B. Yegge, the Dean of Law at the Uni-
8 versity of Denver, 200 West Tenth Avenue, Denver, Colorado.

9 Q Dean Yegge, how long have you been dean of the DU
10 law school?

11 A As of the 1st of July, 1975, ten years.

12 Q The DU law school, of course, had a minority program,
13 minority admissions program, could you tell us something
14 about why it was started, how the program has evolved over
15 the years and your evaluation of how successful this
16 program has been?

17 A I certainly will, Min. We started the minority
18 program in the summer of 1967. We were concerned in the
19 years since I began, I worked at the law school in '65,
20 '65-'66 academic year being my first year, about the
21 problem of minorities, particularly the Chicano minorities.

22 In taking a look at the small numbers of Chicano
23 lawyers in this region compared to the number of Chicanos
24 that live in the region, we became more than slightly
25 concerned about our production of those lawyers. Happily,

1 with the assistance of the Ford Foundation, and it took
2 a year or so to have those negotiations, we were able to
3 advertise and recruit for Chicano law students to begin
4 their work the summer of 1967. The theory of our first
5 program, which was developed basically by Professor William
6 Huff, who is here today and will be on the panel this
7 afternoon, was to attempt to give what looks like a first
8 quarter of law school to these students during the summer
9 preceding the beginning of the academic year '67-'68.

10 And on the basis of performance during that summer,
11 mini law school experience, admit the students and use as the
12 sole criterion for admission, their performance during that
13 summer, rather than using the LSAT and grade point average,
14 normal indices.

15 Also, again with the very generous assistance of
16 the Ford Foundation, we were able to give stipends to these
17 students so that hopefully they would not have to work, not
18 only during the summer preparatory program but also during
19 their law school experience,

20 In '68, we decided that our experience was sufficiently
21 good that we would continue the program, although the Ford
22 Foundation was unable to give us the same level of support.
23 Indeed, the Ford Foundation only allowed us to expend those
24 funds that we had not expended the first year on the
25 second year program. Thus, in the second year, 1968, the

1 university began to assume a rather large portion of the
2 share of the cost of this program. We were assisted,
3 however, by the Council on Legal Education and Opportunity
4 in that second year. And as I recall, we were one of the
5 regional institutes for the council.

6 And we, in the third year, '69, were able to get
7 a slight bit more support from the council. But really,
8 beginning in '68 until the current date, the University
9 of Denver, a private institution, has totally supported,
10 from its own funds, this minority effort.

11 We estimate that the scholarship outlay cost of
12 the university to date has been nearly a million dollars,
13 and we think, well, that may not be the best that one
14 could do, for a private university that is having very
15 grave financial difficulties and having to beg, borrow
16 and steal its dollars, none whatsoever being forthcoming
17 from the legislature or the city, since there's a consti-
18 tutional and a charter amendment against that sort of thing,
19 that it's a fairly good level of assistance for Chicanos.
20 Particularly, and I might add we have broadened it to
21 Blacks as well.

22 We broadened it to Blacks as well in our second year,
23 1969.

24 Does that over-answer your question? Or under-
25 answer your question?

1 Q Yes, it covered a lot of ground.

2 In your estimation the program has, then, been a
3 successful program?

4 A Well, we don't have as many minorities as we ought
5 to have in law school, Min. It's been successful in this
6 respect, however, that indeed we have greatly increased the
7 number of minority students over years prior, and we cer-
8 tainly have greatly increased the number of minority lawyers
9 that are practicing in Colorado and in the region.

10 But beyond that, I think what we would assess as
11 our greatest success, if I may redefine success, is
12 really the rather incredible retention rate and the rather
13 incredible success rate of these students on the bar
14 examination.

15 Q Tell me, Dean, what is the level of financial
16 assistance at the present time, the current academic year,
17 can you give a dollar amount or a comparative figure?

18 A Yes, I can, the current academic year our budget
19 for scholarship assistance is \$143,000.00. It's stayed
20 at approximately that level each year, it's had to have
21 been increased each year as our private institution tuition
22 goes up. The same level with a factor for rising tuition
23 is built into next year's budget as well.

24 And it's our understanding from the administration
25 and the trustees of the university that the same level will

1 continue over years to come.

2 Q I have a question saying, why isn't there more,
3 and I think that's rather obvious in view of the present
4 economic condition?

5 A Well, the University of Denver is projecting a two
6 and a half million dollar annual budget deficit for next
7 year, and even at that, the trustees want to continue to
8 expend these funds for this program.

9 Q Does DU law school have a tutorial program for
10 those that are admitted under the minority admissions
11 program or do they have a program for all students?

12 A We have no special tutorial program, and never have
13 beyond the summer preparatory program, which I earlier
14 described. The professors who have taught during the
15 summer preparatory program have been the natural objects of
16 minority students' questions, and consultations. But we
17 have never had a formal tutorial program as such.

18 Q Could you indicate why not? Do you think it's a
19 good idea?

20 A Well, so far it seems not to have been necessary.
21 As the results I think will show. Part of our theory
22 here, and best you ask that question, to get the better
23 answer, from Professor Huff when he is here to discuss
24 the matter with you because he really started it and built
25 the program. But I think one of the issues that he con-

1 sidered, and he may correct me if he wishes, one of the
2 issues he considered was not treating minority student
3 in any special way so as to distinguish that student as
4 appearing to be less able to handle work. And I think
5 maybe some of the minority students who will also appear
6 today can elaborate on this. At least I know it was true
7 from the early stages of the program, that a good share
8 of the tutoring came from fellow students, and seemed to
9 be far more effective in that context than having a formal
10 kind of teaching program.

11 Q Turning our attention to another aspect, what has
12 DU law school done to increase the number of women students?

13 A Well, now, again you'll hear some figures from
14 students and my faculty colleagues this afternoon. I think
15 we're very pleased to note that this first year class is
16 composed, in the day division, of 30% women and in the
17 evening division, of 40% women. We don't know exactly
18 how the mix will look next fall, because we're in the
19 middle of the admissions process.

20 Looking at those persons who have been admitted so
21 far for the fall, the number of women will exceed those
22 that were in this first year class. Now, in years -- the
23 years past, the ratio has not been as high, hence my sus-
24 picion is, and I'm going to have to turn to Assistant Dean
25 Jesse Manzanares, to give me the exact figure, of the total

1 women in school now, is it about 30 to 31% now, Jesse?

2 MR. MANZANARES: Overall, it should be 29.

3 A. (By Dean Yegge) Is it 29? I'm glad I asked an
4 expert.

5 Q. We'll have him also testify.

6 A. He will be on the panel shortly.

7 Q. Let me turn to the matter of minority professors
8 and women professors. What efforts have been made to in-
9 crease the number of minority and women professors?

10 A. Well, I think Leslie told you what we have done,
11 actually, over the last three years there have been only
12 two positions available, now that's kind of a happy
13 situation because it means our faculty is not turning over.
14 We've only had two slots that have been vacated.

15 Unfortunately, again as being a private institution,
16 that does not get any support whatsoever from tax money,
17 we are in a position and have been the last several years,
18 of simply not having any new positions. There just aren't
19 any. There isn't any money for them. But nevertheless,
20 the last two positions to whom we have -- which we have
21 made appointments have both been minority. One has been
22 Chicano and the other has been a woman.

23 We have a position currently open and we are inter-
24 viewing people for it, and the leading candidates so far
25 for that position have been women.

1 Q Do you have a formal affirmative action program?

2 A Yes, we do. Yes, we do.

3 Q What is DU law school's philosophy in regard to the
4 bar examination, do you teach for the bar examination?

5 A Well, I am reminded of the story of the dean of
6 the Yale Law School who came into the faculty meeting very
7 discouraged, and the faculty saying what seems to be the
8 problem? And he said the bar results in New York just
9 came out, we've really got to worry about what's going on
10 around here, 50% of our graduates passed.

11 And I suspect that that's part of the concern we
12 have. We sincerely don't believe that the job of a law
13 school is to be a three-year bar refresher. Its job is
14 to teach the necessary concepts for being a law person
15 in the society, and notice I did not say lawyer. Because
16 it's our philosophy that people with law degrees do lots
17 of things, they don't just become traditional practitioners.
18 And in that context, there are lots of skills they must
19 learn.

20 Now, the students at our school have all sorts of
21 different options. They don't need to take all of the
22 courses that are necessary to pass a bar examination. They
23 may not want to be a, quote, lawyer, end quote. In
24 this way, we feel that we are providing education of law for
25 people who are going to serve society in a variety of

1 different ways. And that concept is not necessarily
2 compatible with simply preparing someone to take a bar
3 examination.

4 Now, we would like to think that the student who
5 takes those courses that are on the bar examination, with
6 necessary application and recall, can pass a bar examina-
7 tion, in any state in the United States. But that is not
8 our primary purpose in teaching our students.

9 THE CHAIR: Dean Yegge, I'm going to have to inter-
10 rupt you. I'm going to let Bill Levis ask you one question
11 and then we're going to let you go.

12 In order for us to stay on this time schedule that
13 we have, we can only limit each speaker to about ten minutes,
14 but I do appreciate what you have said and --

15 A Answer the question yes or no and stop leaking off
16 at the mouth, right?

17 Q (By Mr. Levis) You indicated that your scholar-
18 ship fund is \$140,000.00 per year --

19 A Currently, for this year.

20 Q -- and as I understand for the minority program it's
21 approximately \$90,000.00?

22 A No, excuse me, that's not right, the minority
23 scholarship program this year is \$140,000.00. The scholar-
24 ship program for the remainder of the law school for the
25 current year is \$90,000.00. You will see that the minority

1 scholarship pool is far larger than the other scholarship
2 pool. Which has some very serious problems built into it.

3 THE CHAIR: Thank you, Dean Yegge, I'm going to call
4 up the next group of panel.

5 A The rest of these people are going to be far better
6 than I.

7 MR. YASUI: Thank you.

8 THE CHAIR: The next panel will be what is listed
9 panel of, and that will be Duane Bear, Madeline Caughey,
10 Richard Gonzales and Ernest Jones. If you would all come
11 forward.

12
13 Q (By Ms. Speed) I'd like to ask each of you to
14 please introduce yourself by stating your name, year
15 in school and address.

16 MS. CAUGHEY: My name is Madeline Caughey, I'm a
17 third-year student and my address is 1069 Pearl, Denver,
18 Colorado.

19 MR. GONZALES: My name is Richard Gonzales, I'm
20 a third-year law student, University of Denver. My address
21 is 3709 U Concourt, Wheatridge, Colorado.

22 MR. JONES: My name is Ernest Jones, I'm a third-
23 year student and I live at 439 Emerson, Denver.

24 Q Thank you.

25 Ernest, I understand you are or have been cochair-

1 person of the Black American Law Students Association at
2 DU. Would you please briefly describe the functions of
3 BALSA and tell us what BALSA and the University of Denver
4 have done to recruit Black students?
5

6
7 ERNEST JONES
8

9 A (By Mr. Jones) Okay. We've prepared a statement
10 that I'd like to read so that the answers that I give can
11 be taken in context. The members of the Black American
12 Students Association at the University of Denver do not
13 wish to castigate and denounce or besmerch the reputation
14 of our institution, we merely wish to point out the goals
15 and other aspects of the philosophy of the college of law
16 that are gravely incongruent with the policies of the
17 present faculty and administration.
18

19 At present, the total enrollment at the college of
20 law is approximately 840 students. Of this number, 50 are
21 minority students, and nine of us are Black. Yet this
22 institution professes to offer programs aimed at activism,
23 where students can utilize the law as a constructive in-
24 strument of social change.
25

While quite apparently the administration's practices
as they relate to Blacks still operate as an instrument to

1 maintain the status quo.

2 Policies that only allow a limited number of Blacks
3 access to a legal education, along with practices that
4 limit the lines of communication and input of the views --
5 of views of the present Black student population concerning
6 decisions relating to Black students, are in no way
7 indicative of a will to effect constructive social changes.

8 Also, this college has failed miserably to be a
9 center and seat of community action and service programs
10 as they relate to the Black community of Denver. Instead
11 of being the active agent and leader that it proclaims to
12 be, it's more a latent secret agent that has to be aroused
13 out of its slumber and forced to recall its own statement
14 of policies and goals.

15 We hope that those present here will reflect on
16 all that's said today and become active in an appreciable
17 way and become part of the inevitable process of social
18 change.

19 Also, we implore those of the University of Denver
20 to join with us to establish better communication between
21 all concerned parties so that we can come one step closer
22 not only to the Black student and Black community goals
23 but greater access and participation in the society, but
24 also fulfill the espoused goals of this institution as well.

25 Q Thank you. Obviously there are very few Black students

1 at DU.

2 Do you think that part of this is due to a lack of
3 affirmative recruitment programs on the part of the college
4 of law?

5 A I think so. I think it's more than a question of
6 recruitment, I think that there are adequate numbers of
7 Blacks that are applying, I think it's just a matter of
8 how many they would like to let in.

9 I know that, at least I suspect that they don't
10 over-admit for Black students as they do to get the
11 requisite number of other students and if enough Blacks
12 come or if they admit just the number that they had planned
13 on coming and if they come, good, and if they don't, that's
14 good too.

15 Q Does Balsa do anything to assist the Black
16 students that are at DU in their academic programs?

17 A We try to. The problem is as it was when we first
18 came, when I say we I mean myself and another Black
19 student, there was one night student and we were the only
20 ones there and we were all first-year students and so there
21 was no continuity in our organization at all, so we couldn't
22 get guidance from upper classmen because in fact there
23 were no upper classmen.

24 And these kind of organizational problems that are
25 created by the lack of other Black students to help us

1 along, I think are a result of the university's program.

2 Q Okay.

3 Richard, I'd like to ask you to please describe
4 the functions of the Mexican-American Law Students
5 Association, of which you are president, and tell us what
6 both MALSA and DU have done to recruit minority students?
7
8

9 RICHARD GONZALES
10

11 A (By Mr. Gonzales) MALSA was founded about 1968 or 69,
12 the primary purpose of the MALSA group was to assist and
13 provide for the welfare of the incoming Chicano student.

14 Over the past year, past two years that I've been
15 associated with MALSA, since 1974, we've worked to some de-
16 gree with the adminssions office and the registrar's
17 office to attempt to widen our base of recruitment.

18 We've done this through two methods, one way is by
19 sending out of letter of interest indicating to a Chicano
20 student who took the exam, the law school application test
21 anywhere in the country, letting him know the minority
22 admissions program at DU, advising him of the possibility
23 of getting a tuition waiver, to make financial arrangements
24 and letting him know of a late admission date that DU had.

25 That's one aspect of the program, the second aspect of

1 the program has been to send students to colleges throughout
2 the southwest predominantly and speak out, campuses, and
3 talk to college seniors who are interested in attending
4 law school. That, in essence, has been our approach to
5 the recruitment policy, but it has two major drawbacks as
6 I see it.

7 In terms of going to colleges and speaking with
8 high -- college seniors, seems to be rather limited. First
9 place, there's not that many Chicano graduates coming out
10 of four-year institutions for one. The second point is
11 that generally these come from the lower economic strata
12 and they're pretty well loaned up in terms of financial
13 assistance from the individual college they're coming from.

14 So, the first impulse of the Chicano student, and
15 probably shared by Black students and women too, who are
16 severely loaned up, is when they get out of college they
17 want to go to work and it's not too likely to induce them
18 to come to law school.

19 The second problem in the law school aptitude test,
20 is that minorities tend to score rather poorly, and their
21 chances, their chances for getting admitted even with a
22 different standard that's used for minority students, is not
23 all that great in terms of total number of people taking it.

24 I think last year we sent out approximately 400
25 letters to Mexican-Americans throughout the country that

1 took the exam and we indicated to them that DU was available,
2 we had minority program there, not that many responded
3 because either the grades were so poor they couldn't get in
4 and a few who had very outstanding credentials picked their
5 own school.

6 Q. Madeline, would you tell us a little bit about the
7 Women's Law Caucus and what it and DU have done to recruit
8 women law students?

9
10
11 MADELINE CAUGHEY
12

13 A. (By Ms. Caughey) The Women's Law Caucus was formed
14 in about 1968 and since that time has been actively in-
15 volved in trying to recruit more women. In the fall of
16 1972, we requested and received cooperation from the admin-
17 istration in receiving from educational testing service a
18 list of women with high LSAT scores and high GPA's. We
19 wrote to many of these women encouraging them to apply
20 to the law school. At that time, the number of women en-
21 rolled was at about 10% and the administration felt that
22 there were still a low number of women who were well-
23 qualified.

24 We sent a letter of interest similar to that which
25 Richard referred to to these women. In the spring of 1973,

1 the undergraduate affairs committee changed their program
2 which usually consists of having prelaw advisers from
3 various undergraduate colleges come to the college of law,
4 and sent five women from the Women's Law Caucus to various
5 schools throughout the country to speak to the women there
6 encouraging them to pursue a career in law and specifically
7 encouraging them to come to DU.

8 We did send one woman to the Washington, D.C. area
9 where there were a number of Black schools which she
10 spoke at. We really haven't been able to gauge the effec-
11 tiveness of this recruitment effort.

12 In 1974, the undergraduate affairs committee re-
13 turned to their usual practice of having prelaw advisers
14 come to the college of law, that year the Women's Law
15 Caucus received \$300.00 from the student bar association
16 who allocates student's funds, and the Women's Law Caucus
17 sent representatives throughout the southwest to recruit
18 women in that area.

19 We're particularly interested in the recruitment of
20 minority women. In 1975, the Women's Law Caucus was again
21 interested in, further in the recruitment effort, even
22 though the percentage of women had gone up substantially every
23 year. However, no funds were given that year. So that's
24 the present status of the recruitment effort.

25 Q Thank you. I'd like to welcome, on behalf of the

1 committee, Duane Bird Bear. And Bird Bear, would you
2 introduce yourself by stating your name, your year in
3 school and your address?
4

5
6 DUANE BIRD BEAR
7

8 A. (By Mr. Bear) My name is Duane Bird Bear, I'm a
9 first-year law student at the University of Denver and I
10 live here in Denver at 1336 Corona Street.

11 Q Thank you.

12 Would you describe for us the recruitment and
13 admissions opportunities available to Native American
14 students at the University of Denver College of Law?

15 A. Well, at the University of Denver, I found that
16 having once applied, I learned that there was an active
17 search for Native American law students at the university.
18 So far we have not been extremely successful in this effort
19 since we've just begun.

20 I know that Dean Manzanares, and you know, I presume
21 the law faculty at the University of Denver is actively
22 interested in pursuing, in finding, you know, qualified
23 Native American law students. But so far the -- it's very
24 difficult because overall there are just not many law
25 students nationally. I believe right at this time there

1 are only 130 Native American students in law schools
2 throughout this country, so you know, the recruitment
3 effort there has just started.

4 We're hopeful that because of the increase in the
5 past three years of students completing undergraduate
6 work, that certainly some of these students will begin to
7 look at law schools as possibilities for further training.
8 I can't really speak, you know, to University of Denver's
9 efforts because, you know, it's a matter that the -- that
10 the administration handles, although from what I gather,
11 they are quite receptive and quite willing to work with
12 the University of New Mexico special scholarship program
13 for Indian students to find applicants.

14 Q Would you say a little more about the University
15 of New Mexico special program?

16 A Excuse me?

17 Q Would you tell us a little bit more about the special
18 program at the University of New Mexico?

19 A Okay. Through a contract with the Bureau of Indian
20 Affairs, and the Department of Interior, the University
21 of New Mexico has a special scholarship program for
22 Native American students. The scholarship support that
23 they can offer to students is a stipend, a living stipend
24 and they hope that the student will negotiate with the
25 school on, you know, further financial need. So the program

1 essentially and basically, I think in its most -- in a most
2 salient aspect, is the summer program which is about
3 seven weeks, it's kind of like a prelaw training program,
4 to get students to understand, you know, some of the
5 basic -- some of the areas of law, which is kind of a --
6 there's no credit for it but it's a very good summer
7 program for Indian students.

8 Q Thank you.

9 I'd like to ask all four of you if you think there
10 is a need for specific courses in the law school that
11 relate directly to the interests of women and minority
12 and whether or not DU has offered any such courses?

13 A Well, let me just say shortly that we, there is
14 interest among the faculty to begin thrashing around the
15 idea of a permanent course offering dealing with Native
16 American people in American law. This winter through the
17 auspices of the -- of one of the law professors, Professor
18 Alan Mercen (Phonetic), there was a constitutional law
19 seminar specifically on American Indians, and I think
20 that the -- certainly courses are needed.

21 I think not only for Indian students but for the
22 non-Indian lawyer as well, because I'm greatly concerned
23 of the lack of qualified and competent people handling
24 Indian affairs because I have seen some very poor drafts-
25 manship in terms of developing briefs for Indians on Indian

1 cases and every Indian case in this country is -- affects
2 every other Indian community in this country, by the
3 federal law.

4 But I'm concerned that there are great numbers of,
5 you know, people already in the profession who are dealing
6 in, specifically around Indian activities, but I just don't
7 feel that they have the adequate training or the under-
8 standing or the knowledge of the special legal status that
9 the Indians occupy in this country.

10 A (By Mr. Jones) I think that the interest of Black
11 people are pretty much integrated into the normal, regular
12 law school curriculum. But I've found that since I've
13 been there, there have been teachers who would kind of
14 hastily run over areas like Title VII and areas where civil
15 -- areas of civil rights because it's touchy at this
16 time because affirmative action is such a touchy subject.

17 But I think that there's definitely a need and that
18 the university probably isn't doing as much as they could.

19 A (By Mr. Gonzales) I would speak to two points, I
20 think in terms of specific courses that I think should be
21 developed, would be the ones that deal with the Chicano
22 community. I think first would be immigration, something
23 in this area, that haven't been started but there are
24 motions to make that a fruition and then there's a definitive
25 program that deals specifically with representing indigent

1 clients in misdemeanors here in the county courts. Most
2 of the indigent clients happen to be minorities.

3 These two programs I think orient themselves
4 toward the problems of minorities but I would certainly
5 like to see more emphasis on these kinds of programs.

6 But at the same time, I don't want to be locked in,
7 I don't want to go to law school personally and I can speak
8 for almost all the students, we don't want to be going to
9 law school and have the administration tell us you're
10 going to be a poverty lawyer because you're going to go
11 back to the community and do your thing. I may have an
12 interest in small business, I may have an interest in
13 patents, if we've going to allow people the opportunity to
14 come to law school, to acquire the education, to acquire
15 the tools to become meaningful members of the society,
16 they have to have that choice to participate the way they
17 think the most effective.

18 Without forgetting the needs of the community, in
19 terms of immigration, in terms of the local misdemeanors
20 here in the county courts, but at the same time allowing
21 that person the freedom to be the kind of lawyer, the
22 kind of law person he wants to be.

23 A (By Ms. Caughey) One of the frustrations that the
24 women at the law school have experienced is getting es-
25 tablished, on a permanent basis, a course on sex-based dis-

1 crimination and the law.

