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ARIZONA ADVISORY COMMITTEE
TO THE
UNITED STATES COMMISSION ON CIVIL RIGHTS

Open Meeting

December 2-3, 1982

Phoenix, Arizona

VOLUME I

THE FOLLOWING MEETING was chaired by DR. MORRISON WARREN,
Chairperson of the Arizona Advisory Committee to the United
States Commission on Civil Rights, commencing at 9:00 a.m.
on December 2, 1982, and the following proceedings were had,
to wit:

**Houley, Schlesinger, Di Curti, Schippers
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I N D E X

VOLUME I

WITNESS

PAGE

1		
2		
3	<u>WITNESS</u>	<u>PAGE</u>
4	Edward Valenzuela	4
5	Suzanne Rabe	20.
6	Gene Blue	58
7	Emily Ferguson	75.
8	Allison Hughes	84
9	Hugh Fox	100
10	Ray Valenzuela	114
11	Connie Baldwin	122
12	Wilbert Nelson	123
13	Margaret Macias	131
14	Diane Porter	135
15	Alex Pappas	146
16	Henry Cibirac, Jr.	153
17	Steve Darden	161
18	Phyllis Big Pond	183
19		
20		
21		
22		
23		
24		
25		

P R O C E E D I N G S

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3 THE CHAIR: The meeting of the Arizona Advisory
4 Committee to the United States Commission on Civil Rights will
5 now come to order.

6 We expect other members of the state advisory com-
7 mittee to be in later, however we will begin.

8 We're convened here today to gather information on
9 the civil rights problems in Arizona and recommendations to
10 resolve these problems. I am Morrison Warren, Chairman of
11 the Arizona Advisory Committee. The advisory committee
12 receives information and makes recommendations to the com-
13 mission in areas which the committee or any of its sub-
14 committees is authorized to study.

15 Other members of the committee in attendance during
16 this meeting is Mr. Manuel Pena. Also with us today are staff
17 from the commission's western regional office, including Mr.
18 Philip Montez, the regional office director. This fact-
19 finding meeting is being held pursuant to federal rules
20 applicable to state advisory committees and regulations pro-
21 mulgated by the U.S. Commission on Civil Rights.

22 The Commission on Civil Rights is an independent
23 agency of the United States Government, established by
24 Congress in 1957, and directed to, one, investigate complaints
25 alleging that citizens are being deprived of their right to

1 vote by reason of their race, color, religion, sex, age,
2 handicap or national origin, or by reason of fraudulent prac-
3 tices.

4 And two, study and collect information concerning legal
5 developments constituting discrimination or a denial of equal
6 protection of the laws under the Constitution because of race,
7 color, religion, sex, age, handicap, or national origin,
8 or in the administration of justice.

9 Three, appraise federal laws and policies with respect
10 to discrimination or denial of equal protection of the laws.

11 Four, serve as a national clearinghouse for informa-
12 tion about discrimination.

13 And five, submit reports, findings and recommendations
14 to the President and the Congress.

15 I wish to emphasize that this is a fact-finding meeting
16 and not an adversary proceeding. Individuals have been
17 invited to come and share with us, the committee, information
18 relating to the subject of today's inquiry. Each person who
19 will participate has voluntarily agreed to meet with the
20 committee.

21 Since this is a public meeting the press and radio
22 and television stations, as well as individuals, are welcome.
23 Persons meeting with the committee, however, may specifically
24 request that they not be televised, and in this case, we will
25 comply with their wishes.

1 We are concerned that no defamatory material be pre-
 2 sented at this meeting, and in the unlikely event that this
 3 situation should develop, it will be necessary for me to call
 4 this to the attention of the persons making these statements
 5 and request that they desist in their action. Such informa-
 6 tion will be stricken from the record, if necessary.

7 If the comments a person is offering, however, are of
 8 sufficient importance, the committee will hear the informa-
 9 tion. In that event, the persons against whom the allégations
 10 are made will have ample opportunity to respond by making
 11 statements before the committee or submitting written state-
 12 ments if they desire.

13 Every effort has been made to invite persons who are
 14 knowledgeable about the progress in the areas to be dealt
 15 with here today. In addition, we have allocated time after
 16 noon to hear from anyone who wishes to share information with
 17 the committee about the state of civil rights.