2 For several years, this has been taught by part
3 time faculty member. As the women have gone before the
4 curriculum committee to get this course established on
5 a permanent basis we've met with several faculty com-
6 plaints, one dealing with the poor quality of instruction
7 of the course in the past.

8 I find this disturbing because I took the course in
9 '72 and in fact no student evaluations were passed out
10 and I thought the course was extremely worthwhile in pre-
11 paring law students to deal with the kind of legal con-
12 cerns that women are facing in this society.

13 Another faculty response which we got was the fact
14 that it was very difficult to find a qualified woman in-
15 structor for the course. We had someone who expressed
16 an interest who had an LL.M. from Harvard and are unsure
17 why she was considered unfit to teach the course, who had,
18 incidentally, also been a full or been a professor at
19 the University of Utah Law School.

20 There was some sentiment expressed that the course
21 should be taught by a full time faculty member. I wonder
22 again at this response because we use members of the legal
23 community frequently to round out the curriculum, for
24 example, Mr. Don Hoagland frequently teaches a course on
25 international business transactions, and I think this course,

1 sex discrimination like that course, particularly lends
2 itself to being taught by someone with practical expertise
3 in the area.

4 Another response we met was that there was a lack
5 of student interest. Here I think that there was a gap
6 in communication between the faculty and the students. I
7 understand some women this year were told by the dean that
8 only four women had taken the course, when in fact 15
9 completed the course and took the final.

10 So this has been a problem in the past.

11 Another frustration closely related, is frustration
12 in setting up a clinical program dealing with women. This
13 seems to be getting further this year, a proposal has
14 been tentatively approved by the director of the clinical
15 programs. But this is something we've been struggling to
16 implement since '72.

17 THE CHAIR: Leslie, if I may interrupt right now,
18 once again we are running into a time crunch and it's
19 very difficult to just allow ten minutes for each speaker.

20 But what I'd like to do is kind of throw this open
21 to the rest of the people on the panel to see if they have
22 any questions. I know I have a couple individual questions
23 and if we can allow some of the other members of the panel
24 to bring forth some ideas.

25 Ernest, if I may ask you a question, just in terms of

1 what you said that there is not any Blacks being admitted
2 into DU law school, what recommendations or what specific
3 recommendations would you make in order to have the DU
4 administration change their former policies, if it's a
5 policy?

6 A (By Mr. Jones) That's easy. What we would like to
7 see done is have students' input, a joint student faculty
8 committee that would be able to sit down and talk about the
9 applicants' qualifications, you know. We're law students who
10 have gone through the process and we're also Black students
11 who, you know, have that Black background encounter with the
12 applicants and we can talk about it and we can say what's
13 relevant and what's not.

14 So far, the way it's done now, it's done behind
15 closed doors and we don't know what goes on. So that's
16 what I would suggest.

17 Q (By the Chair) One other question, that is a re-
18 lated question, do you feel that if there were more faculty
19 members that they could voice your concern in this area?

20 A Hopefully, but not necessarily. I think minority
21 faculty is something we would really like to see, but we
22 don't know, really, that they would be able to do much
23 as far as, you know, changing curriculum, because they have
24 their own interest at stake.

25 Q (By Mr. Yasui) I'd like to ask a very quick question

1 of Mr. Jones or Mr. Gonzales or Mr. Bird Bear. Do you
2 believe that summer programs were helpful? Are they
3 necessary? What is your evaluation of this or do you have
4 any opinion? Any of you?

5 A I think they are helpful, they're definitely not
6 necessary. But they give you a little bit of jump that
7 gives you that little bit extra confidence when you get
8 to law school that helps out quite a bit.

9 A (By Mr. Gonzales) I personally don't like them.
10 And the reason I don't is because it does single you out
11 as an individual that needs special help. We don't need
12 special help, we just need the opportunity.

13 A (By Mr. Bird Bear) Myself, I think they're very
14 essential for Native American students coming into law
15 school, because the fact that most -- most students that
16 I know of, Native Americans, have not had the kinds of
17 inculcation of a desire to join a profession in them and I
18 think the programs serve a specific need because you can
19 start throwing lawyerly noises around, you know, at the
20 students.

21 But one concern I have, though, is, you know, going
22 to summer school without credit. If there isn't credit
23 then there's really no incentive to go besides somebody
24 saying it might be good for you.

25 Q (By Mr. Frye) Let me follow with that, Mr. Gonzales,

1 I missed, you were a second-year student?

2 A (By Mr. Gonzales) Third year.

3 Q Okay, you and Mr. Jones both are third-year and
4 you both had the summer program, --

5 A I didn't.

6 Q No? When did that stop, do you remember?

7 A I think it, correct me if I'm wrong, 1969 was the
8 last summer program they had at DU.

9 MR. MANZANARES: The last summer program was during
10 the summer of 1972.

11 A So we never went through that program.

12 MR. FRYE: Thank you.

13 Q (By the Chair) Madeline, if I may ask one question
14 of you, I believe Dean Yegge indicated that minority students
15 don't have special problems, therefore DU has not had any
16 type of -- excuse me, DU has not had any type of minority
17 programs since the first summer program. Do you feel that
18 women have a special problem that they're confronted with in
19 law school, and can you explain that if there is a special
20 problem, that women may have?

21 A (By Ms. Caughey) I don't think that there's a need
22 for an educational preparatory program, most of the women
23 are from the middle class, I think one problem that many
24 women are facing now particularly, is the age of the
25 average student is advancing, is a need for child care.

1 This has been something that's been an issue at CU, I know,
2 and is something that's arising now because there's a new
3 building in contemplation which will be being built in
4 the very near future.

5 There are many more women with children in law school,
6 and roles being what they are still in the society, many
7 of these women law students still have primary responsi-
8 bility for their children. And it certainly does get in the
9 way with their full participation in the legal environment
10 at the law school.

11 Q (By Mr. Levis) I have a few questions.

12 When I talked to some women law students they talked
13 about a selfselection process that women go through before
14 applying to law school, I wondered if you could talk about
15 that, the fact that because of the educational system,
16 women do, the women who do apply to law school in a sense
17 have already gone through a process that maybe the men
18 haven't gone through and how this relates as far as the
19 number of women who are applying to law school?

20 A Well, I don't know how that relates to the number
21 of women who are applying to law school, I think that on
22 the average the women who does apply to law school is per-
23 haps a bit more committed to becoming a lawyer than the
24 average male, that's a bald statement, that comes from the
25 fact that I think most of us were brought up without pro-

1 fessional aspirations, and those women who have decided
2 upon a career have therefore made a commitment above and
3 beyond many other women still, and the rest of the popu-
4 lation, and therefore do bring a peculiar commitment to the
5 legal education.

6 Q Are any of the minority student associations or the
7 Women's Law Caucus assisting the administration as far as
8 faculty recruiting is concerned?

9 A (By Mr. Gonzales) Our efforts at MALSA have been
10 very limited, we've attempted to make an input to the
11 clinical education program is where we're most active but
12 we've not been too successful.

13 There were a couple people, minority persons who
14 applied and they were tendered a position, but they turned
15 it down, I think because lack of -- of substantial financial
16 offer I think was part of the problem.

17 A (By Mr. Jones) Well, we did a lot, an awful lot last
18 year and we're still doing a lot as far as correspondence
19 and recruitment letters and we even did a lot of visiting
20 last year, but like I said earlier, I don't think the
21 problem is a matter of who we get to -- how many people
22 we get to apply but just who they want to let in.

23 I think we do have the numbers of qualified appli-
24 cants, they're just not being let in.

25 THE CHAIR: Leslie, I want to thank all four of you

1 on the panel, I hate to keep apologizing but because of
2 the limited time we can't really go into as much depth
3 as we'd like to.

4 But if any of you have any further information that
5 you want to provide to us, we are more than willing to
6 accept what you have and whether this is in terms of oral
7 statements that you want to make or written statements,
8 we would accept that and that goes for the audience also.

9 Thank you.

10 Why don't we begin with our next panel?

11 MR. YASUI: Again for the record, may we have each
12 of you, in series, state your name, your particular
13 position at DU law school and your particular address, will
14 you please? Start with Dr. Huff?

15 MR. HUFF: My name is William Huff, I'm a professor
16 at the college of law, University of Denver College of Law.
17 My address is 3055 Ohm Way in Denver, O-h-m.

18 MS. KRENDL: Cathy Krendl, assistant professor,
19 University of Denver College of Law. 842 Clarkson, Denver.

20 MR. MANZANARES: My name is Jesse Manzanares, I live
21 in Denver, 1531 South Camilla Way. I'm an assistant pro-
22 fessor and assistant dean at the DU law school.

23 MR. MOYE: And I'm John Moyer, M-o-y-e, I'm sitting in
24 for Dean Yegge who already left. I'm the associate dean of
25 the law school and a professor of law. I live at 3590 East

1 Nobles Road, in Littleton, Colorado.

2 Q Thank you.

3 I'd like to start with Professor Huff and go into
4 the matter of the minority admissions committee. Could
5 you explain very generally what this is at DU law school
6 at the present time, what it's been and how successful
7 it's been?

8
9
10 PROFESSOR WILLIAM HUFF

11
12 A (By Mr. Huff) Let me start with what it's been. In
13 1967 Dean Yegge obtained a grant from the Ford Foundation
14 to conduct a summer program, Denver's first summer program
15 for minority students. This particular grant was designed
16 to bring 20 students into residence during the summer, the
17 grant was by its terms limited to Chicano students.

18 At that time, there had been only two minority pro-
19 grams in the country, for law students. The Harvard Law
20 School had, for two years, conducted a summer program for
21 college juniors, it wasn't a preparatory program, it
22 wasn't a program preceding entering law school, but it
23 was really a program designed to have minority students
24 think about going to law school, think about law as a
25 career.

1 The only preparatory program that had been held was
2 at 1966 at a university in Atlanta, under a similar grant.
3 After that, the succeeding five years, so it would have
4 been a total of six programs we had summer programs each
5 summer.

6 Some of these were in conjunction with the Council
7 on Legal Education Opportunity, which was formed in 1968,
8 three of our programs were either sponsored by CLEO or
9 were conducted in cooperation with CLEO.

10 We finally conducted our final summer program in
11 the summer of 1972. These programs were, there was the
12 minority admissions committee that was formed after we
13 had completed that final summer program. Summer programs
14 were all similar in character, they were designed for
15 people who were planning on entering law school the following
16 autumn, they were directed at people who, based on the
17 normal admissions criteria that were being used by law
18 schools, would have difficulty entering law school. They
19 simulated a regular quarter of our law school work. We
20 offered courses generally in contracts, criminal law,
21 criminal procedure, I think ~~for~~ one summer. They were
22 not for credit, although the type of work that was done
23 was similar to what the student could expect in law school.

24 They weren't for credit and we felt no need to try
25 to cover the entire subject matter of the course, indeed

1 many of these courses would be repeated by the students
2 during their law school career, so we could use the subsidy
3 materials simply as a teaching technique on the various
4 aspects of law school study and law school examinations.

5 The first year all of those students under that
6 particular grant were destined for the University of
7 Denver, it was a program limited to our law school.

8 In all the succeeding years, when we were with
9 CLEO or sponsoring programs on our own, we had students
10 who would go out of the summer program into the University
11 of Denver and into other law schools around the country so
12 it wasn't a program, as far as the summer program is con-
13 cerned, it wasn't designed to prepare people solely for
14 study at the college of law.

15 Q We asked Dean Yegge regard to the tutorial program,
16 as I understand DU law school does not have one or do they
17 have one?

18 A They do not. They have never had a tutorial program,
19 this was a subject of a great deal of conversation with
20 the faculty and with former participants in our earlier
21 programs as to the advisability of instituting a program
22 during the regular academic year that might be directed at
23 people who had participated in our summer program or
24 others who were interested and it was the consensus always,
25 and particularly we relied heavily upon the students who had

1 participated that that program might well be counter pro-
2 ductive, and we studied several other programs that had
3 been held in law schools around the country and it
4 appeared that the problems arising out of it, indeed
5 sometimes stigmatize, if you would, a law student who
6 needed special help even during the academic year, were
7 probably too great for us to achieve it.

8 Q Let me turn to, is it Professor Krindl?

9
10
11 PROFESSOR CATHY KRENDL

12
13 A (By Professor Krindl) Yes.

14 Q As I understand, you were the first women appointed
15 as a full time professor at DU law school?

16 A No, sir, that's not correct. And I don't have my
17 history immediately available. The first woman I think
18 appointed as a full time faculty member was during World
19 War II. There was a period of 30 years after she left in
20 which DU had no full time woman but in the '30's and
21 during World War II, there was in fact at least one woman
22 available. And teaching.

23 Q Are there any other women professors at DU law
24 school at the present time?

25 A There are listed in the catalogue, there are three

1 part time women professors, one of whom is an adjunct
2 professor. The other two are not presently teaching but
3 I understand are available to teach certain special
4 courses, should those courses be offered.

5 Q In your opinion, has the DU law school made a good
6 faith effort to employ women law instructors?

7 A Yes. Dean Yegge, very suddenly, put me on the per-
8 sonnel committee so I could answer this question more
9 intelligently. We have -- I have been here, this is my
10 second year. We did not have a position available last
11 year, we do this year. Unfortunately our position this
12 year became available after many of the women applicants
13 were already hired. Most of law school hiring is done at
14 the American Association of Law Schools Conference, which
15 this year was held earlier than usual, at the end of
16 November.

17 We had no open position until the end of January.
18 Our recruitment efforts have therefore become more difficult
19 because women have been very popular this year in particular.

20 Of the candidates we are ~~presently~~, currently con-
21 sidering, of the four candidates we are ~~presently~~ very
22 seriously considering, two are women.

23 Q Tell me, have there been any efforts to secure more
24 women law students as far as DU law school is concerned?

25 A No. I'm also on the admissions committee. The reason

1 we -- the reason we have, and the reason I don't think it's
2 necessary that we make efforts to secure women is that we
3 are admitting and again I don't have the precise percen-
4 tages because our application process is still in some
5 flux for '75, we admit proportionately, though, in my
6 experience, many more women than women who apply.

7 In fact, if our figures continue to increase, I
8 think we'll have to have affirmative action for men rather
9 than women.

10 Q Is it your feeling that the women applicants for law
11 school go through a selfselection process that the men
12 do not? We've heard some indication of that.

13 A I'm not sure any more. I think five years ago that
14 was in fact true. Now we are getting so many more women
15 applying, I'm not sure that's as true for the present class
16 as it has been. However, we are getting many women who
17 are coming to school with children and I think for a woman
18 with two children or three children to make a decision
19 to come to law school does take a certain amount of self-
20 selection that a man in similar circumstances would not have
21 to consider.

22 Q Thank you.

23 Let me turn to Dean Manzanares and get to the matter
24 of your minority admissions program.

25 Dean Manzanares, would you have any further additions

1 to what Dr. Huff and Dean Yegge have already said in this
2 regard?

3 Let me ask, has the program been very successful?
4 What is your evaluation --

5
6
7 DEAN JESSE MANZANARES

8
9 A. (By Dean Manzanares) We think it's been extremely
10 successful. Let me address one other point, however. It
11 would take hours for me to tell you what's on my mind and
12 facts and figures that I have available.

13 Q We don't have hours.

14 A. One comment I would like to make with respect to
15 Ms. Speed's initial set of remarks, I detected a number of
16 inaccuracies in numbers and percentages that I'd like
17 to meet with you and perhaps correct. None of which were
18 gross, by the way.

19 During the passing years we've admitted 121
20 minority students into the law school. Varied in numbers
21 the first year, in '67, under this special minority
22 admissions program there were 11, last year there were 24.
23 Of this 121 we have graduated 53 and we have currently en-
24 rolled this quarter in the law school, 44. We've had two
25 law students transfer and we've had 19 law students drop out

1 for various reasons, including academic failure.

2 As far as judging the success of the program, I
3 can give you several startling statistics. Since the DU
4 program began in 1967, of course, the entering freshmen
5 students didn't start graduating until 1970. In 1970,
6 there were less than 18 Spanish surnamed lawyers licensed
7 to practice law in the State of Colorado, although at least
8 five or six of them were not in the State of Colorado, but
9 they were in government service and other places.

10 Today, and including the six young men that will
11 be sworn in on May 19th, there will be 83. If you want
12 to gauge success in terms of numbers, it's been phenomenal.
13 We have placed on the market, in law-related areas, 38
14 graduates, or I shouldn't say that, 53 graduates, 38 of
15 our graduates have passed bar examinations. There's some
16 50 new lawyers in the State of Colorado in the past five
17 years.

18 Some 31 of them have come from the DU law school.
19 They're in various areas of responsibility, the impact
20 just has been phenomenal in terms of our young men and
21 young women have gone, and in so many cases, their mere
22 presence has created behavioral change and change in the
23 system.

24 There's just so much to say, Mr. Yasui, that it's
25 impossible in five minutes or 15.

1 Q I'm sure that the corrections you can add in writing
2 subsequent to these hearings, to this meeting.

3 Let me ask further in regard to the minority students
4 at DU law school, what is the success ratio so far as the
5 bar examination is concerned, do you have any figures on
6 that?

7 A I do, and I have them with me. You're talking about
8 -- well, of our 53 graduates, 38 have passed bar examinations.
9 Now, percentage-wise that comes out to 74%. Of students
10 who have been admitted, 79% of them are graduating. We
11 have some academic failures, some dropout for personal
12 financial reasons.

13 Q How many minority faculty members are there, aside
14 from yourself?

15 A One, me.

16 Q Just you?

17 A Yes, sir.

18 Q What efforts are being made to get more minority
19 faculty members?

20 A Oh, I think Cathy Krendl addressed that, we have one --

21 Q The turnover --

22 A -- the turnover is a problem. We've made efforts
23 in our clinical area where we have staff attorneys to bring
24 in minorities. Someday perhaps a 100 years from now, there
25 will be some semblance of balance. It's difficult, the few

1 people that are available nationwide and Cathy understands
2 this whole thing in terms of women or minorities, who are
3 interested in teaching law school and would be acceptable
4 in terms of faculty acceptance.

5 The numbers are very small, and those people are
6 highly sought after. I'm sure Cathy will tell you that
7 she has -- would have an opportunity to go almost -- I
8 shouldn't say any law school, but there are numerous law
9 schools she could go to, there are numerous law schools
10 that I could go to. There is active recruitment throughout
11 the law profession, the law school community, the numbers
12 are lacking.

13 Q Thank you, Dean.

14 Dean Moye, is it?

15
16
17 DEAN JOHN MOYE

18
19 A (By Dean Moye) Yes, sir.

20 Q Now, you've heard, of course, the testimony of
21 Dean Yegge, is there any particular thing that you would
22 like to add in this regard, as far as Dean Yegge's state-
23 ments are concerned? Do you have any further amplification?

24 A Not particularly and in fact, my hope was just to
25 answer your questions, if I could, Min. My primary responsi-

1 bility -- I point this out to you because the question
2 was asked of the students, has to do with academic affairs,
3 I'm in charge of curriculum and faculty, at the law
4 school, and I think you'd find the University of Denver
5 curriculum fairly responsive to the needs of minority
6 communities locally.

7 We have courses I think that stand in good stead
8 for community interest of this sort. Not the least of
9 which is legal representation of the poor, an urban studies
10 program, we have, as Madeline Caughey's mentioned, of
11 course, reestablished the sex-based discrimination course
12 which has been very successful to my understanding, this
13 quarter, and in that area I believe we've been very re-
14 sponsive.

15 Q As I understood, Dean Yegge indicate that the DU
16 law school is not teaching for the bar examination, do
17 you have any opinion whether you believe that the bar
18 examinations are unfair as far as minority students are
19 concerned or do you have any personal feeling and do you
20 believe that the bar examinations should be eliminated?

21 Do you have any opinions in this regard?

22 A I -- I'm perhaps the only -- no, in fact, Professor
23 Huff, on the panel himself, we both are eminantly involved
24 in teaching students in bar refresher courses, as sort of
25 an adjunct to our other duties on an extracurricular basis.

1 First of all, the law school does not teach students
2 for the bar examination and I think that our faculty has
3 adopted that policy.

4 Secondly, I do not believe on my study of the bar
5 examinations that they are unfair. To minority students.
6 There is an unfairness, I don't see it. I would also add
7 that I've had the opportunity in bar review preparation to
8 counsel students, not just minority students but some of
9 them were minority students, on a one to one basis about
10 the right way to take a bar examination, how to approach
11 a bar examination and I can't tell you that there's any
12 distinction between a minority student and a nonminority
13 student in the way they grasp material and the way that
14 they approach the exam.

15 I have had several conversations with members of the
16 supreme court with respect on some sort of alleged un-
17 fairness in this regard and I have not been able to see it
18 in preparing students for the exam.

19 Q Dean Manzanares, would you have a contrary opinion
20 or any amplification further?

21 A (By Dean Manzanares) Yes, I would, with respect to
22 the bar examination, I think there are a number of factors
23 there.

24 At one time I felt it was definitely a cultural bias
25 built into the bar exam. On further reflection, reading,

1 study, it's my opinion that there really isn't. Any young
2 man or woman who is 25 years old who has spent 19 years
3 in school, is not very unsophisticated. However, the
4 bar examination is traditional, very traditional, the
5 bar examiners are more traditional, and young minority
6 students are not the least bit traditional.

7 And they don't communicate. They don't have the
8 same interest, they don't perceive a legal problem in the
9 traditional way but rather in a current, perhaps a philo-
10 sophical, in an angry way, incorporation's problem, for
11 example.

12 I think the difficulty lies there. There is a com-
13 munications gap and it's a communications gap between a
14 bright young minority student and a used-to-be-bright-now-
15 older, traditional, elderly member of our profession. And
16 I just think they don't communicate.

17 Q If you had your 'druthers, would you eliminate the
18 bar examination?

19 A I would favor a diploma privilege, yes. The in-
20 consistencies in the bar examination scheme are horrendous.
21 And perhaps they'll be pointed out to you this afternoon.

22 Many of our students will go to some states and pass
23 bar examinations, they'll go to other states and fail bar
24 examinations. They'll pass the multistate in one state,
25 a month later they'll fail it in another state. Just the

1 inconsistencies are incredible. The grading of bar
2 examinations is very subjective, just -- except for the
3 multistate, is very subjective. And I think some of the
4 other panel members later on in the afternoon will address
5 those specific problems.

6 I would like to talk to one point. Minority
7 students have difficulty in gaining access to law schools
8 for a number of reasons. First is to find the open door.
9 Once the open door is found, there is a problem of finances.
10 And it's so difficult to overcome this. DU is a private
11 institution, operates as a private institution operates, on
12 a budget made up of or utilizing 80% of its budget comes
13 from tuition revenues. The DU law school generates some
14 two million dollars a year in tuition revenues. By spending
15 this \$143,000.00 a year, I shouldn't say spending, waiving
16 it in tuition, our budget is deprived of those dollars. We
17 simply, as a private institution and as a matter of
18 economics, can not do what we want to do, or what we would
19 like to do.

20 If we were to triple the size of our minority en-
21 rollment we would bankrupt our institution. In fact, if
22 we would double it we would bankrupt our institution. I'm
23 not sure that public institutions have identical problems,
24 but they're similar. Economics is a tremendous factor.

25 Since we, as a private institution, have these economic

1 factors working against us, we have a difficult time com-
2 peting with those institutions that do have funds.

3 Mr. Jones was concerned that only three Black
4 students were admitted in his freshman class. I don't
5 know if Mr. Jones knows that for that particular year we
6 admitted nine Black students. But six Black students con-
7 tacted our school and said, Harvard will give us not only
8 a tuition waiver but a stipend and that's where we're
9 going, or Columbia or Stanford or some other school.

10 This is a difficult problem. We try, in our minority
11 admissions program, to attract the cream of the crop of the
12 minority community and we make every effort to do that. We
13 lose so many because we don't have adequate financial
14 assistance.

15 Dean Yegge made reference to a stipend for the first
16 class, I'm glad to inform you that that living stipend
17 amounted to \$100.00 per month. That was a lot of money
18 and it goes a long way, but a young man or young woman
19 going to law school doesn't live on \$100.00 a month. The
20 one other point I'd like to make, with respect to the tutorials
21 and the summer program.

22 They're two different concepts. We had summer
23 prep. programs for a number of years, the faculty committee
24 with student participation, minority student participation,
25 decided in 1972 that they would dispense with that. There

1 was a collective feeling in the community that things had
2 changed in the past five years. That we were now receiving
3 numerous or many more applications, the applications were
4 coming from young men and women whose paper credentials were
5 a lot better, they were coming from schools that were first
6 class schools.

7 After reviewing all these factors it was our collec-
8 tive opinion that the minority student who is applying to
9 law school in 1972 is quite different than the year that
10 I applied to law school. And that our students were much
11 better prepared, and in fact did not need to be patronized
12 with a tutorial or a summer program, what they needed was,
13 number 1, the opportunity to get in the door, and number
14 2, some financial assistance and we think that on the
15 basis of these last two classes that have entered into the
16 law school without benefit of the summer prep. program, that
17 our decision was correct.

18 THE CHAIR: Jesse, I'm going to interrupt you right
19 now and interrupt Min, once again we've got a time problem,
20 I want to allow the rest of the panel to be able to ask
21 some questions. And I'm going to try and give you, kind
22 of a leading question, Dr. Huff, just so that we can save
23 time.

24 Q (By the Chair) It's my understanding that there were
25 approximately 6,200 lawyers in Colorado and as Jesse has

1 indicated, there are approximately 80 minorities or 80
2 Chicanos, approximately 40 Blacks that are lawyers in
3 Colorado. And Jesse has indicated the fact that there
4 are many schools that are attempting to get the cream of
5 the crop in terms of Blacks and Browns.

6 As a result of these type of statistics, do you
7 think that DU should have a more active recruitment pro-
8 gram for Blacks and Browns in order to get more students into
9 law school so that we have more minority lawyers here in
10 Colorado?

11 A (By Professor Huff) Well, I think it is important
12 that we have an active recruitment and I think we have. I
13 think we've had a tremendous carryover from these six years
14 of summer programs.

15 I was noticing the report for the '72 program, that
16 particular program we wanted every student who came in
17 to already have a place in the law school so we had four
18 participating law schools, we were -- we were paying for
19 the summer program but every student there had been placed
20 there by a law school and DU had placed ten of those
21 students in the summer program and was committed.....
22 to take them upon successful completion.

23 I noticed we had 129 applications for those ten
24 seats that year, it was those kinds of statistics that
25 caused us to abandon the summer program because it was an

1 expensive venture and indeed, when we abandoned it we
2 hoped to and did successfully up our scholarship program
3 from the ten we admitted in '72, for example, up to 20
4 students under our current minority admissions policy.

5 So we have these -- these seats available.

6 As I talked to Jesse from year to year, this com-
7 mittee meets and reviews what's going on in this program,
8 it would appear that we are in the happy position within
9 the limitations, I think we're back to the economic limita-
10 tions, of the people we can receive who need this tuition
11 assistance, we are getting a good look at a number of
12 people and presenting very high credentials and we are
13 filling our available seats.

14 Q Let me ask you this, do you feel that DU is being
15 active enough to make DU attractive to minority students
16 so that they would rather come to DU rather than go to
17 some other school outside the state? Are you making
18 those type of energetic, active recruitment efforts?

19 A It seems to me that goes to maybe the -- the quality
20 of life at the law school from the law student's point of
21 view and I'm not sure I'm qualified to speak on that.

22 My own view would have been that I thought certainly
23 during the six years that I was actively involved as
24 director of this summer program, that there was a -- that
25 there was a receptive and a cordial atmosphere at the law

1 school and that summer program itself represented that
2 atmosphere, so there was a fairly acceptable place to be,
3 I think law students find law school relatively unpleasant
4 experience anyway and something to be gotten through, but
5 within that limitation, I think it was an attractive place
6 and an energetic effort was made to make it appear so.

7 I do think it ties back to money problems, though.
8 Like I say.

9 THE CHAIR: Any other questions down the line?

10 Q (By Mr. Frye) We've jumped a little bit, I think,
11 when we've gotten into bar exam, but Min raised a good
12 question. I have heard it -- the opinion expressed by
13 bar examiners and perhaps members of a profession that the
14 law schools are not equipped or willing to make the commit-
15 ment to accept responsibility for the diploma privilege and
16 I would like to have the feeling of some of the others.

17 Jess gave us his feeling about it, he'd prefer to
18 see the bar exam abolished, I gather, and have the law
19 schools take the responsibility for it. Is there unanimity
20 or is there difference of opinion at the table there?

21 A (By Dean Manzanares) Let me make one comment first,
22 if the diploma privilege is enacted it would require a
23 rather extensive reexamination of the law school role,
24 and our institution, for example, would have to look at
25 this very carefully and perhaps make some changes. It would

1 require some changing on the part of both law schools,
2 because the responsibility taken on would be awesome.

3 A (By Professor Krendl) I don't agree with that be-
4 cause I don't think a bar examination accomplishes much.
5 I've taken two, one in Alaska, one here, I don't feel that
6 I learned anything about the particular law of this
7 state and I prepared very conscientiously for the bar
8 examination, I do not think we would have to change the
9 direction of our law school to prepare good lawyers.

10 That's what we do. I think if anything, the bar
11 examination committee of the association and supreme
12 court has to worry about whether or not the bar examination
13 does what the law school does. I think the law school is
14 accomplishing what the bar examination would like to do,
15 and simply can't do. Given the built-in constraints of
16 a bar examination.

17 A (By Professor Huff) Well, I'm inclined to think that
18 we would have a considerably stronger responsibility than
19 we now exercise and I particularly think of it in light of
20 hearing Dean Yegge's testimony that, and I think it's true,
21 that the University of Denver is not just in the business
22 of training lawyers, but law persons who may go into many
23 fields.

24 It seems to me that a diploma privilege would make
25 you examine that aspect of your -- of your law school

1 curriculum and program to see if you really did have two-
2 track people, because if you had a diploma privilege that
3 applied to every graduate and we are indeed accepting
4 that as a distinction that some people are headed toward
5 practice and others are not, then it seems to me the
6 diploma privilege would have to relate only to those who
7 were headed toward the practice.

8 I take it that would certainly be the view of the
9 people who are now in charge of admitting people to practice.
10 So I think we'd have to, one, decide whether that really
11 works, were certain, and if it were, I think we'd have to
12 have some way of identifying which people were entitled to
13 be admitted to the bar as practicing lawyers based upon
14 completing law school.

15 Q (By Ms. Speed) I'd like to ask Professor Huff and
16 Dean Manzanares, how do you answer critics who charge that
17 the minority program is discrimination in reverse?

18 A. (By Dean Manzanares) There's no question but what
19 there is -- it is discrimination in reverse. And I suppose
20 if you attempted to answer that is ~~it is invidious~~ discrimin-
21 ation, and the answer there is that it's not. It's very
22 difficult to explain to people not the concept of reparation
23 but the concept of fairness.

24 You can explain to them that there are only 1% minority
25 representation or 2% in the legal profession and zero in

1 the judiciary or .001, you can explain that to them and
2 they'll understand that, but if you explain a program to
3 alleviate the imbalance, they won't buy that. It's very
4 difficult.

5 The pressures in '67, '68, '69, even through the
6 '70's, did not exist to condemn this reverse discrimination.
7 But as the majority community were finding that their sons
8 and daughters were eliminated or denied admissions into
9 law school, or medical school, the problem really arose.

10 It's in our government now, and I would like to
11 call your attention to a proposed set of IRS regulations
12 which would apply only to private institutions and would
13 outlaw any discriminatory admissions practices or in the
14 admissions process or in the awarding of scholarships.

15 The practical effect would be to destroy any minority
16 admissions program in the country. It's a very difficult
17 problem, and it's a difficult problem to explain, generally
18 John Q. Citizen's conscience goes as far as his pocketbook
19 or his personal stake, and it's extremely difficult, ~~and~~
20 except perhaps in the university communities, to sell the
21 idea, that the idea is reasonable and fair as opposed to
22 being -- that it's not invidious.

23 I don't know how else to -- I wasn't prepared to
24 respond to that, I have my -- my memo notes and so often I
25 have to answer that question and I have a stock reply. I'd

1 like to use the example of women, reverse discrimination is
2 not shouted when women are seeking more jobs and better
3 jobs and to be removed from the traditional roles, the
4 majority community can accept that, and can accept and
5 understand that equal pay or equal work means equal pay
6 and that's not reverse discrimination.

7 But in the case of minorities, the concept doesn't
8 filter down.

9 THE CHAIR: Professor Huff, I'm going to interrupt
10 you because we are ten minutes overdue and I think we're
11 going to just stop this panel right now. Take about a
12 five-minute break and then begin with CU.

13
14 (Short recess)

15
16 THE CHAIR: If we can call the meeting to order.
17 Our next group on the agenda is University of
18 Colorado law students, and if you would, from left to
19 right, identify yourself by name, also tell what year you
20 are in school and where you're from.

21 MR. CASTEEL: My name is Charles Casteel, I'm a
22 third-year law student. I'm from St. Joseph, Missouri.

23 MR. ESPINOZA: My name is Huberto Espinoza and I'm
24 a first-year law student from Alamosa.

25 MS. MUROYA: My name is Judy Muroya and I'm a second-

1 year law student from Greeley, Colorado.

2 MS. SAYVETZ: My name is Ann Sayvetz, I'll graduate
3 in December, '75, and I'm from Boulder.

4 Q (By the Chair) ~~And if I can start~~ with Charles down on
5 this end, Charles, it's my understanding that you were pre-
6 viously the past president of Balsa, is that correct?

7
8
9 CHARLES CASTEEL

10
11 A (By Mr. Casteel) Yes.

12 Q Would you explain briefly to the group, the activities
13 of Balsa at the University of Colorado and what your aims
14 and goals were as a member of that group?

15 A Generally we were concerned with matriculation or the
16 admissions, matriculation and entrance in the bar of Black
17 law students through the University of Colorado and that en-
18 tailed recruitment activities. It entailed whatever assis-
19 tance can be given to other Blacks in the same situation
20 as yours from your own experience.

21 Q All right.

22 Now, in terms of that in ~~attempting~~ to get into
23 specifics, did your group or any members of your group have
24 any active participation in the selection or admission of
25 Black students?

1 A Through my tenure at CU we have. The extent of that
2 participation, though, I'd like to qualify, because through
3 the -- in the last one or two years, in the last one or
4 two years we've decided to forego any participation at all
5 because we felt that our voice in the selection process
6 itself was only of a courtesy extent.

7 The first year that I was there there was a com-
8 mittee that BALSA formed of about two or three people that
9 would look through the files of the applicants and would
10 usually recommend to the admissions committee without any
11 type of a vote or any type of a power behind that recom-
12 mendation to the committee what students they thought would
13 be good law students or who they should admit and the
14 way we did it is we usually looked at the students that we
15 felt the school would not admit, the ones that weren't top
16 in their class, that weren't participating in the activities
17 that you usually look at as being the kind that a lawyer
18 should participate in or something like that, who we felt
19 that would have some kind of a detrimental chance of
20 getting in or not as much of a chance as other people.

21 But we still felt would be good law students, so that
22 was the extent of our work in that area. We don't do that
23 any more.

24 Q And when did you stop doing that?

25 A Last year. We refused to participate in last year's

1 selection. And we haven't done it for this coming fall,
2 either.

3 Q Now, does CU have a minority program for the summer?

4 A They do, it's called the special academic assistance
5 program, I believe.

6 Q And can you explain that program?

7 A Well, I'd have to explain it more from my point of
8 view of what it entails, I think some of the administrators
9 of the program would be better capable of answering that
10 question.

11 Are you concerned about my feelings toward the
12 program itself or are you concerned about what I -- what
13 it -- the objectives are or what?

14 Q Okay, my question, which was not a very good question
15 because it was very broad, do you feel that this program
16 is a necessity or whether or not it is not helpful in
17 terms of minority students being brought into CU?

18 A I've had diverse opinions on that question, it de-
19 pends on, like for these purposes I would say no, the
20 program is not necessary, and the reason why is because I
21 don't think there's a sincere commitment on the part of the
22 school or the administrators of the program themselves.

23 Not personally, but as an overall, towards the
24 program. And that comes because the objectives of the
25 program are questionable, whether it's for remedial help

1 or what other purposes it can be for, the program puts
2 a stigma on its participants, I believe, throughout your
3 tenure at the law school, every one knows that if you're
4 minority there you came in on some special consideration,
5 that you went to a tutorial program, you're getting tutors
6 and all this kind of thing, these considerations and the
7 fact that because our program is probably susceptible to
8 attack, because of the diploma situation that I'm sure
9 we're all aware of, I think that I'm sure that if it comes
10 down that those types programs are discriminatory, our
11 program would have to go out the window because it's
12 definitely of the same nature.

13 With that in mind, it seems like, to me, that the
14 school would change its program, and if it had a commitment
15 for getting racial minorities into the legal profession,
16 it would change it in a way such that you wouldn't have
17 to face that. And I'm saying maybe that we should change
18 the qualifications or criteria for admissions. That's the
19 thing that, the program itself, to me, all it's dealing
20 with is that we have a set idea of what standards and
21 qualifications for admittance is.

22 You don't come up to it, minority, so we have to
23 somehow get you in and maintain our standards. Well, those
24 criteria, to me, don't have that much validity and I think
25 that what has to be done, if there's a sincere commitment

1 to get minorities in the legal profession is to not look
2 at LSAT's, not look at GPA's, look at them, of course,
3 but there are other things, we're talking about a diverse
4 legal profession, one that's responsive to the community.

5 Well, there are more communities than just the
6 majority Anglo community. Maybe we should look at those
7 type things.

8 We should be looking at, well, the indigents don't have
9 representation so we want to get some indigent in our law
10 school, and on those criteria, if you're responsive to ,
11 every one, I don't think anyone would have any reason to
12 object to anybody being admitted to the law school.

13 Q Okay, Charles, going into another subject, we
14 talked about the subject of admissions from your point of
15 view and BALSA's point of view, what is -- what other
16 problem, if any, would you like to discuss in terms of the
17 difficulties that Black law students may have at CU?
18 After admission?

19 A Maybe a feeling of isolation or whatever that we
20 have. And it's due to a lot of factors, one of them,
21 and one that I'm most concerned about, is the lack of
22 minority professors at the University of Colorado Law
23 School.

24 To me that evidences a lot of things. One being that
25 if there is a sincere commitment on the part of the

1 faculty or on the part of the profession to get minorities
2 out into the profession, how can someone tell me that that
3 is their sincere commitment when their own hands are dirty
4 or if their own home isn't -- isn't doing the same thing?

5 I'm saying that I have a faculty that's all Anglo
6 and saying we're trying to get minorities out into the
7 profession but within their own endeavors of that profes-
8 sion at the law school, we have no representation, so that's
9 a contradiction and that creates in my mind some kind of
10 an apprehension on the sincerity.

11 There's also that faculty situation also speaks to
12 the lack of a responsiveness to the curriculum at the law
13 school, to minorities, in that there are no minorities there
14 to express a vantage point or a viewpoint that it's
15 probably unique to a minority, with no minorities on the
16 faculty the majority law student sits there and it's not,
17 is not -- his mind is not opened up to a new perspective,
18 he's not able to gain confidence in the minority lawyer's
19 abilities or anything else. He's in an isolated community
20 and he leaves there and he goes out into another one.

21 There are no courses, themselves, to me, that
22 speaks the minority need, there's a legal aid clinic and
23 the legal aid clinic has no minority administrators or par-
24 ticipants, and yet most of the clients are indigents, and
25 if they're indigent, you know they're going to be minority,

1 A lot of them are going to be. These type situations are
2 ones that a minority law student, or one coming in, has
3 to come into, and he's bound to feel isolated because
4 of them. And it's going to cause him to get with his
5 group and feel some identity that way because there's no
6 way that he can relate to the law school itself, there's
7 no other minorities around to be seen.

8 Q What is your recommendation in terms of what the
9 faculty can do to obtain more minority faculty members
10 and minority participation in groups such as legal aid?

11 A Well, just as with admissions to the law school
12 for students goes, and there being a question in my mind
13 as to the validity of the standards used, there's also a
14 question in my mind as to the validity of the qualifications
15 and standards used for selection of faculty and adminis-
16 trative personnel.

17 There's been, we've -- this is quite a touchy
18 subject at our school now, because a group of minorities
19 have taken steps to -- to file a complaint with HEW re-
20 garding the faculty situation. And our vantage point and
21 our position is that once you qualify a person to be a
22 professor or a -- be he a student, once he's qualified,
23 we should no longer enter subjective criteria into his
24 selection. If he's qualified and there's a sincere commit-
25 ment to diversify the law school faculty or the law school

1 profession or the law school students, then let's get him
2 in there and I don't think that commitment's being ful-
3 filled on the part of the faculty or the administration at
4 the law school.

5 Q Thank you, Charles, I'm going to move on to Mr.
6 Espinoza.

7 It's my understanding that you are a first-year
8 law student, is that correct?

9
10
11 HUBERTO ESPINOZA
12

13 A (By Mr. Espinoza) That's correct.

14 Q And you came under the minority program also?

15 A That's right.

16 Q Did you go to the summer program?

17 A I did.

18 Q And what was your opinion of the summer program?

19 A My opinion of the summer program is, although I per-
20 sonally think it is helpful, but it would be helpful to
21 any individual who would be in that type of a program
22 whether he be Black, White, Blue, Purple, whatever, color
23 regardless. The fact, the question of its necessity to
24 my mind is that it is not a necessity.

25 As far as orienting somebody to the purposes of a

1 legal education, I think to a degree it does that and it
2 would do that to any White student as well as to any
3 minority student but it is not really a necessity.

4 I think the majority of the people who are accepted
5 into the program are capable of performing quite well.

6 Q Do you feel that Chicanos entering law schools have
7 special problems ~~that either~~ the majority, majority students
8 don't have?

9 A Other than the economic problems, which I'm sure
10 that the dean's panel went into quite a bit last time.
11 Other than that, I don't think there are any other real
12 problems that the Chicano personally has. The only real
13 problem is the economic problem.

14 Q Now, it's my understanding also that further than
15 the -- just the summer program, there is a tutorial pro-
16 gram, is that correct?

17 A There is.

18 Q What is your feeling about the tutorial program?

19 A The tutorial program as I've experienced it, is not
20 really necessary. The majority -- for that matter it's
21 not really used that much. It's there, you can use it if
22 you want to, the majority of the students really do not use,
23 it's not really that necessary. It's no more important
24 than what I think another student would encounter in turning
25 to an upper classman when he has a problem in asking him a

1 question or two to clarify, or going to a professor, but it's
2 not really helpful.

3 Q Do you feel that as a result of the summer program
4 or the tutorial program, that participants in these pro-
5 grams may have been stigmatized in any way and as a result
6 these programs being a hinderance to them?

7 A There is a stigmatism and there is a hinderance,
8 because in it's actually openly, almost openly practiced
9 by the faculty, in the -- in the way they approach the
10 students within the classroom. It's not a joke, it's
11 actually a very serious thing amongst the minority students
12 but we talk about it openly such things in reference to
13 minority day, minority week, where the professor on that
14 specific day or on that specific week will call only on
15 minority students, no other students in the classroom.

16 Now, he will normally select, say at random, students,
17 regular students in the class, but when it comes to
18 approaching the minorities he always does it as a whole
19 and even sometimes some of their hypotheticals are sort of
20 based on discrimination.

21 Q Are you a member of the Chicano Law Students Associa-
22 tion?

23 A Yes, I am.

24 Q Does your group or do you personally have any goals
25 in regards to solving any problems that minorities have in

1 the law school?

2 A. The organization itself has been attempting to make
3 sure that the minority program as it exists now is not
4 cut back because it seems that that's the only open door
5 that we really have. We will never really truly be
6 accepted as long as the minority program exists as a regular
7 student in the fall without being accepted in the summer,
8 so if that's the only vehicle that we can use, we're trying
9 to make sure that it's not cut back.

10 And there have been attempts to do that. Other
11 efforts, of course, in -- we are actively participating in
12 recruiting Chicanos from the outlying areas in Colorado
13 and from out of state.

14 Q Now, you indicated that you feel that the most
15 pressing problem for minority students and especially
16 Chicano students, is the economic problem. Do you feel
17 that there are any other problems or changes that the
18 administration needs to do in order to make law school
19 more attractive to Chicanos?

20 A. Well, first of all, to make law school more attrac-
21 tive to Chicanos, I know that the majority of us don't feel
22 that we're all going to be going into poverty law but the
23 curriculum as it stands at the law school is not oriented
24 to help solve any particular problems minorities have. As
25 far as legal problems are concerned. They really offer no

1 real courses, say in poverty, immigration law, any of these
2 courses which I think a lot of minority students who are
3 willing to come to law school and then go back and help
4 their communities. These things are not being offered at
5 the law school.

6 The curriculum itself is just, is specifically
7 oriented to the business-type of legal practice.

8 Q Well, as a result of the curriculum, in your
9 opinion, being this way, do you feel that the atmosphere is
10 a sterile atmosphere to many minority students?

11 A It's very sterile.

12 Q What is your opinion in regards to minority faculty
13 members?

14 A The minority faculty members -- well, as Mr.
15 Casteel really stated, there are no minorities on the
16 faculty. There is one woman who will not be around after
17 the end of this year. We feel that without any kind of
18 minority faculty, without any type of curriculum being
19 offered, that the minority, there is just, law school is
20 just one of those things that is, the door is not really
21 open to us. We will only be entering part of the system.

22 THE CHAIR: Okay, if I may move on to Ms. Muroya.

23 Ms. Muroya, it's my understanding that you are an
24 Asian-American, is that correct?
25

1 MS. JUDY MUROYA

2

3 A (By Ms. Muroya) Yes, I am.

4 Q Did you enter CU law school on any type of special

5 minority program?

6 A Yes, I was under the minority program that Charles

7 and Mr. Espinoza were under.