18 Those wishing to participate in the open session must
 19 contact commission staff.

20 The first person to appear before the state advisory
 21 committee will be Edward Valenzuela, who is the Deputy Director,
 22 Phoenix, Equal Employment Opportunity Commission.

23
 24 EDWARD VALENZUELA

25 THE CHAIR: Will you please state your name and

1 organization for the record?

2 A (By Mr. Valenzuela) My name is Edward Valenzuela,
3 I'm the Deputy District Director for the Phoenix District
4 Office of the Equal Employment Opportunity Commission.

5 Q (By the Chair) Mr. Valenzuela, do you have a pre-
6 pared statement? Or will you speak from notes?

7 A No, Mr. Chairman, I have notes only. The information
8 I'm prepared to provide some statistics, they are informal
9 at this point but I think they give an indication of what
10 possibly the work load or case load has been within the State
11 of Arizona.

12 Although it will include some statistics which covers
13 the State of Utah and New Mexico which is under the district
14 office, in Phoenix.

15 The area we cover are New Mexico and Utah as well as the
16 State of Arizona. New Mexico has its own office under this
17 office, therefore their figures are generally kept aside
18 except for the fact that the, some particular areas of
19 litigation and age discrimination, equal pay charges they are
20 handled out of this office.

21 Phoenix District Office is responsible for receiving
22 and processing complaints and resolving Title VII, Age and
23 Discrimination Act and Equal Pay Act complaints, and charges
24 as well as conducting the hearings of appeals from federal
25 complainants, that is employees of federal agencies who file

1 complaints are not satisfied with the results of their own
2 agencies, they request EEOC to conduct the hearing and our
3 office provides hearing examiners who provide those hearings
4 in this area.

5 The Title VII process of charges that we do receive
6 is to conduct primarily a fact-finding conference and attempt-
7 ting to resolve the case before a full investigation is con-
8 ducted. If the fact-finding conference is successful and we
9 have a high number of those types of resolutions, then the
10 charges are dismissed or closed at that point. If it's not
11 resolved or for some reason or other it is not the type that
12 should be handled in the fact-finding conference, we do for-
13 ward it to another unit called the Continued Investigation or
14 Conciliations Unit which may conduct a field investigation
15 or further in-depth investigation.

16 We have another unit where the charge may be forwarded
17 to and that's called the Early Litigation Identification Unit.
18 If we find that a preliminary analysis of the charge or the
19 complaint looks like it may conduct -- may carry some type of
20 information that we may want to consider for litigation,
21 we'll put it in a special track on a special track, we'll
22 conduct a more in-depth investigation to determine, at a later
23 point, to determine whether we should litigate it or not.

24 Age discrimination, in employment, charges are received,
25 they may be received as a charge or complaint, or we may find

1 on our own that we have some reason to believe, based on
2 information that we want to conduct an investigation, we may
3 conduct what's called a Directed Investigation and that is
4 without a charge or complaint.

5 We may decide that that employer, for whatever, reason,
6 may be after a Title VII investigation, there is some in-
7 formation that we find that should have an investigation to
8 determine whether age discrimination is prevalent.

9 We also have the Equal Pay Act, in which we administer
10 and enforce, this deals primarily with the differential pay
11 between males and females where there's an equal skills effort
12 and responsibility applied to a particular job and where one
13 sex over the other is paid differentially, then we may accept
14 the charge or conduct a directed investigation in that area
15 also. We do not advertise nor do we publicize the fact that
16 Title VII or EEOC is in this area.

17 And I believe that may be a disservice that's being
18 done in this area although we do receive a number of charges,
19 we don't mean to publicize to the fact that we want to solicit
20 charges but we're not certain, I should correct that.

21 I think we are certain that we're not getting the word
22 out to a lot of areas in the state that should be -- should
23 receive the benefit of our services. We're attempting a new
24 effort at this point under the new administration or new
25 chairman to conduct an outreach. We hope that this committee

1 here may provide some help in this and that's going to be
2 one of our recommendations to help us in getting that word
3 out in some attempts that we're going to make. We have a
4 work sharing agreement with the state agencies in Arizona,
5 it's with the Arizona, it's with the Arizona Civil Rights
6 Division of the Department of Law, where we will share, we
7 have a memorandum of understanding where we will share the
8 investigation of complaints, they will take a certain number
9 and we will take a certain number.