8 Q I guess you are basically saddled with two problems,

9 being a woman and a minority?

10 A Right.

11 Q Can you give your opinion in regards to the problems

12 that you feel that you are confronted with as a result of

13 having these two labels?

14 A Well, one of my problems is that last year I was a

15 minority and then this year, Asians are no longer a

16 minority in the law school so I'm sort of caught in the

17 middle. And it's been that way in undergrads' clubs

18 part of the minority program and then I entered law

19 school as one.

20 Well, when I entered undergraduate school I wasn't

21 in one and then I was pushed into the Asian-American

22 program, and then now I'm not in anything again. I guess

23 I'm still considered part of the minority program, but it's

24 really, you know, I don't know how to view things a lot of

25 times and other people don't know how to view me because

1 they look at me and a lot of people mistake me for being
2 Chicano, Indian and then I tell them I'm Asian and then
3 they say, well, you're not a minority.

4 Q Now, this is your third year at CU, is that correct?

5 A I will be a third-year student.

6 Q Oh, you will be a third-year student. Have you seen
7 a significant increase just in the -- those two years of
8 women coming into the law school?

9 A I was surprised at the number of women my first
10 year, and you know, I really don't know that much about
11 the women in the law school, Ann would know more about that.

12 Q Well, do you feel that women have a special problem
13 in dealing with law school whether it be from a -- the
14 way the faculty treats you or in terms of special problems
15 that women may have?

16 A I don't have any problems myself, I -- I don't feel
17 anything, from the male students I get along with them well
18 and it's like we're on an equal basis.

19 And as far as the faculty goes, I really don't know
20 that much about it. I don't feel anything from them, I
21 think it depends on -- on how you feel personally about it.
22 And where your head is when you view things.

23 Q How many Asian-American students are there in the
24 law school?

25 A I think there's three now. There were two in the
first year class

1 first year class.

2 Q As a result of your two years of experience in the
3 law school, do you have any recommendations for either
4 changes in the summer program or the tutorial program or
5 any other changes that you think would benefit both
6 minorities and women?

7 A I thought the tutorial program really helped a lot
8 because I attended the sessions but I think it depends on
9 the person there. The summer program I thought was
10 helpful but I think it would be helpful for anybody to
11 get them used to what law school is going to be like. And
12 you know, I've benefited from both programs, I feel.

13 THE CHAIR: If I may move on to Ms. Sayvetz, it's
14 my understanding that you are a third-year law student, is
15 that correct?

16

17

18

MS. ANN SAYVETZ

19

20 A (By Ms. Sayvetz) Yes, I have one more semester.

21 Q And are you a member of the Women's Law Caucus
22 at CU?

23

A Yes, I am.

24

25

Q Can you explain to the group the function of the
Women's Law Caucus at CU and what your personal goals are or

1 the goals of that organization?

2 A Well, I think the activity of the Women's Law Caucus
3 ends and closes with the academic schedule, the closer you
4 get to exams the less active it becomes. We've tried to
5 focus particularly in this past year in a number of areas,
6 gotten subcommittees to work in different areas. Some of
7 the goals we've undertaken have been, for instance a
8 speakers committee and we've tried to get women who are
9 in different areas of the legal profession to come and
10 speak at the noon hour.

11 Sort of educate, theoretically, everyone, although,
12 in almost every instance.....the people who've come to
13 these talks have only been women students, which I think
14 has been a failure perhaps on our part, to actually try
15 to educate the law school community.

16 We've also tried to have some input, if there's
17 going to be, on lecturers who've come, try to get some
18 women. We've also -- we have tried to, I was involved my
19 first year with the problems of admissions, and I think
20 the number of women being admitted has gone up, it's harder
21 -- there is no -- there's been no participation by the
22 Women's Law Caucus in the admissions process whatsoever.
23 So that's been something I think we've been interested in,
24 but it's been difficult to be involved with. The burden
25 of recruiting women has been on the student groups if they're

1 at all interested in putting in the time.

2 I see that as really having two sides to that problem.
3 First of all, if you feel that recruitment is important,
4 no one else is going to be doing it except the student
5 groups, so that we would have to do it if it's going to be
6 done.

7 Secondly, on the other hand, I somewhat resent the
8 fact that the burden will be put on us as students. We
9 are supposedly putting in almost all of our time being
10 students, we're certainly not being paid for our time, we
11 can not use money we get from the university for any out
12 of state travel. So, any efforts would be limited, in
13 fact, I'm not sure we can even get mailing expenses for
14 some kind of recruitment mailing.

15 The budget is sufficiently limited that we get through
16 the main student organization.

17 Our budgets have increased, I was involved in the
18 first year, my first year when the Women's Law Caucus first
19 asked for a budget, I think we have about \$1,200.00 a year.

20 Finally, a group that we've -- an area we've been
21 focused on also has been the hiring problem. And I've
22 been most actively involved in that in the last year.

23 Q Do you consider that a problem, the hiring of
24 minority or women to the faculty?

25 A Yes, I do. My first year there were two women on

1 the faculty, and my second year one of the two women was
2 granted -- excuse me, my first year one of the two women
3 was granted tenure over some problems, which I won't go
4 into now, ~~my~~ second year a third woman was hired. At
5 this point the woman who was given tenure quit on short
6 notice at the end of last year, the woman who had come
7 just last year quit on very short notice, and this year
8 the woman who had been hired my first year decided not to
9 go through with the tenure process, was going to continue
10 next year, and for whatever reason, quit on short notice
11 last week.

12 And I just feel that that's -- the sudden leaving
13 of women now, we're from three down to zero, well, it's
14 very difficult to interpret what that means, but I think
15 it could have many meanings and I think one thing you could
16 say is that the law school environment is not encouraging
17 or nurturing of getting more women and minorities on the
18 faculty.

19 I think there's a lot of -- I think there are problems
20 with the peer group pressures among the faculty and not
21 being on the faculty it's very difficult to tell exactly
22 what those processes and pressures are. But I just think
23 the facts that emerge have to be given some kind of inter-
24 pretation and that it's not often a pleasant one.

25 Q What are your feelings in terms of the sincerity or the

1 policy of the faculty in terms of recruiting more minorities
2 to the faculty members?

3 A. I think one -- I've done some studying on affirmative
4 action, I think one of the problems of affirmative action
5 is that many gestures and procedures can be followed with
6 no results. And yet, affirmative action will be complied
7 with. And I think that's a basic weakness in the whole
8 approach. And you get into very difficult problems of
9 quotas and other problems that can be abusive in themselves
10 in order to combat that, maybe that's one reason we don't
11 get into them.

12 Q. Let me ask you this, I didn't mean to --

13 A. Go ahead.

14 Q. -- mess up your train of thought.

15 Is there any student input at all into the hiring
16 of faculty?

17 A. Once applicants have gone through the ALS procedure
18 and they've gone to Washington and interviewed people and
19 certain people have been selected to come to the law
20 school, there may be notices up and the students have access
21 to the people who were being interviewed for jobs, say an
22 hour, I -- sometimes it's right in the middle of exams.
23 For instance, last fall it was during exam period which
24 many people just don't even come to school unless they have
25 an exam, so I'm not saying -- I mean the constraints of

1 time may require that. But in terms of effectiveness,
2 it seems to be difficult for students to get to meet the
3 candidates and I'm -- I suppose students who have relation-
4 ships with people on the faculty or speak with people on
5 the faculty a lot might have some kind of personal influence
6 by saying I thought this person was very well qualified.

7 But other than that, there's certainly no formal
8 input.

9 THE CHAIR: Thank you.

10 What I'm going to do now is open up the questions
11 to the rest of the panel.

12 A Could I just add one point on the recruitment?

13 THE CHAIR: Sure.

14 A I see one problem, there's -- the threshold problem
15 is funding and the University of Colorado, as a whole, is
16 pressed for money, not getting it from the legislature,
17 the law school is in very bad financial trouble, particularly
18 for faculty allocations.

19 I think we're about five or six full time people
20 down from what we were projected for next year, so we're
21 not even maintaining a parity.

22 One way of dealing with this problem, since there
23 isn't the money to hire full time, three-year contract
24 people, has been the idea of hiring visitors or visitor
25 appointments for one year.

1 My understanding the rationale for this originally
2 was to get people who were on leave from other institutions
3 to get experienced teachers, because many of the people
4 hired at CU have not taught elsewhere, they're at the be-
5 ginning teaching level. However, I feel that this process
6 can be subject to abuse. In other words, to whom are the
7 full time, three-year contracts offered and to whom are the
8 visitorship, and I'm -- I don't wish to make any accusations
9 about what has gone on but I'm saying that the process is
10 such that it could lend itself to an abusive situation.

11 I think very few people could afford to move to
12 Colorado to take a one-year job, beginning teaching job, with
13 absolutely no guarantee of any followup. And I'm just
14 wondering if it's not, it could be used as an offer that
15 people can't afford to accept.

16 THE CHAIR: Bill, do you have any questions?

17 MR. LEVIS: I just have a few questions.

18 Q (By Mr. Levis) Ms. Muroya, you talked about the
19 fact Asian-Americans were considered minority students
20 last year but not this year. Has the reason been explained
21 to you why the program has been changed since last year?

22 A (By Ms. Muroya) No, nobody ever really told me why
23 it's been changed.

24 Q So all you know is that the program has been changed?

25 A Right. Somebody told me that Asians were no longer

1 considered a minority for the purpose of law school.

2 Q But as far as your enrollment in the law school,
3 you're still funded under the minority programs?

4 A Yes.

5 Q What are the financial considerations under the
6 minority program, is there a tuition waiver or what is
7 there exactly?

8 A You get financial aid through the educational
9 opportunity program. If you need it. As far as I know.

10 Q So, not all minority students get financial aid
11 through this program, possibly?

12 A I don't know, do you know?

13 A (By Mr. Casteel) I think it's -- and the adminis-
14 tration probably would be better with this than I would,
15 but my experience, I've been granted, there's a grant, I don't
16 know what the sources of the grant are, and which is a
17 portion of my total amount of money that I get through the
18 year. There's a work study program that is offered to
19 you after the first year, which is another portion, probably
20 equal to the grant and then the rest is in national defense
21 fund loans and whatnot, which is the majority of aid that
22 you get.

23 Q So, students don't work the first year under the
24 work study program?

25 A No, none of the first-year students work but all of

1 the ones after that do. After the first year you usually
2 do.

3 Q I notice from the statistics provided by the Uni-
4 versity of Colorado, that the minority program has had a
5 relatively high attrition rate since its inception in 1967
6 approximately 54%. Is there any feeling among the
7 students as to the reason for this attrition rate?

8 A (By Mr. Espinoza) My own experience from the class
9 this past year, the ones who have, who have dropped out,
10 the majority of them have dropped out for economic reasons.
11 There have been no academic failures that I know of.

12 A (By Mr. Casteel) There's also the factor of the
13 sterile atmosphere again or whatnot that, as to some of the
14 Blacks that have left, the talk in the office or among your
15 friends and whatnot, has usually been that they're tired
16 of the pressures, I don't know whether we're speaking of
17 only law school pressures or other pressures, but just an
18 isolation feeling that you have.

19 Q Because of the time spent on the summer program,
20 as I understand it, the admission is contingent on
21 successful completion of the summer program. Do you think
22 it would be better if the school eliminated the summer
23 program and focused on a different program for minority
24 students?

25 A (By Mr. Espinoza) I think if the student were to be

1 accepted as a regular student in the fall, the stigma of
2 the minority students especially with reference to the
3 faculty, would be taken away because, well, it's -- it's
4 kind of -- it's kind of odd, but the majority of the minority
5 students when grading time comes up, they're always at the
6 bottom of the list. I don't particularly -- I feel like
7 whether there's a program, a minority program or what,
8 what it is there is no real endeavor on behalf of the faculty
9 or perhaps even the administration, in aiding the students,
10 in -- as far as his legal education is concerned.

11 They might aid him in accepting him for the minority
12 program, but then they turn around and they, I would
13 almost call it invidious discrimination in reference to the
14 minority because he has no real chance in the classroom,
15 he's going to get a low grade whether he studies well or
16 not. There's a blanket type of grading system. Nobody
17 -- everybody talks about the anonymous grading system that
18 there is at the school, but it doesn't seem to really,
19 truly exist because the majority of minority students are
20 always at the bottom of the list in grading.

21 Q (By Mr. Frye) I get a feeling of great ambivalence
22 toward the minority program. I think Mr. Espinoza said
23 that seems to be the only vehicle you have for admission
24 in some instances anyway. And yet, strong feeling, that it
25 does stigmatize somehow and I think Mr. Casteel expressed the

1 same feeling, that it stigmatizes. I guess the logical
2 question is, you apparently feel that you could make it
3 without the minority program. And DU, we've heard this
4 afternoon, has done away with the special assistance, they
5 are accepting minorities on a different basis but they
6 are not giving the program any longer, is that what you
7 would like to see happen at CU?

8 A I would like to see the minority program done away
9 with and have the minority students accepted on a regular
10 basis in the fall as the rest of the students were. That
11 would, I think, eliminate part of the stigma, although I
12 still feel that with the knowledge that the minority students
13 are going to be accepted under a different criteria that
14 stigma is still going to exist to a degree.

15 A (By Mr. Casteel) If I can add to that, his very last
16 statement, emphasizes the need for a change in the criteria
17 by which law students are admitted to law school. If you're
18 going to have a criteria which in itself minorities are not
19 going to qualify because of past and whatever discriminations
20 or opportunities, disadvantages and whatnot, then we're
21 going to be stigmatized because we can't meet those criteria
22 as a -- a majority of our group can not meet that criteria
23 so you have to change that criteria, I believe.

24 Q How would you change the criteria?

25 A That's a problem I haven't looked at and I'm sure

1 a lot of people have looked at in more depth than me. I
2 would only suggest that the legal profession look at a
3 responsiveness to the entire community, wherever it is, the
4 entire country or whatever, and when you look at that, that
5 responsiveness, your criteria may be a need -- as to a
6 minority, well, maybe there's a need, more of a need for
7 many in that community to relate to that community in a
8 different way. So we want to give two points or whatever
9 to someone that comes from that community and has been
10 responsive to the community and shows X educational, you
11 know, whatever those criteria is. You know, there are a
12 lot of standards that can be used other than just a pure
13 academic one that is going to stigmatize a minority at
14 any level where entrance is considered.

15 Q. Let me just say for the record, I am a practicing
16 attorney and I have a little problem with this, the bar
17 is moving toward specialization and maybe that's what you're
18 suggesting now to do on the law school level too.

19 Although one of our earlier witnesses from DU
20 suggested that he doesn't want to be channeled to a
21 particular area of law, he wants to feel free, he wants
22 to have the same course offerings, he wants to have the
23 same opportunity to practice the same kind of law that the
24 majority does. Although he may take on particular responsi-
25 bilities for his community, he doesn't want to be restricted

1 to that, and this, it seems to me, is a difficult problem.

2 I don't have an easy answer for you, either.

3 A But it seems that what you're addressing yourself to
4 is a curriculum versus admissions. I mean you seem to be
5 speaking of what we study once we get in and I'm speaking
6 to how we're going to get the people in there. And I say
7 I feel that there are a lot of people in the Black com-
8 munity that are qualified to be lawyers and practice in
9 any part of the legal profession, if the criteria for ad-
10 mittance into law school is changed.

11 If it's not only addressed to -- if it's not addressed
12 alone to an LSAT score and to a GPA.

13 MR. FRYE: Thank you.

14 Q (By Mr. Yasui) I have a very specific question, Mr.
15 Espinoza. I think you indicated that the minority students
16 get the lowest grades now. Certainly you're not contending
17 that every minority student is always getting the lowest
18 grades, I would imagine that there are a few students who
19 top the class in certain courses, isn't this correct?

20 A (By Mr. Espinoza) From my knowledge, the minority
21 students, there may have been one or two, but the --

22 Q It proves the rule?

23 A Right, there's always one or two exceptions but the
24 majority are always at the bottom of the list.

25 Q This could relate, perhaps, to the academic back-

1 ground with which they came to the University of Colorado
2 Law School?

3 A No, I don't really think it relates to the academic
4 background per se, I think a lot of it has to do with the
5 grading system at the school.

6 Q Then you are alleging that the grading system or
7 the professors in applying that system, discrimination
8 against the minority student?

9 A Well, the majority of us feel that way. I'm sure
10 that perhaps some of the students may be at fault to a
11 degree, in reference to attendance of class or anything
12 that's a particular problem that students would have in
13 general. But the majority of us, it seems odd that the
14 minority students are always clustered at the bottom.

15 Q You wouldn't consider that there are other factors
16 perhaps involved in this?

17 A There may be.

18 Q The other question I have, I think you indicated that
19 there's been no minority student who left because of in-
20 ability to do the work. Is this your statement?

21 A This was in reference to the first-year class that
22 I came in with.

23 Q None of them flunked out?

24 A None of them that have left at this particular time
25 have had any academic problems.

1 MR. YASUI: Thank you.

2 THE CHAIR: I'd like to thank all of you for par-
3 ticipating. We will have our next panel, which is the
4 University of Colorado faculty.

5 Q (By Mr. Frye) Would you, as the other panelists have,
6 please identify yourselves and I think we start with
7 Ms. Danielson.

8 MS. DANIELSON: All right. My name is Mildred
9 Danielson, I'm an administrative assistant in the office
10 of admissions and placement. I do two particular jobs,
11 I am the director of the law placement services and I'm the
12 assistant to Mr. Rentfro, who is the director of the special
13 academic assistance program.

14 DEAN PETERSON: My name is Courtland Peterson, I'm
15 the Dean of Law at the University of Colorado Law School.
16 I've been dean now almost a year, since July of '74. I've
17 been on the faculty since 1959. I live at Boulder at 1800
18 Lehigh.

19 PROFESSOR RENTERO: My name is William E. Rentfro,
20 Professor of Law at the law school, and director of the
21 special academic assistance program for the past four years.
22 I live at 200 Lapan Way in Boulder.

23 Q Thank you.

24 Let me start with Dean Peterson, if I may. Do you
25 have a minority admissions committee as we heard about from

1 DU law school, Dean Peterson?

2

3

4

DEAN COURTLAND PETERSON

5

6 A (By Dean Peterson) We have two committees that are
7 relevant to this, one is a committee that Bill Rentfro is
8 the chairman of, called the Special Academic Assistance
9 Committee, and the admissions committee actually does the
10 admitting of minority students as well as all of the regular
11 admittees. So I should make it clear, in other words, that
12 the minority program committee does not do the admitting,
13 the admissions committee does that, but they work very
14 closely together.

15 Q So that the admissions process is all in one bag?

16 A That's right.

17 Q All right. Do you, though, have a minority admissions
18 program which I gather you have?

19 A Yes.

20 Q All right. Let me pursue with you the question of
21 ambivalence I mentioned, I thought I felt with the students
22 toward the minority special summer program. And ask why
23 CU has continued it when some of the other schools have
24 eliminated it?

25 A Well, I suppose that the main reason we've continued

1 it is because we have felt that it was initially essential
2 and that it has been relatively successful. When our
3 program was first begun, that is not the summer program
4 but the general admissions program in 1967, it was on the
5 footing that has been suggested here and -- by some of the
6 students and as I gathered, you know, does it.

7 And that is simply to take the students in fall and
8 to treat them like everybody else, I think we did try to offer
9 some -- some tutorial services in the first year, in that
10 initial year in 1967, but the attrition was very, very
11 high. And we felt that these students needed some other
12 kind of assistance.

13 We started the summer program in 1968 and I suppose
14 that we have kept it because we have felt that it was highly
15 successful.

16 Q All right.

17 I think Mrs. Danielson is the one who furnished
18 statistics for our committee. May I ask her first, what
19 are your responsibilities with regard to the special
20 assistance program?

21
22
23 MILDRED DANIELSON
24

25 A (By Ms. Danielson) Basically, I carry out the policy

1 matters as developed by the committee of which Mr. Rentfro
2 is the chairman. I have given you a lot of figures here
3 that also have to do with admission, primarily I'm not
4 involved in that, but because the dean of admissions has been
5 ill, I've been handing on some of her materials too.

6 Q Okay, and what do your statistics show as to the
7 success of the special program?

8 A Well, we have been doing a little quick adding be-
9 cause as you probably noticed, most of my figures are
10 based on entering first-year classes and a history of what
11 happens to each class.

12 I would say that about 50% attrition is what it has
13 showed. I do think, also, though, that we should take into
14 account that when this program began we were admitting
15 a great many students with LSAT scores and grade point
16 averages than we would be willing to admit now, so that
17 some of our earlier attrition I think might be accounted
18 for by the fact that the students were really quite low
19 in --

20 Q Has your experience, then, changed over the years?

21 A Yes, I think that it's felt now, because in addition
22 the regular class, the admission of the regular class, the
23 criteria has gone so extremely high that in response to that
24 somewhat, and also in response to the fact that we are now
25 getting minority students applying who have much better

1 credentials than we did at first, the criteria for their
2 admission has also gone up in response to that.

3 Q Thank you.

4 Let me ask Professor Rentfro if he would give us
5 some of the history of the special program?
6
7

8 PROFESSOR WILLIAM RENTFRO
9

10 A (By Professor Rentfro) As I indicated, sir, I have
11 been director of it for the past four years and it was --
12 it had been evolving and changing over the previous three
13 years before I became responsible for it.

14 But at that time, about four years ago, we began,
15 for the first time, offering a summer program which con-
16 sisted of five hours of law school credit, a very rigorous
17 program where students were asked to complete one semester
18 of contracts in eight weeks, which meant a very hard
19 studying effort throughout that eight-week period.

20 We decided that the student should have credit for
21 the work they put in in the summer program and we devised
22 a course entitled legal method, around which we try to
23 put in a lot of writing of exams and legal writing of various
24 kinds.

25 We found that the program was challenging to the

1 students, it was very difficult for them, but at the end,
2 my experience has been that the overwhelming majority felt
3 that it was very worthwhile. If they passed the five hours
4 of work in the summer with a 72 grade or above, that --
5 those hours then would go on their transcript and they
6 would not be required to take contracts over again, for
7 example. If they got under 72, they would have had the
8 experience of eight weeks of contracts but then they
9 would be required to take it over.

10 We have had students that have achieved a 72 and
11 elected to take it over, but of course, not too many have
12 done that.

13 One thing that I think I should point out is that
14 early in the program, three years ago, four years ago,
15 when we found ourselves at the end of the summer with
16 fewer than the 24 or 25 students that we wanted to have in
17 our first-year class, which would make up roughly 16% of
18 our entering first-year class, we would then admit three
19 or four additional students if some had dropped out during
20 the summer or failed to successfully complete the summer
21 program in an academic fashion.

22 And we would admit these students in an effort to
23 fill the number of seats that we had allocated for minority
24 students and our experience with those students who did not
25 have advantage, the advantage of the summer program was

1 rather dismal. And after that we decided to make the
2 summer program a required part of the program. Then there
3 are other aspects to it. Even after the students successfully
4 complete the summer program and go into the fall semester,
5 they are required, unless their summer work was exceptional,
6 to take a reduced load the first semester and they're re-
7 quired to take a reduced load the second semester unless
8 their first semester performance indicates that they can
9 handle a full load adequately.

10 Then we combine with the summer program the tutorial
11 part of the program that you've heard something about, we
12 assign a student, who is paid, usually on a work study
13 basis, an upper classman who is -- who is doing well in
14 the course involved, or has done well in the course involved,
15 to each section of each first-year law class. That student
16 then has from five to ten students to work with. He or she
17 is required to audit the course and to work with the
18 students who desire and need help on a voluntary basis, that
19 is as far as the students are concerned.

20 If they feel they're doing all right without any
21 additional assistance, it's not required that they attend
22 any tutorial sessions. If they feel they can use some help
23 the student tutor is available to help them, either on a
24 one to one basis or in small groups.

25 Following the first year there is no additional

1 special assistance given to the students, and the only
2 requirement is that they achieve a 72 average in order to
3 graduate.

4 Q All right, let me ask generally, all of you, what
5 your perception is of the stigma that the students had
6 mentioned, that they feel has come from the program. Do
7 you see it the same way?

8 A I can't really say that I would quarrel with their
9 perception on that, I think we try, at least most of my
10 colleagues and I, and those in the administration, do our
11 best to alleviate that as much as we can, but I don't know
12 how it can be completely prevented in their perception if
13 they are in truth and in fact admitted on some basis other
14 than the rest of the student body.

15 Q All right. Let me ask how they are recruited and
16 selected, then, in the special program. Do you have a
17 particular recruitment process?

18 A I think Mrs. Danielson could speak best on that.

19 Q All right.

20 A (By Ms. Danielson) We have some recruitment. I
21 won't say that it was a complete or vigorous effort and
22 this is partly caused by lack of funds and time.

23 Our recruitment has been entirely within the State
24 of Colorado, we didn't feel we had the funds to go outside
25 that, although we certainly send what materials we can to

1 student undergraduate groups and so on that inquire.

2 Basically, it has been an effort to get to our
3 local schools in Colorado, we've felt the students were
4 more effective recruits than anyone else so if a student
5 wants to go back to his undergraduate school to recruit,
6 perhaps on a night when the Black student organization or
7 Chicano student organization is meeting, we will supply
8 them with materials, sometimes go along, pay their mileage,
9 and also one thing we did this year, one of the Black
10 students did which was quite effective, was a radio
11 spot over a station that I understand is primarily listened
12 to by Blacks in Denver and we got quite a lot of phone
13 response from that.

14 I would say that in the main was --

15 Q All right.

16 A -- there's a lot of word of mouth, of course, and
17 we, you know, the -- within Colorado at least, I think
18 among particularly the Chicano undergraduate students, are
19 quite aware of the program now.

20 Q I think Dean Peterson wanted to --

21 A (By Dean Peterson) Yes, I'd like to add a couple
22 of things to that. When the program was first initiated in
23 1967, we really had very, very few applications from minority
24 students, and a fairly intensive kind of recruitment effort
25 was made. I think the situation that Millie describes now

1 as one in which we do not make such an intensive effort,
2 is really reflected mostly by the fact that the application
3 rate has gone up sufficiently so that until at least very
4 recently we've felt fairly confident that we could get a
5 substantial number of members of the class who were minority
6 students.

7 There is some -- I do have some concern at the moment,
8 with the fact that the number of applications by minority
9 students seems to be falling off this year, as compared
10 to, let's say last year, and this is probably a national
11 trend, it's true not only of minority students' applications
12 but, at least with us, of the regular student applications.

13 The total applications for regular admission, for
14 example, are down with us from about 1,700 to about 1,400
15 for this entering class next fall. And I think that we
16 may, if the -- and the minority students, I think the figures
17 we have indicate that minority, total minority student
18 applications have fallen off, in some roughly comparable
19 kind of rate from about 200 to about 150 or -60.

20 Q Do you have any plans to establish, reestablish your
21 active recruitment program then?

22 A I guess what I'm saying is I think we're going to
23 have to, depending on how this washes out this year, we will
24 have to reconsider that matter, but I -- one other thing that
25 Millie said I would like to underline, is that I was a little

1 surprised to hear that some of the students say that they
2 felt that recruitment was not, you know, sort of the thing
3 that they should be doing.

4 We, and Im sorry to hear that because I think Millie's
5 perfectly accurate in saying that particularly with the
6 minority program, perhaps not as much with the women, I
7 don't really know about that, the students themselves have
8 been much the most effective kinds of recruiters.

9 Q What is your feeling about why there has been a high
10 attrition rate in the minority program, the special program?

11 A Well, I think that primarily this goes to the issue
12 of what it is that grades measure. I suspect that the high
13 attrition rate in the minority program is primarily attri-
14 butable to the fact that much of what law school measures
15 is language skills. Many of the people who come into the
16 minority program are the victims of disadvantaged preparation
17 in many of the language skills, both in writing and to some
18 extent in speaking.

19 And in reading and reading comprehension. That is
20 in a sense an appropriate thing to measure, I think, for
21 lawyers, because language skills are very much part of the
22 profession.

23 There is, of course, a very substantial differential
24 between the kinds of credentials that minority students
25 in our program have from those of the regular admittees. In

1 this year's entering class, for example, the average grade
2 point of undergraduate work for regular students was 3.51
3 on a 4.0 scale. That's the average. And the average of
4 students in the minority program was 2.87.

5 In the LSAT measurement, the average for the
6 regular class was 653, and for students in the minority
7 program, 495. I think, on the basis of the assumption that
8 those kinds of figures tends to reflect measurements,
9 prior measurements of language skills we would expect
10 people with these lower scores to end up with lower grades.

11 Q Notwithstanding the disparity there, I presume that
12 you do not admit anybody that you think will not make it
13 through the three-year academic requirement?

14 A That's our basic aim, and of course, to some extent
15 the grading system is by individual faculty members, done
16 on a partially curved basis. With the result that although
17 this doesn't necessarily mean that you're going to have
18 a failing grade, it does tend to, if that's done clear
19 across the spectrum of the faculty, does tend to push
20 people down into a very marginal kind of situation.

21 Q One of the students suggested that at least a large
22 factor in the attrition rate with the minority students may
23 be an economic factor. What's your feeling about that?
24 Those of you who are directly involved and the dean as well?

25 A Well, I think it's -- I think it's probably a factor.

1 It's a factor with all law students, though, it's certainly
2 not a factor with -- where you would necessarily single
3 out the minority students and it's, I think also true, of
4 course, that many of the minority students, particularly
5 in the first year, we make an attempt to assure that they
6 will not have to work by a combination of scholarship and
7 loan funds and we're not able to do that for all students.

8 A (By Professor Rentfro) May I make a comment on that?
9 I heard that testimony concerning the economic factor being
10 the primary cause of attrition, if that's the way it was
11 meant, I think I would have to quarrel with that. I would
12 admit that the financial assistance that's available to
13 students in this program is bare bones, there's nothing
14 lavish about it, but it is -- it does pretty much approach
15 what one would consider to be adequate these days, because
16 if there's any validity at all to the guidelines followed
17 by experts in the financial aid office, guidelines that
18 they have to follow in the administering of federal and
19 state funds, then it means that for the past three years,
20 prior to that time, no, but for the past three years we've
21 been able to compute the needs of students in our program
22 and give to them in the form of cash grants, loans and
23 work study funds, almost 100% of their computed need.

24 Now, there are students that have financial problems
25 that are unforeseen and they've -- they've been plagued with

1 those problems, perhaps more than the rest of the law school
2 population, and this has caused some of the attrition.

3 But I think we have to recognize that a good share
4 of the attrition can be seen simply in the fact that they
5 are competing with students in a student body with con-
6 siderably higher LSAT scores and a considerably more advan-
7 taged educational background and that competition is tough.

8 And then they -- and just academically a good share
9 are not able to make it.

10 Q. Let me -- somebody used the figure, I think, of
11 \$100.00 a month and you say you've computed what you think
12 should be adequate to meet needs in terms of absolute
13 dollar figures, what are you -- from your point of view,
14 what are you offering?

15 A. The university has a budget of, I think for the
16 coming year it will be \$2,700.00 for a single resident
17 student and \$4,600.00 for a married resident student, higher
18 for nonresidents because of the higher tuition.

19 The financial aid office takes that need that they
20 foresee a student having and they take an inventory of his
21 assets, which is usually zero and then they decide how to
22 meet the needs of that student. In the first year the needs
23 are met about 60% in cash and 40% in national direct student
24 loan. The second and third year, \$1,000.00 of the total
25 need of the student is met through a work study program

1 whereby they work in, hopefully, related jobs ten to 12
2 hours per week and the balance is given to them in loan
3 and direct cash aid.

4 I should say this, for graduate students, law
5 students, the only funds available for aid in the form of
6 cash comes from the State of Colorado, and although we've
7 done our best to maintain the program at the same level,
8 the amount of money appropriated by the state legislature
9 has not increased one cent in the last three years, costs
10 of going to law school have.

11 We get no funds from the federal government at all
12 for a program of this kind, except for national direct
13 student loan and work study fund. Nothing in the way of
14 cash grant to assist the students.

15 Q Dean Peterson, have you given consideration to
16 dropping the summer program and doing a shorter orientation
17 course approach to the problem?

18 A (By Dean Peterson) We had some discussion last year,
19 or I did, with a number of members of the faculty. And I
20 think the -- this was a question that I raised, really,
21 whether it would be sensible to try to convert this to an
22 orientation program. And the response I got from faculty
23 was the opinion that we should not, that instead we should
24 try to strengthen it, to put it on a sounder funding
25 footing. We have never -- never had, until recently, any

1 continuing budget for the summer program, and for the in-
2 structional part of the summer program and in fact, I
3 suppose you would say in a sense we're moving the other
4 direction because a few months ago I finally was able to
5 obtain continuing budgeting funding for the summer program.
6 It's the first time we've ever had it so I guess we're
7 really moving in the other direction.

8 I guess that much of that decision is influenced by
9 what seemed to be the reports that we had from members of
10 the earlier classes, which I think contrast rather sharply
11 with the testimony that you've heard here today, about the
12 desirability of having the summer program.

13 I think perhaps -- have you talked to some of these
14 people?

A (By Professor Rentfro)

15 A In an effort to get an answer to your question we
16 sent a questionnaire, ~~we gave a questionnaire to all of the~~
17 ~~participants in our program~~ over the past four years, maybe
18 five, we mailed them to people who had graduated and were
19 gone from law school and asked them what they thought of
20 the summer program, what suggestions they would have to
21 make to improve it, whether they thought it should be
22 eliminated and so forth.

23 The overwhelming response was that it was necessary,
24 it was valuable, that it should be continued. Many expressed
25 a view that some other course other than contracts should

1 be taught, for reasons we don't need to discuss here, most
2 of them expressed the viewpoint that if the program could
3 put a greater emphasis upon writing skills, that it would
4 be more valuable than it was to them at the time they
5 took it.

6 Q Let me move, if I may, briefly, to faculty. How
7 many minorities do you have on the CU law faculty? I
8 believe I heard none from the students, is that right?

9 A ~~(By Dean Peterson)~~ That's right, none.

10 Q And how many women now?

11 A We have had one woman faculty member this year but
12 as one of the students reported, we had a resignation from
13 her last week. She had intended to stay through the next
14 academic year, her husband accepted a position with a firm
15 of doctors in Atlanta, they're moving at the end of this
16 semester.

17 I would -- perhaps I should mention by way of an up-
18 date, we will have one full time woman working in the --
19 as a visiting lecturer in the fall in the clinic.

20 Q Let me ask how faculty are selected for the law
21 school?

22 A Well, primarily they're selected through two sources
23 of candidates, or perhaps three would be a better way to
24 divide it. The largest source of applications comes to --
25 they're not really applications but resumes of potential

1 teachers comes to us through the Association of American
2 Law Schools that has a general register that operates
3 nationwide, and as I think some one of the students de-
4 scribed it earlier, provides this register to all of the
5 American law schools that are members and holds an annual
6 recruitment meeting where participants in the register
7 and representatives of various schools can go and conduct
8 screening interviews.

9 And this, of course, offers an opportunity for this
10 type of interviewing to go on at relatively small expense.
11 You can have, I think this past fall at the meeting in
12 Washington, D.C., we were able to interview about 27 or 28
13 potential candidates, and of course it would be very
14 expensive for us to bring them out here to do that.

15 The other source is direct applications in terms
16 of letters that are written to us by people who are poten-
17 tially interested write directly to us and ask us to con-
18 sider them.

19 We also, in a somewhat similar kind of way, write
20 to other people. Usually we get these names through other
21 law schools. We will write to many of the major law
22 schools and ask them if they have recent graduates they know
23 of who are interested in teaching, and they'll furnish
24 us a list of names and we'll correspond.

25 Q You don't constitute a formal search committee as a

1 general rule then?

2 A Well, there is a personnel committee, which generally
3 handles this and of course, it's a fairly onerous kind
4 of chore in terms of handling all the paper work and doing
5 this preliminary interviewing, so in a sense, I suppose
6 you'd say they are a search committee.

7 Q All right. Do you actively recruit minority and
8 women people for the faculty as you do for the student
9 body?

10 A Yes, we have, and I think that you may have been
11 provided with a -- with a memo that I prepared. I think
12 about the 1st of April, concerning the efforts that we've
13 made this year, and if -- do you have copies of that?
14 I have additional copies --

15 Q I hadn't, I have just been handed one, thank you.

16 A I've some additional copies if you'd like to see
17 them.

18 What that document reflects, really, is the kind of
19 emphasis that we gave to trying to identify minority candi-
20 dates and female candidates, by concentrating the available
21 interview possibilities we had on people in those groups.
22 It seems to me that the basic problem is one of that
23 portion of the applicant or potential candidate pool still
24 being relatively small. And if -- if the ultimate
25 decision, notwithstanding the fact that you emphasize

1 trying to identify people in this way, if the ultimate
2 decision is going to be made on the -- on who the faculty
3 that interviews the candidates as a whole thinks is best
4 qualified, then, of course, the smallness of that applicant
5 or candidate pool makes it difficult.

6 MR. FRYE: All right, thank you.

7 A Could I just add one other thing? Not about the
8 recruitment business but I've -- I think one of the -- a
9 couple of the student comments that I would like to comment
10 on, if that's -- if that's permissible, reflect a feeling
11 of unhappiness in -- among our minority students with the
12 program that's been carried on, and to some extent,
13 especially in terms of comments suggesting that there's
14 been discrimination in grading, suggest a kind of hostility
15 on the part of the faculty.

16 I -- I'd like to make it very clear that this program
17 was undertaken before there was any other such program in
18 the university, it was undertaken by the faculty, for the
19 first, I think it was three years that the -- of the
20 summer program, there was no funding for instructional
21 parts of the summer program at all. And many members of
22 our faculty participated in this but taught at no compen-
23 sation in this summer program. I think they have -- there
24 are obviously people who take different views of the
25 minority program, but I think across the faculty support for

1 this program over the years has been very strong.

2 And I'm confident that nothing in the way of specific
3 discrimination in terms of grading has occurred, I simply
4 can't believe that of any of the faculty members that I
5 know, and even if that were possible, in terms of how they
6 might feel about it. I think that it's mechanically
7 probably made impossible by the anonymous grading system
8 that we have.

9 It is a system which requires the students to sign
10 their examination papers by number, the examination books
11 are graded and the grades, a list of grades is turned in
12 with that number. The faculty member, after having turned
13 in that list, does, then, have an opportunity to change
14 grades on the basis of classroom participation or other
15 factors that he may feel enters into the performance.

16 But that original list, which is purely anonymous,
17 remains part of the record, and there is -- is very little
18 in the way of variation between the grades that the faculty
19 member may ultimately come up with, changing for classroom
20 participation and so on, and that original list and
21 I've looked at them and I know, and this is the way it's
22 administered.

23 THE CHAIR: Dean Peterson, we are running out of
24 time once again, but I want to give all the members of the
25 panel a chance to ask questions of this group.

1 I believe that Maggie has a question.

2 Q (By Ms. Aro) Thank you.

3 Dean Peterson, my understanding of what you said
4 was that there is no really specific recruitment program
5 of women for faculty, for the faculty?

6 A Oh, no.

7 Q There is a specific one?

8 A Oh, yes.

9 Q Who formulates that?

10 A In terms of -- of the attempt to identify women
11 within the -- a disproportionate number of women within
12 the numbers of people that we are able to interview.

13 Q Who formulates that policy?

14 A It has been formulated basically by the personnel
15 committee and usually by the dean, working with the
16 personnel committee.

17 Q Do you recall any problems within the law school
18 faculty on tenure and promotion specifically having to do
19 with women?

20 A I recall a problem having to do with the tenure of
21 a woman, but I don't think that it had anything to do with
22 her being a woman.

23 Q Do you actively seek to place female law student
24 graduates with alumna offices after graduation? Is there
25 any program directed to this?

1 A Millie can perhaps respond to that better than I,
2 I don't know that we make any different efforts than with
3 other graduates.

4 A (By Ms. Danielson) We are aware that the law school
5 placement office operates under Title VII and also aware
6 that that applies some affirmative action. We have never
7 posted any kind of notice that says women only or men only
8 or Chicanos only or anything of that kind, I am quite
9 willing, if an employer says we're particularly interested
10 in women, to let that word go out among the women, even
11 though I don't post something that says only women.

12 I think that it's been interesting in the last few
13 years that I think a lot of this has broken down and more
14 employers are actively seeking women in certain areas.

15 Q They are asking for them rather than you are providing
16 them?

17 A Yes, and they know better now than to say we only
18 want to interview women but they say we are particularly
19 interested in hiring a woman.

20 Q Dean Peterson, could I go back to the matter of the
21 woman in question? You stated that you felt she was not
22 discriminated on as a woman, the decision was made on other
23 bases. The example I'm talking about is Joan Baker who was
24 refused tenure, although she'd an excellent reputation as
25 an educator and she protested with high law student support

1 and was given tenure, but then resigned last year due to
2 pressure and intolerable attitudes toward her. You felt
3 this was personal rather than because she was female?

4 A (By Dean Peterson) Well, your comment that she re-
5 signed because of pressure and intolerable attitudes toward
6 her I can't speak to. I was not here last year. She re-
7 signed before I became dean. She, as far as I know,
8 assigned no official reasons of the kind that you've de-
9 scribed for her resignation. What she may have said
10 privately, I, of course, can't speak to either.

11 THE CHAIR: Maggie, are you finished?

12 MS. ARO: Thank you.

13 THE CHAIR: Cas?

14 Cas is another member of the committee and he'd
15 like to pose a question.

16 Q (By Mr. Garcia) In reference to the anonymous
17 grading system, I would like to pose an inquiry to you.
18 Are you aware that often the professor who is administering
19 the examination, stands there and receives the examination
20 as the student hands it in?

21 A Yes, that is frequently done but I think that it's --
22 if the -- if the implication that you're suggesting is that
23 the professor memorizes the numbers of whatever he gets,
24 anywhere from I suppose on the average, 35 to 40, up to 75,
25 I seriously doubt if that occurs. I don't.

1 Q The implication was not that he would memorize a
2 total of 30 or 35 --

3 A But that he would select out the particular --

4 Q -- there was no implication, sir.

5 A Oh, all right. All right.

6 Q (By Mr. Yasui) I have some very specific questions.

7 Professor Rentfro, I think you heard Ms. Muroya
8 indicate that Asian-Americans were not considered minorities
9 for the special academic assistance program. I further
10 note a comment to the extent that there are a number of
11 Asian-American lawyers and certainly well represented in
12 schools. Is this a correct statement?

13 A (By Professor Rentfro) I would answer that, I would
14 have to answer that question yes, Min, and I was afraid
15 you might ask it.

16 Q My question obviously will relate, do you know how
17 many Asian-Americans there are in this state? Do you know
18 how many Chinese there are, how many Filipinos, do you know
19 how many Filipino lawyers, how many Chinese lawyers, how
20 many Korean lawyers? Do you have any idea?

21 A I'm sure that the admissions committee does have,
22 I don't have them on the tip of my tongue.

23 Q Well, would it be a correct statement, now I speak
24 from personal knowledge, I recall one Japanese-American
25 law student going through during the last 35 years from CU

1 law school. I know of no Chinese-American attorneys, I
2 know of no Filipino attorneys, that have gone through CU
3 law school. I just wonder whether you have looked at this
4 very carefully?

5 A. I can tell you this, that it has been studied very,
6 very carefully by the admissions policy committee under
7 Professor Stuben at the University of Colorado and many
8 meetings have been held with the directors of the Asian-
9 American program on the other side of the campus, and
10 studies have been made, reports have been made and they've
11 been examined by the faculty.

12 And the conclusion was reached that for our par-
13 ticular -- the program as defined for our faculty, Asian-
14 Americans were not eligible for admittance.

15 Q. I would respectfully request that that material be
16 made available and I would respectfully suggest that when
17 we speak of Asian-Americans, this is not a monolithic
18 group, and certainly each individual ethnic or national
19 group be examined, because I don't think your figures are
20 going to bear this out.

21 Let me ask the further question, there was a statement
22 by some of the students saying that no minority person has
23 flunked out, in effect, during the first-year class. From
24 the vantage point of your personal knowledge, is this a
25 correct statement?

1 A. It's a -- the statement Ed Espinoza made is a cor-
2 rect statement, but I think maybe you didn't get the full
3 import of what he was saying. He is a first-year student,
4 and in the class that he came in with last summer, which
5 has yet to take final exams, they're still there, nobody
6 has flunked out yet. That would be correct.

7 Q My other question would relate to the Native Americans
8 or the American Indians, how many do you have in the
9 present class, first-year class?

10 A We have two. Two in the first-year class and two
11 will be graduating this spring.

12 Q Any in the second-year class?

13 A None.

14 MR. YASUI: Thank you.

15 Q (By Ms. Speed) Dean Peterson, we're aware of the
16 fact that the number of women applicants is increasing.
17 I'm wondering if CU selects women separately from men in
18 the admissions process and if there are different criteria
19 which women have to meet?

20 A (By Dean Peterson) We're talking about admissions
21 now?

22 Q Yes.

23 A So far as I know, we have -- we have made no separate
24 categories at all. And have established no different criteria.
25 And we have, I think, felt that it was not necessary to do so

1 because there were sufficient in the way of applicants and
2 also in terms of admissions.

3 Our, as I think your earlier figures that you read
4 at the outset indicate, the proportion of our women in the
5 law -- whole law school enrollment as well as of minority
6 students, is in excess of the national average.

7 THE CHAIR: I'd like to basically pose this ques-
8 tion to the whole group. I know for a number of years at
9 CU, the pass rate for CU students for the bar examination was
10 over 90%. And I know in recent years, that has gone down
11 in certain testing periods. Do any of you have any opinions
12 in regards to the feasibility of the bar examination as it
13 exists now, and do you feel that your law school in its
14 teaching is directed towards passing the bar examination?

15 I know Dean Yegge in his comments indicated that
16 DU law school was not educating its students to pass bar
17 examinations, per se?