10 We also have a charge resolution contract with the
11 state where we will pay them to resolve a certain number of
12 Title VII or age cases. This way they will handle part of
13 the work load and we're handling, we're providing some of
14 the funding so that they can take some of the burden off our
15 office and conduct the investigation. But the resolution
16 must meet the federal standard for us to accept that charge
17 and resolution of that charge.

18 EEOC is presently undergoing a reorganization, the
19 headquarters reorganization has been completed, it's been
20 -- it was effective October 1st, the field is presently under-
21 going a study and within about two weeks the commission will
22 be voting to make some changes in the field. Some structural
23 changes, some organizational changes, and possibly some pro-
24 cessing changes, processing complaints as they're received and
25 how they're handled.

1 At this point we're not certain what the results will
 2 be and we'll be glad to provide any other information with
 3 regards to the final approval of whatever reorganization takes
 4 place.

5 I'd like to share with you some of the information
 6 again, don't try to total the figures because they may not
 7 come out because these are manual counts and they have not
 8 been reconciled with our computers yet but we have found that
 9 for fiscal year '82 which ended September 30, 1982, we had a
 10 total intake of charges in Phoenix of 2,376 charges. Of
 11 which the EEOC received 1,219, and the FEP's or fair employ-
 12 ment practices state agencies which includes Utah as well as
 13 Arizona, received a total of 1,157 charges. Of the 1,157
 14 Utah had received 533 charges. Of that total number of
 15 charges, EEOC processed or put into their process 1,190 of
 16 those charges where the state agencies put into their process
 17 1,183 charges.

18 Of the charges that the Phoenix District Office of
 19 EEOC received, we sent them to the various units for pro-
 20 cessing. The largest unit being the fact-finding unit, which
 21 is a rapid charge processing unit.

22 We attempt, as soon as a charge is received, we attempt
 23 to conciliate it or settle that charge. Before it goes into
 24 a further investigation. So, out of the 1,183, or the 1,190,
 25 717 of those charges went directly into the fact-finding

1 process. 127 of those charges of the 1,190, went into our
2 continuing investigation area in-depth investigation unit,
3 230 charges went into the age investigation unit, 50 of the
4 charges went to the equal pay unit for investigation, and 32
5 of the charges went into other processes which meant they
6 might have been consolidated with a litigation charge in legal
7 or an early litigation vehicle.

8 We started out the year 1981, October 1, 1981, or the
9 beginning of the fiscal year '82, with these numbers of
10 charges pending in the individual units and this is for your
11 information. In the fact-finding unit we started with 350
12 charges, in the CIC or the continuing investigation unit we
13 had 234 charges, in the age unit we had 114 charges, in the
14 Equal Pay Unit we had 30 charges and to the Early Litigation
15 Investigation Unit we had 77 charges, and into backlog unit,
16 479 charges, this unit is investigating cases or attempting
17 to resolve cases that were received prior to January, 1979.

18 We had a number of cases that were old. We have the
19 hearings unit which conducts a federal hearing, we had 83
20 charges in the -- pending at that time.

21 For a total of approximately 1,367 charges in our
22 pending file as we began the year. We received during the
23 year to add to those units, the fact-finding unit, we received
24 717 charges, CIC, other, which is CIC, the continuing investi-
25 gation unit, 290 charges, age, 390 charges. Equal pay, 509.

1 The early litigation, 58 charges. No charges went into
2 backlog. We're eliminating those charges and the hearings
3 unit we received 97 charges.

4 Now, in closures for the same period during the year,
5 in fact-finding unit we closed 721 charges so it's slightly
6 more than those that we received.

7 In the CIC the continuing investigation unit we
8 closed 377 charges, in the age unit, 263 charges; equal pay,
9 58 charges, CIC, the E-lig., early litigation, 39 charges,
10 backlog we closed 243 of those charges, and the hearings, 54
11 charges, or we closed a total of 1,415 charges. More than
12 we had received. But by the end of the year we still had a
13 number of pending charges there's some that are transferred
14 in from other units or that have come in.