18 A. One -- if I could just preface a response to that
19 with an interesting statistic that Millie and Bill developed,
20 you might find interesting for comparative purposes.

21 We were looking a while ago at the question of
22 minority students and the bar, and the figures they came
23 up with in terms of adding up the numbers, the specific
24 names of people was that out of the 39 graduates from the
25 minority program in the last three years, 34 have passed

1 the bar. For a rate of about 90%. Now, it's true that
2 our bar pass rate generally, that is regular admittees
3 as well as minority students, has been very high, it's been
4 a little -- a little erratic, and it's not always clear
5 why that should be so, but it has typically been very high.

6 I think that is not a reflection of our teaching
7 for the bar examination. I think I would agree with almost
8 everything that Bob Yegge said about that and certainly
9 emphasize the fact that it's clear that many of the people
10 who are going to law schools these days, ours as well as
11 others, are not necessarily there with a view toward
12 practicing law. And that it would -- it would be very
13 difficult for a law school to be responsive to their needs
14 if it were simply focusing in on being a kind of a three-
15 year bar refresher.

16 Q (By the Chair) Another question, in regards to the
17 admission procedure or admission process, I know when I
18 entered CU law school in 1967, it was the general attitude
19 that you needed a 500 on your board score and you needed
20 a 3.0 grade average and as you've indicated previously, it
21 is now up to 650 on the board score and about 3.5 grade
22 average. Do you feel that as a result of the way the
23 averages have gone up, that maybe we shouldn't look so
24 strongly at grade point averages and LSAT and look towards
25 other factors, such as motivation, experience, character?

1 A I couldn't agree more. I think that as we --
2 as we get into these sort of astronomical numbers, that the
3 differentiation between somebody who gets in and somebody
4 who doesn't get in in terms of that kind of calculation,
5 may be a fairly artificial one, and we have been trying
6 over the past several years to put more emphasis on
7 a variety of other things.

8 We always have, I think, put emphasis on some other
9 factors than simply the final result, for instance, to the
10 extent that one measures interest and motivation, that may
11 be reflected in the -- in the way the transcript looks,
12 in its shape, if it's a rising transcript, if a student
13 had started out poorly in undergraduate school but then
14 came on very strongly toward the end, that's a measurement.

15 We pay more attention now to work experience, to
16 letters of recommendation of a variety of kinds. It's a
17 very difficult task to do this with the numbers, the total
18 numbers of applications that we now have. And as the --
19 as the total number of applications comes down it may be-
20 come more feasible to do this.

21 But it's, I suppose that although in principle I
22 agree with what you're saying, I think it reflects, in
23 part, what Charles Casteel said a while ago, that we ought
24 be looking at some different things. We are trying to
25 look at some different things and yet, probably in terms

1 of what we're trying to predict, namely success in law
2 school, the LSAT and the grade point average are still the
3 most accurate predictive data that we have.

4 Q. And wouldn't you say grade point average is a better
5 predictor than LSAT score?

6 A. It may well be, and of course, it's subject, also,
7 to a lot of variables, what school the student came from
8 and so on.

9 THE CHAIR: Okay, I would like to thank all the
10 members of the panel.

11 We're, once again, behind schedule.

12 Can we call the meeting

13 (Short recess)

14
15 THE CHAIR: Can we call the meeting back to order?
16 We have reached the section of the meeting which is section
17 after panel I, which is statistical review of Colorado
18 Bar Examination.

19 We have with us Dr. Gary McClelland, who is an
20 associate professor at the Department of Psychology, Uni-
21 versity of Colorado, and he is going to make a discussion
22 in terms of his statistical analysis of the Colorado Bar
23 Examination.

24 Gary, could you first of all explain to the group that
25 is here, your background?

1 DR. GARY McCLELLAND

2
3 A (By Dr. McClelland) Well, thank you for the pro-
4 motion but I'm still an assistant professor at the Uni-
5 versity of Colorado.

6 I was -- I have a degree in statistics and a Ph.D.
7 in psychology from the University of Michigan and most of
8 my training and my current teaching responsibilities are
9 in the area of measurement and testing.

10 Q Now, it's my understanding that you were hired by
11 the Colorado Advisory Committee to do a study of bar
12 examinations. Would you explain to the members that are
13 here exactly what you have attempted to do?

14 A Well, I've been hired as a consultant to look at
15 the bar exam data for the last several years. What we
16 were trying to do is ask several questions of this data,
17 who is taking the exam, what type of person is applying
18 to take the exam, then looking at different ethnic groups
19 and women to see if there are any differential pass rates.
20 To see if there might be any bias in that way.

21 Then, once we do that we want to look at scores on
22 particular items to see if any particular questions, par-
23 ticularly on the essay exam, may be more difficult or
24 have differential scores for any of the various groups.

25 Q Now, when you say that you have received data, where

1 did you receive the data from and what period of time are
2 you discussing?

3 A The first -- we're talking about March, 1972, the
4 February-March, 1972, administration of the exam up to the
5 current exam, February-March, 1975 exam. We've been re-
6 ceiving the data through the -- through Mrs. Ables, I've
7 been getting it through the commission, I haven't been
8 getting it directly, so that's all I know about it.

9 We have the lists of all of the people who have
10 applied to take the exam and all the people who have
11 successfully passed the exam, which is public information
12 and then we've been recently getting additional information
13 about scores for particular groups not identified by name
14 on the bar exam.

15 Q You say they were not identified by name?

16 A No. We submitted a list, a group of people that
17 we knew to be of a particular minority group or to be
18 White males, then they would give us back the scores of
19 those people on that list but without any identification
20 as to name within that list.

21 Q Now, can you give a broad overview of exactly what
22 you are attempting to compile with this information? I
23 don't know if that's a good question because I really don't
24 know what you are attempting --

25 A What we are trying to do is see if there is, quote,

1 cultural bias in the bar exam, or whether it's a culturally
2 fair test.

3 There's been a lot of evidence with a lot of other
4 psychological exams, particularly intelligence tests, that
5 certain items, certain ways of administering the exam may
6 make different members of different minority groups not do
7 as well as they would if there were a culturally fair exam,
8 so we're trying to apply some of those same techniques to
9 the bar exam data to see if that might be the case here.

10 Q (By Mr. Levis) Gary, as I understand, we have met
11 with the Colorado Supreme Court, and this study is being
12 done in cooperation with them. And I just wondered if you
13 could outline for the committee and for the audience what
14 information you've been given so far and possibly what you
15 have found as a result of that information?

16 A Well, so far they've been very cooperative, but
17 they have the problem of the first responsibility to the
18 people who took the February-March, 1975 examination, and
19 so we haven't been able to get all of the data we will
20 eventually get and so this report is, therefore, somewhat
21 incomplete.

22 But as I said, we have the list of people who have
23 applied for and taken the exam and those who eventually
24 passed the exam, then we have scores for different groups.
25 These are by individuals, we have individual scores but there

1 are no labels on that. They're just in a group. And we
2 have the particular scores for particular essay questions,
3 so there are generally six essay questions on each adminis-
4 tration of the bar exam, there is a score for each one of
5 those questions.

6 Then each applicant also takes the multistate bar
7 exam, which is divided into five sections and there's an
8 individual score for each person on those five questions
9 or five topics.

10 Q After we were given the list of the applicants
11 who've taken the last seven bar examinations, our organiza-
12 tion went to the Colorado rural legal services, the MALDEF,
13 Mexican-American Legal Development and Education Fund, to
14 Jess Manzanares, Assistant Dean at the University of
15 Denver and also to Louis Kelly of the attorney general's
16 office to try and identify those minorities who had taken
17 the exam and then, as a result, as I understand it, we
18 gave the list to you.

19 And I just wondered what you found statistically,
20 based on the list that we gave to you as to the pass
21 rates for nonminority males, women and minority, possibly
22 by sex?

23 A Okay, let me, before I do that, let me give you a
24 few other figures that I think are interesting, I don't know
25 if they've been compiled before but it's interesting to see

1 just exactly what groups are taking the bar exam over this
2 period. There were 2,535 applications to take the bar
3 exam, of these 2,155, or 85% came from White males. From
4 Chicanos, over this period, there were only 98 applications,
5 which is 4%.

6 Blacks, 58 applications, 2%. Native Americans,
7 seven applications, for three-tenths of a percent. And
8 women, there were 239 applications for 9%.

9 So I think here, if you're looking at differential
10 rates of admission into the profession, the real problem is
11 that -- that the students aren't being trained in law
12 schools, they aren't getting to the point where they take
13 the bar exam, is a far greater problem than any bias in
14 the bar exam itself.

15 Beyond that question, the next question is are there
16 differential pass rates? Are different minority groups
17 passing at different rates, relative to a majority group?

18 Indeed, that is the case. White males over this
19 period, the passing rate has been 77% and this is a rate
20 on each exam, and in a minute I will talk about eventual
21 pass rate by people who take -- subsequently take the
22 exam after first having failed it.

23 Chicanos, their pass rate is 58%. Blacks, 41%.
24 Native Americans is 71%, but that's probably a very unstable
25 figure because we're only talking about seven people who've

1 taken it and five passed it.

2 And women, the rate is 79%, which is not really sig-
3 nificantly different from the White male rate, it's
4 essentially the same.

5 So then, indeed there are differential pass rates,
6 all of those percentages I reported to you are significantly
7 different from each other. There really is a real dif-
8 ference.

9 Then, in looking at the eventual pass rates, the --
10 I do not have the exact figure for White males, I have
11 sampled to estimate it, I didn't look at all 2,155 and see
12 how many repeat administrations there have been in that
13 group, but about 85 to 90% of the White males eventually
14 pass the exam.

15 For Chicanos, the percentage is 79%; Blacks, 59%;
16 Native Americans, 71%; and I haven't looked at the one
17 for women yet but it will undoubtedly be very comparable
18 to the White males.

19 So the question is, now that there are these dif-
20 ferential pass rates, there could be two possibilities.
21 One, the whole exam could be culturally unfair. We've
22 heard several of the reasons why that might be earlier
23 and the last group talking about the heavy emphasis on
24 language skills, the test as a whole may be, for various
25 reasons, culturally unfair.

1 There have also been ~~comments~~ that maybe particular
2 questions, particular topics may be culturally unfair.
3 We can look at that by looking at score profiles for minority
4 groups compared to majority groups.

5 Now, in some years the questions happen to be
6 easier than in other years on particular topics. So it's
7 this comparison that's particularly important, and un-
8 fortunately, so far we've only been able to get the data
9 for minority group score profiles and not for White males,
10 so I can't give you that exact comparison, but what we
11 would be looking for when we do this, which we will be
12 doing shortly, is to see if, for example, the scores on,
13 say the first two essays are very comparable for the two
14 essays -- let's say for White males the scores on their
15 first one averaged 80 and on the second question averaged
16 80, and on the, for a Chicano group we would expect them
17 to do poorer because we know the differential pass rate,
18 so let's say their scores were 65 and 65 on both of those.

19 Now we should expect that kind of trend to go
20 throughout, and so that now if we look at the third one
21 and suddenly the White male score now goes up to 85, if
22 it's just because it's an easier question, we should see
23 the Chicano score go up to 70 or 72, say.

24 But if it in fact goes the opposite direction, then
25 that's a good indication that there may in fact be differential

1 bias in the actual question. So we haven't been able to
2 look at that yet. I have been able to look at the scores
3 for the February, '73 exam to see if there are differential
4 average scores for the various exams for the minority
5 groups. And this turned out to be very interesting, that
6 it turned out that they were doing best on the things we've
7 heard that we should expect that they would do the worst
8 on in 1973.

9 Nineteen-seventy-three, the best essay exams for
10 Chicanos were business associations, wills and trusts,
11 and commercial transactions, and the worst were constitu-
12 tional law, family law and civil procedures.

13 In 1974, again commercial transactions were high,
14 contracts was next, then public law was third, their worst
15 were real property, business associations and torts.

16 Now, I think this illustrates an important point that
17 we need to compare it to the White males, because in '73
18 business associations was the very best one. In '74
19 business associations was the next to the worst for the
20 Chicano group, so the questions do vary from time to time
21 and so we can't just look at the topics like that, we'll
22 have to see what the actual average scores are relative to
23 the White male group to determine bias.

24 Q It's my understanding that you will possibly do a
25 third part of the study which is looking at the answers

1 themselves?

2 A Yes, we've again, in the last panel we heard some
3 questions about anonymity and there may be real differences
4 in language communication skills and if we could get some
5 of these, the actual exams, again unidentified except to
6 ethnic group, and give them to either law students or bar
7 examiners and see if they could guess the ethnic identify
8 of the sample to see if in fact these really are blind
9 gradings.

10 Q Do you have any preliminary findings beyond what
11 you have read to us today or is it too early, really to
12 come to any conclusions without looking at the other in-
13 formation that we have requested?

14 A We need some of the other information, I think every
15 one was relatively aware of the differential pass rates,
16 that's part of the motivation for the current session, this
17 pins it down exactly what it is and what the eventual pass
18 rates are, which are not preliminary findings, those are
19 final.

20 But to see whether actual specific questions are
21 culturally unfair will require comparison to this other
22 group which we do not have the data for yet.

23 Q As a result of this statistical analysis, will you
24 be able to come up with any recommendations?

25 A If we can identify particular topics which seem to

1 be consistently unfair to particular minority groups, there
2 are very obviously suggestions, there is one thing that I
3 wouldn't be able to do if the, as I said before, it wouldn't
4 be able to detect whether the whole exam is biased or not.

5 Q When you say the whole exam is biased, do you mean
6 culturally biased or --

7 A Culturally biased, yes. Maybe I ought to say some-
8 thing about that, that -- turns out to be a technical
9 term that gets bandied about a lot and we had a lot of
10 trouble with it in psychology and there's a nice little
11 example that I think indicates what cultural fairness is.

12 If we asked an item, we have an item and it asks
13 what is the best temperature to bake a cake at, if we are
14 using that item in a general intelligence test, then we
15 will -- that item will be biased in favor of women and
16 biased against males probably. However, if we are -- are
17 developing a test to hire good cooks, then it's not a
18 culturally unfair item anymore, then it is specifically
19 job-related. And it will be designed to pick out the best
20 people who will have that skill, and I think we have to
21 look, I can't as a statistician, I think the bar examiners
22 and the people preparing these reports have to look to see
23 if those, if that's true for the bar exam as a whole. Are
24 the things it asks really measuring job-related activities
25 or are they measuring general intelligence kind of activities,

1 and language skills may or may not be one of these.

2 THE CHAIR: Does the rest of the panel have any
3 questions?

4 Q (By Ms. Speed) I'd like to know where minority
5 women fit under your classification, under women or in the
6 minority categories?

7 A They've been included in both. There are -- were
8 not enough to have a separate category for Black women
9 or Chicano women. So they have been -- they figure in both
10 areas. Which indicates they are probably doing better
11 than the male minority members.

12 Q (By Mr. Frye) I have a question that I think our
13 witness will not answer and -- what plans our committee
14 has to determine the job-relatedness of the questions that
15 he's talking about and I'm not sure you're the one, Dr.
16 McClelland, to answer a question. Have we -- finished
17 that? Okay.

18 THE CHAIR: Thank you, Dr. McClelland.

19 We will now go on to our panel J, which is on the
20 Colorado Bar Examination.

21 I believe that we've got present here, David Cordova,
22 is he here? Professor Jarmel? Mr. King Trimble.

23 I can see on the panel Judge Moore was supposed to
24 be here but I was advised this morning that Judge Moore's
25 wife is sick and as a result of that he will not be able

1 to attend the session this afternoon.

2 Q (By Mr. Frye) Mr. Trimble, I understand you are
3 president of the Sam Carey Bar Association, would you
4 explain to us what that is?

5
6
7 KING TRIMBLE

8
9 A (By Mr. Trimble) Yes, the Sam Carey Bar Association
10 is the bar association for Black attorneys. Its makeup is
11 all Black law graduates. We do not have any distinction be-
12 tween law graduates who have passed the bar and law gra-
13 duates who have not. We also, I'm sorry, I forgot, in-
14 cluded all Black law students or members or -- can be
15 members of the Sam Carey Bar Association.

16 Presently we have potentially, I believe, somewhere
17 between 44 and 50 members, I think actively we have roughly
18 35 participating members and they participate on varying
19 -- a varying basis, some socially and some very actively
20 in the association.

21 The history of Sam Carey Bar Association, I believe
22 it was organized in 1971 -- yes, I think it was '71, we
23 felt that it was necessary to have a Black association
24 that dealt with the needs of the Black attorneys and have
25 some comraderie among Black attorneys.

1 At the time it was formed, which I was one of the
2 original persons who helped form it along with Gary, we
3 had roughly five or six Black lawyers in Denver practicing,
4 I think that was the total number in Colorado. And we
5 felt it was necessary.

6 Q And there are approximately 44 who would be eligible
7 now, is that in Denver or in the state?

8 A It would probably be 50 who are eligible, okay?
9 And there, as far as I know all the Black lawyers or
10 grads are located in Denver. I may be wrong, I think
11 maybe someone in Pueblo or Colorado Springs, I don't know him
12 myself.

13 Q And you are a practicing lawyer now?

14 A I am, right. I just happen to be president this
15 year and there's no other distinction.

16 Q We've heard some of the statistics from Dr.
17 McClelland on pass rates on the bar exam. What's your
18 experience and your acquaintance with how Blacks generally
19 do on the bar exam?

20 A Well, I have a -- a two-fold history. First thing
21 I went to, I'm from Denver but I went to law school at
22 St. Louis University. I took the Missouri Bar and also the
23 Colorado Bar. I'm familiar with both of the bar associa-
24 tions because that was a problem in St. Louis.

25 I was also a member of the Missouri and all the St.

1 Louis Bars and all that, but also a member of the Mound
2 City Bar, which is the Black bar association there which is
3 quite a bit bigger than the one in Denver and they were
4 concerned with those kind of questions.

5 In Missouri there's just, there wasn't that many
6 Black law graduates and I think they were passing like
7 one or two a year and at the time I graduated were very
8 concerned about a quota system.

9 Colorado, a couple things that concerned me. One,
10 in my -- in my experience it seems that there's a distinc-
11 tion between, that has been made between Black law
12 graduates taking the bar from Colorado and also taking the
13 bar from out of state. And unfortunately it seems and I
14 don't have the statistics to back this up, but Blacks who
15 take this, who've gone to schools out of state, pass it
16 at a faster rate than in-state and that concerns me a
17 great deal and I don't know the reason why.

18 Secondly, it seems that great number of Blacks have
19 to take the bar exam twice. Okay, now it's heard that,
20 I came in when Dean Sears, I believe, was talking of 34
21 out of 37 Blacks who've graduated from CU in the last
22 three years have passed the bar but most of them have had
23 to repeat the bar exam and that concerns us a great deal
24 because the first thing, it's a very traumatic experience,
25 secondly I think it's an economic loss. I don't see any

1 reason why a guy should have to take the exam two or three
2 times.

3 Q Would you be in a position to get the kind of
4 figures you're talking about, in-state versus out-state
5 Black law school graduates?

6 A Sure, I think we could very readily. I am -- I
7 would say I am almost positive that there's a higher
8 pass rate on the first time from Black law graduates who
9 have come from out of state schools.

10 Matter of fact, I -- you know, I can think of the
11 ones, name them on my hand, who have had to repeat them.

12 Q All right. We'll ask if we can follow up with you
13 on that if we may after the hearing.

14 Does the Sam Carey Bar Association then have an
15 official position as to the bar exam?

16 A Sam Carey Bar Association is probably having the
17 same problems with this question as the panel, I'm sure.
18 We don't have an official position, I believe I can state
19 that the general consensus of the group is that if anyone
20 graduates from a law school he should be a -- be able to,
21 one, pass a bar or become a lawyer. They feel that the
22 -- what should we say -- the pressure should be on the
23 law schools rather than the bar exam. We personally feel
24 that there's no relation between a good lawyer or the
25 skills that are necessary to be a lawyer and the bar exam.

1 It doesn't measure whether or not you can be a good trial
2 lawyer, whether or not you really understand the area that
3 you are questioning. To give you an example, when I took
4 the bar they had a natural resources and a lot of other
5 stuff, which I wasn't familiar with because in Missouri
6 we just didn't have that kind of mineral problem and we did
7 not have, bankruptcy was not a course and you could elect
8 and take one out of three or one out of two, I forget how it
9 was. Natural resources, a friend of mine, we'd send for the
10 material and if we split the cost, I think it cost \$20.00
11 or \$30.00 and we photocopied it and my friend and I, who
12 had gone to St. Louis U., we studied for the bar in Missouri.

13 And I didn't have the time to study for the natural
14 resources section and I read the first two or three -- part
15 of the outline and it so happened that the question, you
16 know, came from the first page of the outline. And hey,
17 like I passed it, that section. I really wasn't interested
18 in whether or not -- my scores, but I checked it out after
19 coming back here and finding that a lot of Blacks were not
20 passing the bar the first time, so I checked my score and
21 it was amazing that I passed the natural resources section.

22 And the questions on oil and gas and water, those,
23 I think you can take two out of the three, oil and gas and
24 water, oil and gas had to come from the first page because
25 I didn't, you know, I didn't know anything about oil and gas,

1 I still don't know anything about oil and gas and, you know,
2 that's the kind of -- that's the kind of things that bother
3 me about the bar exam.

4 And you know, and just doesn't measure the type of
5 skills that are necessary to be a lawyer.

6 Again, maybe a lot of people don't want to be lawyers,
7 but you know, practicing attorneys, I don't think it has any
8 relationship to that.

9 Q All right, thank you.

10 Let me go to Professor Jarmel, if I may.

11 Would you give us some of your background?
12
13

14 PROFESSOR ELI JARMEL
15

16 A (By Professor Jarmel) Well, I'm on the University
17 of Denver faculty and have been for the last three years.
18 Prior to that I was on the Rutgers Law School faculty in
19 New Jersey for more than a decade, and during a substantial
20 portion of that time I was director of the New Jersey
21 Institute for Continuing Legal Education.

22 Prior to that I was on the staff of the United
23 States Commission in Washington. In the capacity as director
24 of the New Jersey Institute, we worked very closely with the
25 bar examiners and the state supreme court there, in evaluating

1 the bar examination and imposing in New Jersey what is a
2 unique additional requirement, a mandatory skills training
3 program that everybody has to take and pass in order to
4 get what is a plenary license.

5 I've really had no special contact with the Colorado
6 Bar since I've been here, although I am admitted, admitted
7 under the most practical rule.

8 Q I'm sorry, you said a special license of some kind,
9 I didn't --

10 A No, in New Jersey, uniquely in the country, people
11 get a limited license first and may not practice on their
12 own. They can do anything else provided they practice
13 with somebody with a plenary license, to get the plenary
14 license you have to successfully complete this course.

15 Q And does the attorney for whom you are working, the
16 holder of the plenary license, then pass on your quali-
17 fications?

18 A No, no, the course is offered by the institute directly
19 on a delegation from the Supreme Court of New Jersey.

20 Q I see. And they still have the bar exam, though, in
21 addition to that, is that correct?

22 A That's correct.

23 Q What is your feeling about the bar exam, are you
24 familiar with the Colorado Bar Exam?

25 A I've seen several examples of it, I have not studied

1 it but --

2 Q How do you feel about the bar exam as given in New
3 Jersey and in Colorado from what you know?

4 A I think all bar exams suffer from the same problem,
5 they, in my judgment, they examine one portion of lawyers'
6 skills. I agree with Dean Peterson that language arts
7 is a heavy part of what lawyers do, and the ability to
8 organize your thoughts either orally or in writing is an
9 essential part of being a lawyer, and I think law school
10 testing does that and I think bar exams tend to replicate
11 that.

12 I'd be surprised if the Colorado figures, and I
13 listened to Dr. McClelland's comments, I'm not sure whether
14 the figures have been developed in terms of a correlation
15 between success at law school and success on the bar exam.
16 I do know that in New Jersey that figure was almost a
17 one and one relationship and it seems to me that the bar
18 exam is largely replicating the same kind of examination.
19 How well can you organize your thoughts in a given time
20 period and express them. To the extent that minority
21 students and minority bar candidates are the products of dis-
22 advantaged educational programs and in many cases English
23 being a secondary language in their upbringing, I would think
24 that they operated at a kind of disadvantage and these
25 figures don't surprise me.

1 Q. Do you think that the New Jersey system could take
2 the place of the bar exam or is there an alternative to the
3 bar exam?

4 A. Well, I gather I was invited here in part for a
5 comment I made to Mr. Levis when he came to visit with me.
6 I think everybody's talked in an all or nothing kind of
7 category, we either have a bar exam or we don't have a bar
8 examination.

9 I would suggest what I must in all candor tell you[^]
10 that the New Jersey Supreme Court rejected when I suggested
11 to them five years ago, that we take roughly half the people
12 out of the bar exam. I would suspect that if this bar
13 exam is reasonably valid in testing what it purports to
14 test, that people who do well at law school do well on the
15 bar exam. And seems to me needless~~;~~ frustration, waste of
16 time, money, effort, bar examiners' time, money and effort
17 to put these people through this exercise.

18 My suggestion to them and I would at least throw
19 this idea out, that perhaps the top half of everybody's
20 law school class in ~~every~~ accredited law school in the
21 country be admitted automatically, assuming they meet the
22 character and residency requirements, just on the presen-
23 tation of their degree.

24 If the bar examination correlation between success
25 in law school and success on a bar exam, isn't very high,

1 then I would suggest there's probably something wrong with
2 the examination because I think they're examining the same
3 thing and it's a one-shot examination, measured up against
4 a group of highly skilled professionals all over the
5 country who have had three years to evaluate the student.

6 But if we could take that pool of people out of the
7 bar exam and that may be culturally biased too, as we've
8 heard it's probable that Anglos will do better at law
9 school, it seems to me some of the pressure for the kind
10 of examinations we're using would be reduced.

11 I've never heard a justification for the multi-
12 state examination except that we have so many candidates
13 that we need some sort of machine-scored device in order
14 to cull some group of them out. And if we reduce by half
15 the number, and there's nothing magic about half, we could
16 do it, one-third, two-thirds or some other relevant figure
17 depending on the correlation on the Colorado Bar, if we
18 could reduce it to the bottom half of law school class,
19 just as an example, it seems to me we do abandon an examina-
20 tion that for me is very frightening.

21 I think the multistate may be counterproductive as
22 an examination, that's my personal opinion. And it might
23 offer us several alternatives.

24 You could offer to those people who did not get in
25 automatically an option of taking a traditional bar exam

1 course or taking the course like the one I've suggested
2 New Jersey has and using that course as a means of testing.
3 The kinds of skills taught in that course are of, I think,
4 much more practice-related than the kinds of things that
5 are being tested in, both in law school and in the bar
6 exam.

7 Lawyers spend a considerable amount of their time
8 producing products. They may be articles of incorporation
9 or wills or real estate documents, they spend a good deal
10 of their time in just interviewing clients, a good deal
11 of time negotiating and counseling people. None of them
12 are factors that are being evaluated in the traditional bar
13 examination situation.

14 And there are, I think probably extraordinary people
15 who can do that very, very much better than the people
16 who can waltz right on through law school. And so I think
17 if we developed a course that attempted to plug in on those
18 kinds of factors and evaluated the work product of people
19 in that form, that would give us an alternative device.

20 Now, that's an expensive course to do both in time
21 and dollars.

22 Q You're suggesting that that would be a law school
23 course, then, or when you say a course, what --

24 A Somewhere, whether it be done at law school, many
25 law schools, a law school, both law schools in the state or

1 done by some quasi-official agency as the one in New
2 Jersey was, some delegated authority out of the state
3 supreme court, really doesn't matter.

4 I think it does give you an opportunity to be
5 testing and evaluating a whole set of skills that I think
6 are highly relevant to success as a lawyer that are
7 not now being tested in most law schools and certainly not
8 being tested on anybody's bar examination.

9 Q All right.

10 You suggested all accredited law schools would have
11 the -- in effect, the diploma privilege for some portion
12 of their students. Are you satisfied that the accredi-
13 tation process then is adequate to insure that some por-
14 tion of those graduates are qualified to practice law?

15 A I think so, yes.

16 Q Let me go back to Mr. Trimble, if I may.

17 What are your feelings about alternatives to bar
18 exam?

19 A (By Mr. Trimble) Well, I think until the -- until
20 someone can show that the bar exam is related to success
21 as a lawyer or measures the type of skills that one needs
22 as a lawyer, I think that if anyone graduates from an
23 accredited law school, I think he or she should be able to
24 become a lawyer, period.

25 Now, I recognize there's some problems because a lot

1 of persons go to law school out of state. Now, maybe we
2 could have a limited exam to test, make sure someone,
3 you're knowledgeable on some areas of the law that they
4 think are particularly significant, maybe civil procedure,
5 that varies in states even though I think most of the, or
6 most states are using the federal rules as a -- Federal
7 Rules of Civil Procedure as a guideline, I know Missouri
8 and Colorado are. But, you know, other than that, I feel
9 that if you graduate from a law school you should be able
10 to become a lawyer without having to take the bar exam.

11 I have not yet been able to discern any type of
12 relationship between that bar exam and success as a lawyer.

13 Another thing, like when -- I used to, I worked in
14 D.C. at the Justice Department, my senior year, and a lot
15 of guys who had graduated and we talked to them, lot of
16 guys on the east coast that would take the D.C. bar as a
17 tuneup for the New York Bar and so that I think there's a
18 -- there's a relationship on how well you know how to
19 take tests.

20 The Missouri Bar was a more pressure bar than
21 Colorado in terms of time and I had a buddy that flunked it
22 three times, he was White, really, and very sharp, but he
23 never could budget his time.

24 Now, that has absolutely nothing to do with being
25 a successful lawyer except maybe he should learn how to

1 budget his time.

2 Now, if he wants to spend two hours on a matter
3 and I spend an hour on a matter, if he spends two hours as
4 a lawyer, that's his business. But these are the kind of
5 things, you know, that have absolutely no relationship.
6 I think if you graduate from law school you should be a
7 member of the bar, that one or two questions on a contract,
8 on contracts, certainly doesn't cover the area of contracts,
9 and it doesn't mean that you even understand the area.

10 And I think that is probably the position of the Sam
11 Carey Bar Association and probaby most lawyers, really.

12 Q We got into a little bit of discussion of this with
13 the DU faculty people that we had before us earlier this
14 afternoon, and I think they generally agreed that there
15 would have to be some substantial changes made in their
16 practice --

17 A Right.

18 Q -- in not necessarily in the teaching function but
19 perhaps --

20 A Curriculum.

21 Q -- the curriculum --

22 A Right.

23 Q -- the way they -- they graded students and that
24 sort of thing. I hear you agreeing with that.

25 A I think they should, you know, it's my understanding

1 like -- again in Missouri, they would publish, they wouldn't
2 publish the names they would publish the amount of students
3 that flunked from each university and I remember the year
4 before I graduated they had six flunk from St. Louis Uni-
5 versity and eight from Washington University and four from
6 the University of Missouri and there was a great uproar in
7 the papers, what was St. Louis U. and Washington U. doing,
8 all the people were flunking the bar.

9 In Missouri they assume if you graduated from one
10 of those three law schools you should pass the bar and if
11 there was over two or three they were wondering what the
12 school was doing.

13 However, the curriculum was fairly strict, you
14 didn't have that many options on what you could take. You
15 had to take certain required courses. Now, I understand
16 that some schools are getting away from that.

17 I think that if you are going to be a lawyer you
18 should have to take conflicts, civil procedure, whathaveyou.
19 I don't think you specialize in law school anyway, so I
20 think there's certain required courses that you should take
21 and I think, again, see the problem is if you don't put the
22 burden on the law schools, then what you do you mislead a
23 lot of people and it's very frustrating and I think it's
24 very unfair.

25 If a person really doesn't have the ability to be a

1 lawyer, he should not graduate and spend three years of his
2 time, he could be doing something else, get a master's
3 or something.

4 Q Let me go back to Professor Jarmel on that question
5 of the required courses.

6 The DU faculty earlier today, Professor, said that
7 they do not teach for the bar, that they view their job
8 as training people to handle the law in various ways and
9 not just to be a practitioner. What would this diploma
10 privilege, whether it's your thought of a proportion of the
11 student body or Mr. Trimble's automatic diploma privilege,
12 do, in terms of curriculum changes and that kind of thing
13 in the law schools?

14 A (By Professor Jarmel) I would hope that it would
15 do nothing. My sense of what the bar examinations all
16 over the country do to student choices is to distort them.
17 For example, in New York, where most candidates, probably
18 the biggest single bar exam in the country, they tradi-
19 tionally ask a single essay question on suretyship and
20 hence all those hundreds of law schools who never will go
21 near a suretyship problem at all, ever, never see one in
22 practice, never deal with one, invade all the suretyship
23 courses for one essay question.

24 And I think if -- if the bar examination becomes your
25 goal, what you are doing is spending three years of education

1 for a two-year exercise which I would insist is less than
2 50% relevant to what you will be doing afterwards. That's
3 assuming that everybody who came into the law school in
4 the first place intended to practice law.

5 And increasingly we're seeing people who have a
6 variety of interests coming in. I think we've mixed up the
7 game, if that's -- if that's what we're about.

8 Q I guess I have some difficulty resolving your two
9 positions, it seems to me that either we have to go to Mr.
10 Trimble's suggestion of required curriculum or we run the
11 risk of having people admitted to the bar who can not handle
12 the kind of problem that we're talking about.

13 A Let me clear up what may be an apparent inconsistency.
14 I think what we're teaching is now to teach yourself, and
15 I think that's the central core of what happens at law
16 school. It would be absurd for us to sit here in 1975 and
17 hope that we have locked people in to their permanent edu-
18 cation when many of them will be practicing in the year
19 2025. And you've lived long enough, I am sure, as a
20 lawyer, to know how much you've had to relearn and teach
21 yourself, since you've left law school. And I think the
22 core thing that's been taught is the ability to teach
23 yourself. The people who do best in law school probably teach
24 themselves the best. And hence, that group of people I
25 would get through the gate and not waste their time and not

1 waste our time because I think they've demonstrated an
2 ability to acquire new knowledge and new information and
3 integrate it into their heads and apply it in a situation.
4 I'm not really in very much disagreement here, but it seems
5 to me that as long as we get into arguments as to whether
6 everybody coming through law school is in fact qualified
7 to represent people, seems to me the focus of the entire
8 day has been on the wrong object.

9 The object, I think, are the people that are being
10 represented, not the students, however they feel about it,
11 not the bar exam, however frustrating that may be, but as
12 long as there is a reasonable question about the quali-
13 fication of everybody to represent people, then I think
14 some segment of that group will have to be examined. And
15 until we destroy that question, I would -- I would -- I
16 would opt for some midway ground.

17 Q Mr. Trimble?

18 A (By Mr. Trimble) Just to add to that, I don't think
19 we have too much of a disagreement. I'm not, certainly
20 not in favor of a really strict curriculum because I'm
21 not again even -- I'm not so sure that some of the things
22 they teach in law school are very relevant to the things
23 I do now.

24 However, if you are going to say that if you -- if
25 you're a lawyer, practicing attorney, you should have some

1 knowledge of contracts towards property, corporations, con-
2 flicts and whathaveyou, should define those and say, okay,
3 these are the areas that I think you should know if you're
4 a lawyer.

5 Okay, other than that you should be able to elect
6 and deal with a specialty if you think -- if you want to,
7 but basically, I agree with Professor Jarmel, I feel that
8 if you, if you're a lawyer, you know where to find the
9 answer. You see?

10 Again, the stupid bar association, they had a
11 question on bankruptcy and they've changed the bankruptcy
12 rules twice since I've taken the bar and I don't know the
13 question, I didn't know the answer, but I knew, I gave
14 them something that sounded like a lawyer, you know, I
15 just tried to fake it, I passed that portion.

16 But it was really ridiculous, just to even have
17 that area of the law on an exam. Like, again the Colorado
18 Bar has been revised, okay. But if you -- if you really
19 feel there's certain areas a lawyer should know, he should
20 pass them in law school and the teacher is best, knows
21 whether or not the guy or woman knows that area of the law.
22 And if he doesn't know that area of the law, he should
23 flunk.

24 Now, that one question that you have on the bar
25 exam does not cover that area of the law and it has to,

1 by its very nature, be rather general because it's only
2 one question or even two questions and then you have that
3 examiner who's biased, who might have been taught at certain
4 way, and entirely different than a professor that -- that
5 maybe I was taught in law school.

6 MR. FRYE: All right, thank you.

7 Mr. Chairman?

8 THE CHAIR: We're running out of time again and I
9 think we ought to open this discussion up to questions
10 from the whole panel here. I know I have a couple questions
11 and if I can start with Professor Jarnell.

12 You indicated that you felt that the multistate aspect
13 of the bar examination was counterproductive. Can you
14 explain to me what you mean by that?

15 A (By Mr. Jarnell) I think that problem exists with
16 any short answer in law. One ~~seems~~ seems to me -- I was asked
17 in the original set of multistates to prepare some evidence
18 questions, a subject I sometimes teach, and I was, and
19 my students may say never, I'm not sure, but I was given
20 three sample questions by the organizers of the multistate
21 with their recommended answers. I disagreed with two of
22 the three. I think I disagreed because I had insights
23 into that question ~~that they did not~~, and any short answer
24 question, in law in particular, always troubles me, the po-
25 tential of the person who's smarter than the examiner and

1 and can see more into the question always exists.

2 The multistate as currently set up, for example,
3 apparently purports to examine on what is the majority of
4 American law. I find that very difficult to identify in a
5 subject area I consider myself quite expert in, and I've
6 seen questions on multistate exams where it's clear to me
7 that the state of the law around the country is in disarray.
8 I know if you put me in Colorado I could tell you what the
9 law would be here, if you put me in Missouri I can tell
10 you what the law was there, but if you ask me to tote them
11 all up in my head and tell you which one is the prevalent
12 rule or the better rule and I'm not sure they're always
13 working off either the prevalent or the better rule, we
14 get into a whole different game and so I have great diffi-
15 culties with that test.

16 Aside from a relatively narrow scope of things it's
17 examining.

18 Q (By The Chair) Thank you.

19 King, I've got a short question for you. And in asking
20 this question I'm not asking you to speak for all Black
21 people that take the bar examination.

22 But do you feel that even though the bar examination
23 may be proved not to be culturally biased in any way, do
24 you feel that Black people prior to taking the bar examina-
25 tion may be -- have some type of psychological fear of it as

1 a result of historical ramifications?

2 A (By Mr. Trimble) Yes, I do. One of the things that
3 really concerned me when I took the Missouri Bar, and
4 Missouri is probably not one of the most -- is certainly
5 not one of the most liberal states in the union, there
6 were rumors going around and -- that, you know, there was
7 a quota system and they said they would let one Black pass
8 the bar every year.

9 And when I took it there was two Blacks and I said,
10 damn, I hate to take this exam over, you know, maybe it's --
11 and the other guy flunked it before, so I was really con-
12 cerned that, you know, he was going to pass that time and
13 it so happened we both passed, but now the history I think
14 historically, one of the guys was -- one of my friends was
15 a judge and he was a member of the Virginia Bar and also the
16 Missouri Bar, and he is probably in his 60's now. Now he
17 probably took the bar in 1930 or 20's or something like
18 that.

19 Now, at the time he became a lawyer, there was
20 certainly a quota system in Virginia of how many Black
21 lawyers they were going to allow and I think Black people
22 know that. My uncle's a lawyer and there was a quota
23 system in Illinois. You see. And I think Black people
24 are aware of that and they're very concerned about it. It
25 really -- you know, I think the whole -- it's a statewide problem.

1 In California two years ago, I don't know how many
2 admittees they had, maybe 500, four were Black. And I
3 think Black people were still concerned that they still
4 have a quota system.

5 Q (By Mr. Yasui) Mr. Trimble, do you think that's
6 true in the State of Colorado?

7 A A quota system?

8 Q Yes.

9 A I don't have any reason to believe there's a quota
10 system, but I -- well, three years, about three or four
11 years ago someone was pointing out to me, Dan or Gary or
12 someone, that there was like two Blacks would pass every
13 time or every year. Now, maybe, you know, okay, now,
14 whether or not that's statistically true I don't know,
15 but I think that there could be somewhat -- yes, something
16 to be said for that.

17 I don't believe that that's true anymore, I think
18 that there's -- I think Blacks and Chicanos have put so
19 much pressure on the bar exam that that's certainly not
20 true. But I -- I certainly wouldn't say that it wasn't
21 true before four or five years ago.

22 Q (By Mr. Levis) Mr. Trimble and Professor Jarmel,
23 both of you were talking about possibly diploma privilege.
24 I wonder if you were making a distinction between in- and
25 out of state students because of the possibility of consti-

1 tutional problems with only licensing in-state students
2 and not out-of-state students?

3 A (By Mr. Jarmel) I would, in part, because I think
4 it would raise a serious right-to-travel problem, but I
5 wouldn't because I'm not at all sure the results would be
6 different. It's probable that the out-of-state students
7 are doing better than the in-state students because the
8 pool of people who opt to come here may be more creative,
9 perhaps more risky as a group, and I'm not sure that that's
10 really a relevant factor.

11 I think you're going to get good legal education
12 almost anywhere in this country. And I think the trick
13 of catching up to whatever the local quirks are in
14 Colorado is really not that difficult.

15 A (By Mr. Trimble) I would agree, I think that the,
16 if you graduate from any law school, I've worked with the
17 lawyers from all over the United States and they basically
18 know the same things. I think the only areas I could think
19 of would be probably civil procedure, maybe the procedure
20 would vary, and you could give them a two or three weeks
21 course so they could become familiar with that very quickly.

22 Other than that, I can't think of any other dis-
23 tinctions.

24 Q Just one final question.

25 In lieu of the bar examination, would the continuing

1 legal education program that Professor Jarmel talked
2 about be an alternative for those who, let's say were in
3 the bottom half of the class?

4 A (By Professor Jarmel) Are you asking me?

5 Q Right, either of you.

6 A I think it offers a viable alternative. I under-
7 stand that the Colorado program is not as officially
8 related to the operations of the admission problem --
9 program here as the New Jersey program. And I don't, I
10 don't know enough about their resources to know whether
11 they would be capable of mounting a program like this.

12 But I think it's an area that one could intelli-
13 gently explore, perhaps hopefully reach that kind of
14 result. It's probably the most obvious agency to do that
15 kind of thing if that becomes in fact an acceptable
16 alternative to the bar exam.

17 A (By Mr. Trimble) I disagree. I think that the
18 bar exam at most only measures one skill at that particular
19 time. I think most of the lawyers who get disbarred for
20 malpractice it's because they haven't continued to be aware
21 of what the new areas of law are and how to become competent
22 in those areas and that's why there's malpractice.

23 I believe that you, the law school only teaches you
24 how to find an answer and how to learn and if you don't do
25 it on your own, well, the bar exam again only tests you as

1 of that day. Now, to require someone because he graduated in
2 the lower half of his class to take other law courses,
3 I think is totally ridiculous. I think at least in my
4 experience grades are a function of time, some intelligence.
5 I think that if you have a basic intelligence it's a
6 matter of how much time you put on it. I think that the
7 difference between a C plus and a B student is that the
8 B student probably puts more time and he has read, you
9 know, read more, at least it was in our law school, so if
10 -- I know again I started at night and a lot of my friends
11 graduated at night and night students tend to have lower --
12 lower grades than the day students and I switched over to
13 the day. And I knew why, because in day school, for
14 instance, say in day school average guy would put in 40
15 hours a week, at night school we were scraping to put in
16 25, because you were working eight hours a day.

17 That doesn't mean you were any less intelligent,
18 as a matter of fact, they did some correlation and found
19 out the night graduates were more intelligent and more
20 motivated because you had to cram that knowledge in a
21 25-hour or 20-hour week.

22 I mean I just don't think there's any relation to
23 where you graduate in law school. Matter of fact, some of
24 the most successful lawyers haven't graduated too high.

25 THE CHAIR: Thank you very much.

1 If I can ask Ray Jones to come up.

2 We've only left Ray, about ten minutes because I
3 think they kick us out of the building at 6:00 o'clock.

4 And Ray, I hope you don't mind the fact that there
5 are five of us here and you're over there by yourself,
6 but from my experience with you, you're man enough.

7

8

9

RAYMOND DEAN JONES

10

11 A (By Mr. Jones) In some quarters it's seen as being
12 cruel and unusual punishment to only give a lawyer ten
13 minutes.

14 Q (By the Chair) Ray, just for the record, would you
15 state your name and your occupation and address?

16 A Raymond Dean Jones, I'm an attorney, I'm a deputy
17 district attorney in Denver and counsel to the Metropolitan
18 DA's Consumer Office.

19 My address is 787 Garfield in Denver.

20 Q And is it my understanding that you previously
21 worked with Holm, Roberts and Owens for a period of time
22 and clerked with Justice Pringle?

23 A That's correct.

24 Q And it's also my understanding that you are a member
25 of the state board of law examiners, is that correct?

1 A That's correct.

2 Q When did you become a member of the state board and
3 how did you become such a member?

4 A I was appointed to the state board of law examiners
5 in approximately January of 1973 by the supreme court. The
6 court changed a certain relevant rule of the court, which
7 previous to my appointment had required that appointees to
8 the state board be practicing members of the equivalency of
9 practice for five years.

10 And at the time of my appointment that rule was
11 changed in order to affect my appointment because I had
12 only been a practicing attorney or the equivalency thereof
13 since October of 1971.

14 Q Now, at the time of your appointment, would you
15 tell the group the composition of the state board?

16 A Well, it was then, as it is now, a board made up of
17 -- nine? Ten practicing attorneys throughout the State of
18 Colorado.