15 So, we closed the year, the fiscal year '82, with some
16 charges pending in each unit, in the fact-finding unit we had
17 226. In the continuing investigation, 127 charges. In the
18 age unit, 138. Equal pay unit, 40 charges. The early litiga-
19 tion we had 75 charges, in the backlog unit were down to
20 219 and in the hearings unit we had 480. Or a total of 873
21 charges. Almost half of what we had at the beginning of the
22 year. Now, the types of closures of those cases that we
23 closed, an interesting analysis is that the -- of those closed
24 we found 49 of those or 3% of those closed were cause cases,
25 meaning that we found a violation of Title VII.

1 It doesn't mean that those are the only ones that might
2 have been violations. Means that some of the others that I
3 will cover were settled prior to the finding of a violation.
4 So a number of those may have been closed prior to that point.

5 We found that no cause after an investigation we had
6 611 or 38% of the charges were no cause. Those that were
7 no jurisdiction for whatever reason, 2% or 25 charges, those
8 charging parties who filed a complaint with us but did not
9 stay in touch with us, we were unable to locate, 2% or 34.

10 Those who first gave us information to begin a charge,
11 an investigation but failed to cooperate with us by providing
12 more information we had a 100 of those that were closed or
13 6%.

14 We had 241 that were withdrawn for whatever reason,
15 that accounts for 15%. We had 126 that were unsuccessful
16 settlements or 9%. We had 48 that were no violation in this
17 case would have been age cases or 3%. And we had 319, or
18 20% that were successful settlement.

19 So, the settlements unsuccessful settlements, with-
20 drawals and the cause accounted for over 50% of those charges,
21 those could have been the, possibly could have been viola-
22 tions but before we got to that point we were able to settle
23 them or close them some other way.

24 In our litigation activities -- excuse me, before I
25 get into that, let me just give a very quick type of analysis

1 of the charge that we did receive during the year on the
2 different bases. An example of the charges that were received
3 during the year that were for discrimination on the basis of
4 race, of these -- of 468 and the majority of these were 385
5 based on Black, race being Black.

6 Total race charges were 22% of the entire amount that
7 we received. 27 or less than 2% were based on religion, we
8 had national origin cases, approximately 18%, 380. Sex, 650
9 or 30, and incidentally, of the 650, 602 were female and 38
10 were male.

11 Age discrimination charges, 17%. And retaliation,
12 the total of 115 charges or 5%. The main issues that we've
13 come across and we haven't totaled yet the summary of those,
14 of the types of charges or the issues that were involved
15 were discharge and failure to hire were the main issues of all
16 these charges received.

17 In our litigation activities we have not completed our
18 1982 reports yet, but I can give you the 1981, that will
19 give you an idea from -- and I don't believe that our '82
20 will be much different than that type of accomplishment.

21 In 1981, this office in Phoenix recommended to the
22 commission in Washington 21 cases for litigation. 15 cases
23 were authorized by the commission or approved for litigation
24 by the office. 20 cases were actually filed or direct suits
25 that were filed in the office. Some were carried over from

1 the year before.

2 One case was dismissed. There were eight settlements
3 and the monetary benefits derived from all the litigation
4 activities in 1981 was \$624,900.00.

5 These are the -- that's what was received by charging
6 parties. As I mentioned, the Phoenix District Office is
7 interested in providing outreach into the Arizona communities,
8 the other two states, New Mexico we have the area office
9 working there and will be doing some outreach in Utah. Our
10 interest here and with the committee here is to possibly
11 assist us in getting the word out, we will be doing some
12 actual local visits where our investigations will be in the
13 field, they will be conducting local community leaders,
14 they'll attempt to use the local media whether it be the
15 print media or the electronic media, to get the word out and
16 let -- notify potential charging parties or employees or
17 employers of their rights and their responsibilities under
18 the law. We want to -- we will be providing speakers for
19 any area within the state for meetings, conferences, seminars,
20 workshops, colloquiums, retreats, symposiums, any gathering
21 where they can use the word or would like to have these people
22 from EEOC and we will provide people on week days and even-
23 ings, week ends, and at any reasonable location in the state.