19 Q Okay. And in terms of minorities, how many minorities
20 were on the board at the time that you were appointed?

21 A At the time I was appointed, there was one Chicano
22 member, Carlos Lucero, from Alamosa. Prior to my appoint-
23 ment, Mr. Branch, who was a Black U.S. Attorney, had been
24 a member of the state board of law examiners. There were
25 no women at that time.

1 Since that time, Mr. Lucero and I continue to be
2 members and a young lady has also been appointed, Ms. Sara
3 Duncan, who's from Grand Junction, or parts thereabout.

4 Q Now, there has been some comment or at least people
5 have alluded to the fact that the composition of the state
6 board is basically of attorneys that are in the business
7 corporate-type practice. Would this be a correct state-
8 ment, to your knowledge, of the members of this board?

9 A Well, to be honest, that would be difficult to say.
10 I think that of the ten, a number have as a part of their
11 practice, a substantial amount of business work.

12 However, several of them also do litigation, several
13 of them I know do estate work, I probably should say that
14 I'm not competent to answer the question except that I
15 know that because of the areas that some of them come from,
16 they are called upon to do a general practice, a general
17 type of work.

18 I think that a substantial number of them, however,
19 do do business work.

20 Q Is there a geographical factor for the composition
21 of the board?

22 A I think that only the supreme court would be com-
23 petent to say. I think that a view of the geographical
24 location of the practice of each of the members would
25 indicate that there's been some attempt to appoint on a --

1 with a geographical factor involved.

2 Q Now, you've just previously indicated that when you
3 were appointed, they changed the age factor or the factor
4 in terms of how many years of practice a person has
5 before he can be on that board. Can you give us any
6 indication of how many people are there on the board right
7 now that have less than five years of legal practice?

8 A I would believe that Ms. Duncan and I are presently
9 the only two who, presently on the board, who have less
10 than five years of practice. Of course, we are the only
11 two who have been appointed since the rule was changed,
12 so that makes sense.

13 Q And what is your term of appointment?

14 A The term is for five years, and I believe that
15 customarily, if a member is amenable to staying for a
16 second term or thereafter, that the court would entertain
17 that factor in another appointment.

18 Q Now, what is the board's responsibility in relation-
19 ship to the bar examination?

20 A My understanding of our responsibility is that of
21 promulgating a bar examination, of making recommendations
22 with respect to that bar examination to the supreme court.
23 We do not, per se, have a policy making function, since
24 we are, by the rules of the court, an arm of the supreme
25 court. However, we do prepare the written portion of the

1 examination, we and -- grade the examination, as it were,
2 and make recommendations to the supreme court on certain
3 areas such as what subjects will be examined, what should
4 be the grading system or the grading scale and so forth.

5 Q Is it my understanding from comments that you have
6 just made, that the supreme court itself has the final
7 decision making power in terms of the type of areas that
8 are tested and possibly the methods of testing if we're
9 talking about multistate as opposed to essay?

10 A We have found that the supreme court has the final
11 say on every question. That's not to say that they are
12 unfriendly to us or amenable to our recommendations, but
13 we understand who are the elephants and who are the
14 chipmunks.

15 Q How have you seen the bar examination change since
16 you have become a member of the board of examiners?

17 A Well, are you --

18 A Not saying that you have caused the change, but how
19 -- what changes have you seen?

20 A Are you still holding me to ten minutes?

21 Q You've got eight.

22 A I'll try to be brief. I've seen numerous changes,
23 and I think that in the last meeting of the board of
24 law examiners I reflected on some of the changes that I saw,
25 and in a conversation with Chief Justice Pringle recently,

1 I've commented on the changes, because I applaud the
2 changes.

3 And in saying this I do not infer at all that we have
4 reached an end as to what we need to accomplish in terms
5 of making the bar exam more relevant or improving it, but
6 only to say that to my way of thinking there have been
7 numerous and good changes.

8 I think that one change that's significant, and
9 this change was coming about just as I was coming on, was
10 the institution of a multistate bar examination. Now,
11 that change I saw as being, if I may editorialize for a
12 moment on the changes as I perceive it, I recognized that
13 change as being a good one for a very pragmatic reason,
14 namely that Black candidates did better on it than they
15 did on the written portion, at least at that time.

16 Also, from a statistical point of view, I felt that
17 it was an examination and is an examination which is
18 validatable statistically, and for that reason, to my way
19 of thinking again, per se, a good examination.

20 The point being that any -- any exam that is valida-
21 table statistically I think is a better examination. Well,
22 I think that we had to learn how to deal with the multi-
23 state examination, how to work it in some kind of correla-
24 tion with the written examination, and I think we've done
25 that. I think the results of the last bar examination go

1 quite to some extent statistically again, in showing that
2 we've learned pretty well how to work with the multistate
3 examination and to make it a relevant portion of the
4 exam and when I say relevant, I mean a helpful part of the
5 examination as opposed to being harmful because I think
6 when it was first instituted, I think the board may not
7 have been aware of a good way to use it and it may have
8 been harmful to some extent.

9 But let me continue along. I think that another
10 change I've seen has been a lowering of the passing -- the
11 pass level. And I think that that's -- that takes
12 very well into account a realistic view of what we should
13 expect of a candidate on the exam.

14 According to the supreme court rules, the purpose
15 of the bar exam is to measure the minimum level of com-
16 petency required to practice law in Colorado. I believe
17 those are the exact words.

18 My feeling always has been, then, and I think other
19 members of the board as well, that if we are measuring the
20 minimum qualifications that it -- we don't need to expect
21 too high of a performance level and certainly, if that is
22 so, then the minimum passing level should be a realistic
23 one, a fair one, one that takes into account the fact that
24 we are only measuring the minimum competency to practice
25 law. As well, I think that if -- I've seen, and again I can

1 only measure from when I came onto the board, an attitude
2 on the part of the state board of law examiners and perhaps
3 of the supreme court, that there may be alternatives to
4 the bar examination or that at least it may be fruitful
5 to examine for alternatives.

6 I know that in 1973, myself and other members of the
7 board, were called upon to serve on a committee to examine
8 for alternatives to the bar exam. And I think that that
9 has been a good thing.

10 Another change which I've seen, this is not a change
11 per se, in the board, but I think a change in the situa-
12 tion surrounding the bar exam has been an increased level
13 of desire to litigate questions, constitutional and other-
14 wise, surrounding the bar exam. And I think that that's
15 good, and I think that members of the state board of law
16 examiners know that I think that that's good. I think
17 it's good because some of the questions which need to be
18 answered are going to be answered. I don't think as a
19 matter of fact, that the court cases that have been filed
20 have forced the state board of law examiners or the supreme
21 court to make changes, I think that the court cases have
22 been helpful because they have highlighted questions that
23 needed to be dealt with.

24 And that's not to say that every question that arose
25 or that's likely to arise, can be answered or dealt with in

1 a way that's favorable with candidates. And that may be
2 unfortunate but I think it's true. But it certainly is
3 positive in that it has highlighted questions and doubts
4 and discrepancies that are in this area.

5 I think that one thing that's good about the state
6 board of law examiners is that it is a group of -- of
7 lawyers, none of us pretend to be statisticians or,
8 you know, psychometrists, I believe is the word these
9 days now, with respect to tests, or psychiatrists or any-
10 thing else. We practice law and, you know, that qualifies
11 us to some extent, I think, for purposes of measuring the
12 minimum competency.

13 There are other changes that I could comment on
14 but perhaps these will come out.

15 Q Well, we did that in eight minutes on the nose.

16 But let me make a more pointed question. You indi-
17 cated that in the past few years that there has been an
18 effort to correlate the multistate with the essay portion
19 of the test. Evidently in July of '73, there was a very
20 high pass rate, I believe it was 93%. Can you give any
21 comment on the reason for this high pass rate and the
22 effect that this high pass rate had on the board examiners
23 for the subsequent test?

24 A I can. I think it would be -- it would aid me in
25 this testimony if I could be furnished with a synopsis of our

1 conversation, my conversation with Mr. Levis which I was
2 never furnished with. Let me say this, that the July,
3 1973 bar was the first bar exam in which we attempted to
4 correlate the multistate and the written exams, and this
5 is difficult because it's very -- the bar exams tend to
6 run together.

7 I'm having some difficulty remembering exactly what
8 happened in July of '73, although -- and I'm sorry I am,
9 because I consider that to be -- have been one of the
10 more significant indices of improvement on the part of the
11 bar exam.

12 But basically, I think that -- I think the question
13 was what happened in July of '73, and I think that what
14 happened was that a number of us were pressuring for a way
15 of correlating the two exams, the two portions of the
16 exam, and that was done, and when it was done it was found
17 that, and I am -- and properly, that instead of people
18 being hurt or at least not helped by one portion of the
19 exam, vis-a-vis the other, there was an ability to be
20 helped on one portion by the other, by your performance on
21 the other and as a result of that, my feeling is that people
22 did better.

23 I don't think that we saw any decrease in the
24 quality of candidates, I do -- I will say this, I think affir-
25 matively that that was a better class of candidates than

1 there may have been around that time, and it's possible
2 when you read these things to measure that, and that's
3 the truth.

4 So I think one point is that it was a better class
5 of candidates, but I think additionally that the ability
6 to correlate the two portions, to work them together to find
7 a true measure instead of a disjointed measure, contributed
8 greatly to what happened in 1973.

9 Q Now, you indicated that one of the meaningful
10 changes that you have seen since you've been on the board
11 is the fact that the board is more susceptible to looking
12 at alternatives to the bar examination. Are any of those
13 alternatives the diploma privilege or something, internship
14 type program?

15 A Yes, those two and others. We discussed the diploma
16 privilege in very realistic terms. At that time it was
17 being discussed from the standpoint of the diploma
18 privilege for the two Colorado law schools only, being
19 a graduate from an out of state law school I took some
20 exception to that, but for the obvious reason, but for
21 another reason as well, that that being that my feeling
22 was and is, and I'm sorry that I wasn't here when the
23 deans of the law schools were here, that the two Colorado
24 law schools have not squarely faced their responsibilities
25 with respect to education of law students in this state.

1 But yes, the question of diploma privilege did come
2 up. At that time, or around the time that we were dis-
3 cussing these things, and I can't at this point pin down
4 a date, but we did have a meeting with the deans and
5 members of the faculty of the two law schools, with members
6 of the supreme court and the entire state board of law
7 examiners, where the question of diploma privilege was dis-
8 cussed.

9 And I'm happy to say that at the time we were dis-
10 cussing it in real terms, I think we were searching,
11 honestly searching for alternatives. I think that we
12 came away from that meeting with an understanding that the
13 law schools felt that there, let me put it this way, that
14 the law schools had a different view of what their purpose
15 was, that instead of preparing lawyers per se for the
16 practice, that their view was that they are there to give
17 an education in law and that was it.

18 For my own purposes, I fail to see how rationally the
19 two can depart from each other. But the deans and the
20 faculties had reasoned that out, and I suppose perhaps
21 they were asked about that and were better able to show
22 some rationality that I haven't yet.

23 We also discussed the possibility of an intern
24 program and had some input from John Cain, who is a Denver
25 lawyer and who is working in it, either the Colorado or the

1 Denver Bar Association on a proposal for an intern admittance
2 program where lawyers, young lawyers would be either
3 provisionally admitted or not admitted at all until they
4 had served an intern with practicing attorneys or in a
5 law firm.

6 I don't know what the status of that is at this
7 point.

8 At the time the proposals that Mr. Cain were putting
9 forth were not sufficiently polished, really, to be a
10 useful alternative at that time.

11 We've discussed other alternatives -- well, I dare
12 say that we have put into effect certain alternatives,
13 for instance we've established a standard whereby if a
14 person passes the essay portion of the exam, they pass the
15 exam, the multistate examination can not hurt them in any
16 way.

17 On the other hand, if they are -- if they come up
18 somewhat short on the essay portion of the exam, the multi-
19 state results are considered to see if it can, in terms
20 of again of the statistical correlation, pull their score
21 up high enough to pass them. And that was something which
22 if I may, which I had been thinking in terms of quite
23 some time ago.

24 I think other members of the board were, as well,
25 and I think members of the supreme court considered that

1 and finally we instituted it.

2 I think while that's not a huge alternative, I think
3 that that shows some progress.

4 Other alternatives -- let me mention one more be-
5 cause I think we may be -- we, you know, it's something that
6 I think is a good idea, and that is to -- and hopefully
7 in the way of making a way for the diploma privilege or at
8 least in changing the system by which we measure the
9 minimum competency of lawyers, to require law schools across
10 the country, not just in this state, but across the country,
11 or at least to inform them that a prerequisite for admittance
12 to our bar is the successful completion of certain basic
13 law courses, in the law school.

14 My idea is that certain of those courses would be,
15 and they are basics, torts, contracts, criminal procedures,
16 civil procedure, and perhaps either -- either property or
17 wills and estates, at least some course in which they get
18 a basic grounding in future interests.

19 I think that that accures or inures to the benefit
20 of the student or to the candidate who comes to this state.
21 They're going to be tested on that at any rate, and so I
22 think that that's a good idea and there's precedent for it.

23 Some states inform law students who are entering the
24 law schools across the country that they must do certain
25 things if they anticipate three years from now that they

1 are going to practice in that state.

2 For instance, I think in New York you have to register
3 or in certain states you have to give notice to the state
4 that three years hence you will be applying to take the
5 bar exam in that state, so I think there's some precedents
6 for requirements on the part of the supreme court of
7 a state, that certain things must happen in law school.
8 I think that some would attack that particular suggestion
9 as being unwarranted intrusion into academia but I dis-
10 agree. I think that the supreme court, quite properly,
11 is -- should be able to state the requirements for admittance
12 to its bar and that one is not, I think, an unreasonable
13 one.

14 THE CHAIR: Thank you, Ray, I'm going to cut you off
15 right here. And ask Justice Groves to step up, I under-
16 stand that he'd like to make a statement for this group.

17 JUSTICE GROVES: Thank you, Mr. Chairman.

18 A. Am I excused thereby or --

19 THE CHAIR: Not yet.

20
21
22 JUSTICE JAMES K. GROVES

23
24 A. (By Justice Groves) Mr. Chairman, Ladies and Gentle-
25 men --

1 THE CHAIR: Justice Groves, just for the record,
2 if you'd state your name and your position?

3 A My name is James K. Groves, I'm a member of the
4 Colorado Supreme Court. I reside at 6814 South Detroit
5 Circle in Arapahoe County.

6 THE CHAIR: Thank you.

7 A The court was originally invited to attend and even
8 to take part in the panel, at this meeting, we appreciated
9 that.

10 The chief justice at first said no, we simply couldn't
11 do it, there are a number of reasons, but I suppose the
12 main one is that there are now pending several suits in the
13 United States District Court next door, against the members
14 of our court involving alleged cultural bias of the bar
15 examination and if it's unethical for a lawyer to comment
16 about one of his cases or things involved, why, it certainly
17 ought to be unethical for a judge.

18 But I was able to prevail on chief justice to permit
19 Mr. ~~Rules (Phonetic) back here~~, who's chairman of the Colorado State
20 Board of Law Examiners and me to come here to correct any
21 misconceptions that might be coming out in the testimony.

22 That's not a fair characterization of why I'm here,
23 I think better, what I intend to mention very briefly are
24 matters that might infer or direct toward a misconception,
25 maybe not, maybe so.

1 First, I'm sure Mr. Trimble took the bar examination
2 before we changed the rules a few years ago and which we do
3 not give any local questions. ~~No natural resources, there's no~~
4 mining, there's no water, it's a completely general bar
5 examination over general subjects. I -- on diploma
6 privilege I was very much intrigued by Professor Jarmel's
7 thought and it was a new thought to me to admit the top half
8 of approved law schools on motion or automatically. I
9 practiced law in Grand Junction for 33 years before I was
10 appointed to this court seven years ago and during that 33
11 years I had the peculiar conception that the law school
12 could tell more than, in three years, about whether a fellow
13 could make a good lawyer than a bar examining group could in
14 three days.

15 After I got on the board, and coming with strong
16 sentiments in this respect, I found out that the -- both
17 Colorado schools refused to take that responsibility. And
18 there may be other reasons and I don't say if they would
19 accept the responsibility we would have diploma privilege,
20 I don't know because the subject doesn't get beyond that.

21 But certainly you could see what my sentiments have
22 been in that respect. We do give just a little credit to
23 something like diploma privilege and that is in our class
24 C applicants for admission on motion, we do admit those who
25 have been admitted under the diploma privilege in another

1 state and practiced law for the requisite amount of time.

2 Also, I think there are no states, of the five that
3 have diploma privilege, that go beyond their own law
4 schools. I know that's true with respect to Wisconsin,
5 Montana and Mississippi, West Virginia and Alaska have
6 just passed their diploma privilege rule and I haven't seen
7 it but I assume it's limited to their schools. But I can't
8 be sure.

9 Now, the statement was made that the multistate was
10 introduced to save time. That is -- that's an incorrect
11 statement. Neither -- no member of our court nor no member
12 of our Colorado State Board of Law Examiners used that as a
13 reason. Before we adopted the multistate and as you know
14 we're over, among over 40 that have it, Dean Covington and
15 Judge Wilkerson came out here several times and finally
16 persuaded us. It was adopted by a divided vote of the court
17 and the board of law examiners was divided.

18 But we were sold on two things primarily, one, that
19 that test would cover a broader basis than any local board
20 of practicing lawyers could cover, because they have, what,
21 100, 150 people working on it. And it goes through great,
22 great examination.

23 And secondly, that it would get us away from any
24 unconscious cultural slanting. Those were the reasons we
25 adopted the multistate.

1 Now, in the last three examinations it appears that.
2 the second reason hasn't held up. We've had as many, if
3 not more, minorities fail the multistate than Whites. And
4 so we've watered the thing down. As Mr. Jones has suggested,
5 not quite the way he suggested, our rule is that, adopted
6 for our last February bar, that if you -- 70 being passing,
7 if you achieve a grade of 72 on the essay you're in.
8 Irrespective of your grade on the multistate.

9 If you -- otherwise the multistate is applied.
10 So it's greatly watered down in its effect.

11 Now, I go beyond what I said I was going to limit
12 myself to, correcting possible misconceptions and make
13 a comment. You may be interested in these figures. In
14 the February bar the results of which were announced last
15 Sunday, results mailed out Saturday, a week ago today,
16 217 passed the essay and 214 passed the multistate. There
17 were nine who failed the essay who were pulled over by the
18 multistate. There were six who passed the multistate and
19 were pulled down by the essay. The nine -- yes. As re-
20 spect to Ray's comment about who he realizes who the
21 elephants and the chipmunks are, I might say this, every-
22 year -- twice a year the board recommends the subjects and
23 the examiners for those subjects to be given on the next
24 bar. Last Wednesday, ahead of our weekly conference
25 Thursday, Mr. Ruler transmitted to me in my capacity as

1 chairman of our court's admissions committee, the subjects
2 that they proposed for the July, '75, bar. As has been
3 true in all the time, the seven years I've been on the
4 court, we adopted the recommendations of the committee.

5 We've never turned them down on that subject, and
6 very few other things. As to disbarments, Mr. Trimble

7 As to disbarments, Mr. Trimble mentioned that he
8 thought a lot of those resulted from a fellow not keeping
9 up. We have two studies so far, one by Frank Plot (Phonetic)
10 that appeared in the August, 1973 Colorado Lawyer over a
11 period of 1971-72, and another by Richard Hennessy, the new
12 committee counsel of the grievance committee over a
13 period of the last 14 months, and we've just authorized
14 students from DU law school working under our grievance
15 committee to see our records and make further analyses of
16 disbarments.

17 However, I can say this, that it's not keeping up,
18 of course, causes some of the disbarments, but the great,
19 the great cause for disbarments is laziness and delay by
20 the lawyer, as to things that he knew perfectly well when
21 he got out of law school or he could look it up very
22 easy, such as failing to file an inheritance tax application
23 for five years and -- creating penalties. The big cause
24 of disbarment or of any kind of disciplinary measures in
25 this state are the delays of the lawyers. File a --

1 That's -- I appreciate you permitting me to make
2 these comments.

3 THE CHAIR: Thank you very much, I appreciate the
4 statements.

5 I'm going to open up the rest of the time that we
6 have, which is minus 18 minutes, to questions of the panel
7 if they have any of Ray Jones?

8 Q (By Mr. Frye) Just for my elucidation, Mr. Jones,
9 you said that the multistate bar exam was statistically
10 validatable and I don't understand the term, would you
11 enlighten me?

12 A (By Mr. Jones) Well, I can't use it in a -- as
13 a word of art, as it would be used in the field of
14 statistics, but I can explain what I mean, what I -- what
15 I mean when I use the word. Which is that the -- that it
16 is possible, through examination of a representative sample
17 of responses to any question on the multistate, to make
18 a judgment as to how good the question was, that is to say,
19 you know, it's -- I guess a simple way of saying it is if
20 -- if a lot of people put a certain answer, then that must
21 have been the right answer.

22 Now, that may sound a little impure, but statistically
23 speaking it isn't impure at all, it's very pure. And the
24 people who grade the multistate examination have responded
25 to situations where a question was found not to be valid,

1 and on several of the multistate examinations that have
2 been given, questions have been thrown out, that is to
3 say they have not counted against the candidates because it
4 was found that more than simply one of the responses was
5 found -- was found to be acceptable, judging from the re-
6 sponses that were given.

7 Q That doesn't necessarily, then, have a bearing on
8 its ability to test a specific skill of a lawyer, is that
9 -- am I right or wrong?

10 A Yes, I don't use -- I don't use the word validatable
11 in that sense.

12 MR. FRYE: Thank you for clarifying.

13 THE CHAIR: Thanks, Ray.

14 I guess this draws to the end our meeting here
15 today. I'd like to, at least for the record, since all
16 the participants aren't here, but I'd like to thank all
17 the participants that came here voluntarily, as well as
18 the participants that are still here, I'd like to thank them
19 for their time and effort.

20 If anyone that has not had an opportunity to speak
21 should want to make any comments, they should put them in
22 writing and send it to the Mountain States Office of the
23 Colorado Civil Rights Commission, excuse me, U.S. Civil
24 Rights Commission, and this should be done within 30 days.

25 If anybody wants a copy of the report that will be

1 prepared as a result of this hearing, they should put their
2 name and address on a list that I believe is outside the
3 door and they can get a copy of the report that will be
4 prepared by this group.

5 Once again I'd like to thank everybody that has been
6 here and everyone that has participated in this meeting.
7 As well as the panel members.

8 Thank you.

9
10 (Hearing adjourned)

1 STATE OF ARIZONA)
2 COUNTY OF PIMA) SS

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6 I, JAMES E. BOULEY, do hereby certify that I am an
7 Official Shorthand Reporter; that I was present at the hear-
8 ing of the foregoing matter; that I took down in shorthand
9 all proceedings had and testimony adduced at said hearing;
10 that the same was thereafter transcribed under my super-
11 vision, and the foregoing 333 pages represent a complete
12 and accurate transcription of my shorthand notes so taken.

13 WITNESS my hand this 20th day of May, 1975.
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18 James E. Bouley
19 OFFICIAL SHORTHAND REPORTER
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