24 But we think that the word should get out. We find
25 that our budget in the past has never allowed us, the

1 opportunity to publicize, to publish any type of information
2 where people would know that we are in existence.

3 So, the big help that we would like to have in any
4 recommendations from you also in providing that assistance,
5 would be to get the word out that Title VII is here and the
6 EEOC is to make a better presence throughout the state.

7 Under the new administration, Chairman Clarence
8 Thomas has indicated that he is going to be giving his full
9 support and encouragement in doing a further outreach than we
10 have in the past. Several years ago the reorganization of
11 1979 we had a backlog of approximately 120,000 charges in
12 our backlog. Now we are down to, I believe around 8,000,
13 so we're in a position where now we can do some further out-
14 reach.

15 And I think we have our processes, are efficient
16 enough that we can handle charges quickly and provide the
17 best service possible.

18 That's about the extent of my presentation, I'll be
19 glad to answer any questions.

20 THE CHAIR: Do you have any questions, Mr. Pena?

21 MR. PENA: Just one, maybe.

22 The degree of cooperation between the state civil
23 rights division and the EEOC, is there some sort of an agree-
24 ment where you can refer cases back and forth to each other?

25 A Yes, we have a mutual memorandum of understanding that

1 a charge received by one agency is the same as be received
2 by the other agency. We have under statute, we are required
3 to if we receive a charge we are required to send it to the
4 state to give them the chance to resolve it first. So we'll
5 send it automatically. They will, in many cases, their work
6 load will be such that they'll say we won't be able to handle
7 this one or we'll handle these, these you can -- others you
8 can handle or for some special reason they are -- they are
9 either in litigation or handling a certain responsibility
10 they'll take certain cases and we'll take other cases.

11 So, we have a very close working relationship with
12 the state.

13 Q How long has EEOC been in Arizona?

14 A The district office was open in August of 1971. We
15 started with about three people and we have presently about
16 80 people on staff.

17 Q Why do you believe that EEOC is not as well known
18 throughout the state as it should be?

19 A Once in a while we do hear from people out in some
20 locations, parts of the state where they indicate that they
21 have now heard about EEOC but they hadn't in the past and it
22 was, the timing factor is such that it's too late for them
23 to file a charge, it's untimely.

24 Had they known at a prior time, then it would have been
25 timely because of an accepted charge and determine whether

1 there was a violation of the law or not.

2 Q You seem to infer that the budget is perhaps a little
3 bit better now than it used to be. And for that reason you
4 might be able to get better known throughout the state, is
5 that --

6 A Yes, primarily we don't have a budget portion that
7 allows us to publicize and to do work, informational-type
8 work, public relations-type work. But we've handled, possibly
9 we've just been more efficient than we have in the past and
10 now have handled the work load in such a way that it gives us
11 a little breather in which we can step back from our work load
12 and allow other people to know that we are in existence and
13 provide that type of help that they may need.

14 Q I'm trying to think of a way that we, as an advisory
15 committee, can comply with your recommendation that we help
16 EEOC become better known throughout the state, and at this
17 point I don't know just exactly how we can do that. Do you
18 have any idea?

19 A I'm not certain at this point but I would be -- I
20 would be pleased to do is provide a package, maybe, for each
21 committee member to review and maybe this is the type of
22 package that might go out to certain parts of the state,
23 maybe it would help us identify key individuals throughout
24 the state. Who can use these types of packages, informational
25 packages.

1 THE CHAIR: I would suspect our primary concern would
2 be whether or not, by policy or law, you were hindered in the
3 process of advertising or letting citizens know that you
4 exist. Under the group of equal protection under the law.

5 A We have a provision in the statute that prevents us
6 from making information, the names of charging parties and
7 the names of employers from whom charges have been filed
8 against.

9 Q (By the Chair) I would suspect the process of letting
10 a person know that you exist, if you, by law or policy, were
11 hindered in that process?

12 A No, we aren't, it's only been a matter of having
13 enough staff available and -- in some of the problems it's
14 getting out in different parts of the state, travel,
15 restricted travel budgets, but the budget is being set aside
16 specifically for outreach purposes so this will help us get
17 out into areas that we hadn't been able to before.

18 Q Are there specific civil rights issues that you can
19 identify that may be the effects of your inability to do
20 anything that legally you can do? You've identified the
21 process that you followed. Case loads, etcetera. Inherent
22 in the process are their civil rights problems that you've
23 been able to identify?

24 A Not specifically, the thing that does concern us in
25 reviewing even at this point the preliminary analysis is the

1 fact that the relatively low number of national origin charges,
2 Mexican-American charges, in the past we've had a problem of
3 getting information out, for instance in Spanish, of putting
4 it together, now we're starting to get some brochures and
5 information in Spanish, but I think that for the population,
6 Hispanic population of this state, we would suspect it to be
7 a higher rate or a higher number of charges coming in.

8 So, I think we have to concentrate in that area.
9 Otherwise it's just a matter of communications, of informa-
10 tion, providing the information out to different parts of
11 the state.

12 THE CHAIR: Any other questions?

13 That's all I have. Thank you, Mr. Valenzuela.

14 Is Heather Sigworth?

15 Or Mary Rose Wilcox?

16 MR. PENA: Mr. Chairman, I would recommend that we
17 might just wait a few minutes and see if Heather will show up.

18 THE CHAIR: Fine. If that's in order, we'll do that.
19 We may as well take a brief break then.

20
21 (Short recess)

22
23 THE CHAIR: The meeting will now come to order and will
24 you please state your name and the organization for the record?

25

1 SUZANNE RABE

2 A (By Ms. Rabe) My name is Suzanne Rabe and I work at
3 Southern Arizona Legal Aid in Tucson.

4 Q (By the Chair) And what is your position with the
5 organization?

6 A I'm a staff attorney.

7 Q Staff attorney.

8 Do you have a prepared statement, Ms. Rabe?

9 A No, I don't.

10 Q Okay. Will you call to our attention, then, the kinds
11 of problems that we've requested from you?

12 A I will. As I said, I work at Southern Arizona Legal
13 Aid and I was asked here to address the problem of Central
14 American refugees here in the United States.

15 I pretty much just know about the problems of Central
16 American refugees in southern Arizona so I'll deal with that
17 issue because I think that they're a little different than
18 the problems that are experienced by Central American refugees
19 in other parts of the country for the reasons that I'll talk
20 about in a few minutes. The way I got into this was starting
21 in August of 1981, I was asked by the director of my legal
22 aid program to take over the representation of a number of
23 Salvadorans that were presently being represented by another
24 attorney in our office. That attorney left to go to another
25 job and I knew immigration law and so I was just asked to

1 represent the Salvadorans.

2 That representation pretty soon snowballed until I was
3 spending from 50 to 90% of my work time either representing
4 specific individual Salvadorans or working on Central American
5 issues generally.

6 In the past 16 months, I estimate that I've interviewed
7 hundreds of Salvadorans and other Central Americans, I'm
8 generally going to be speaking about Salvadorans because in
9 my experience I have represented the great majority of the
10 people I represented have been Salvadorans.

11 However, there are a few Guatemalans that I have repre-
12 sented and I understand that they're coming up in increasing
13 numbers as the violence in Guatemala increases in the recent
14 years.

15 I also have represented a few Nicaraguans and people
16 from other countries in Central America but today I'm going
17 to address the problems of Salvadorans because that's the
18 major problems that I see in southern Arizona right now among
19 the Central Americans.

20 I've interviewed and I've represented hundreds of
21 Salvadorans, I've also interviewed scores of experts on the
22 subject of conditions in El Salvador that are causing these
23 people to flee to the United States.

24 I've also submitted to the immigration service thousands
25 if not hundreds of thousands of pages of documentation, both

1 in expert affidavits and in newspaper articles and scholarly
2 articles and different treatises on the conditions in El
3 Salvador that are causing people to travel here to the United
4 States.

5 In short, I've spent the better part of my working
6 time in the last 16 months representing Salvadorans and
7 exploring these issues.

8 I wish I could say that my experience in this area had
9 been positive and rewarding, I guess it's personally been
10 positive, because I feel that I'm doing humanitarian work.
11 However, it's been, at the best, frustrating and at the worst,
12 tragic. The conditions that I've seen and the violations of
13 civil rights that I've personally experienced among the people
14 that I've represented. I only have a few minutes here although
15 I guess I have a few minutes more than we planned upon since
16 some people haven't showed, so I'm just going to briefly
17 outline some of the problems that I've seen and try to explain
18 to you why I see these as civil rights violations in southern
19 Arizona. It's impossible to understand the depth and the
20 extent of the civil rights violations of the Salvadoran people
21 until you understand what happens to them when they're
22 returned to El Salvador and why they flee here, so I'll just
23 spend a minute or two explaining what these people have told
24 me and what the experts have told me about what's going on in
25 El Salvador and what happens to them when they're returned

1 there, if that occurs. .

2 I assume it's undisputed that the violence in El
3 Salvador has increased and been widespread since the outbreak
4 of civil war in 1980. More recently, there's been increasing
5 amount of violence in Guatemala as well, it's not only spread
6 from El Salvador but they have their own reasons, indigenous
7 reasons, there for the violence that's increasing in Guate-
8 mala.

9 I have never had a single Salvadoran not tell me that
10 a close relative, friend or neighbor had not been recently
11 murdered. In other words, every single person that I have
12 interviewed has related to me a specific incident where a
13 neighbor, a friend or a relative had been recently murdered.

14 They also tell me of ten's and 20's of people that they
15 know that have disappeared or been murdered, they tell me
16 about torture, they tell me stories that not only touch the
17 population as a whole but that touch them individually. Many
18 of them are fleeing specific violence against them, their
19 families, the political group they're a member of or the social
20 group they're a member of, others are just fleeing the in-
21 discriminate violence that occurs in El Salvador.

22 Right now one-fifth of the Salvadoran population is
23 displaced, right now, that means one-fifth are not living in
24 their homes but are living in refugee camps or in country
25 other than El Salvador. El Salvador is smaller than Pima

1 County. I think it's hard to imagine just how small this
2 country is, it's much smaller than Pima County, its population
3 is a little over eight million.

4 One-fifth of those people are displaced. Many are
5 displaced within El Salvador and a good deal more are dis-
6 placed in Honduras and Guatemala in refugee camps, these are
7 basically the nice word for them, is refugee camps. They're
8 tent cities with no running water, no doctors, no nurses,
9 no education, disease and malnutrition and starvation rampant
10 throughout them with hundreds upon thousands of people
11 living in these tent cities.

12 Those who are able to leave these refugee camps some-
13 times make it up into Mexico. In Mexico they sometimes have
14 permits to get as far as Mexico City. But as soon as they
15 get to Mexico City they become what is commonly termed illegal
16 aliens, both in Mexico and here.

17 I guess I prefer to call them undocumented people but
18 they're considered illegal by Mexico. Mexico is not a
19 signator to the United Nations Treaty that we are a signator
20 to, requiring us to give asylum to people that are fleeing
21 violence in their country and I'll give you the specific
22 language of that statute in a minute.

23 So, Mexico treats these people quite harshly, they
24 catch them, and they have different points along the border
25 where they, and along the highway up into the United States,

1 where they catch them, they wait until they have a busload
2 through and then they just haul them back to the Guatemala
3 border and dump them on the other side of the border.

4 In the United States we at least, I speak kindly of
5 the United States, we at least fly them back to San Salvador,
6 which is the country of their origin and a place they're
7 familiar with.

8 I can tell you that the majority of people that I have
9 spoken with if not all would much rather be placed back in
10 the country of origin than placed back in Guatemala in the
11 midst of the violence and the uncertainty and the foreign
12 atmosphere that is going on there, of which they're not
13 familiar.

14 If they make it up to the border of the United States,
15 they make it up various ways, some of them take three months
16 to get up through Mexico, eating garbage on the way and
17 starving and sometimes being returned two and three times and
18 eventually making it through, some people are able to hire
19 coyotes or smugglers that will take them up in ten days.
20 The most treacherous part of the journey is a spot in Mexico
21 where they have to get past a checkpoint and then the American
22 border.

23 We've all heard stories about the 1980, July, 1980
24 desert ordeal where scores of people died in, outside of
25 Lukeville near Ajo. In the Organ Pipe National Monument, all

1 of them Salvadorans.

2 The most recent incident in Texas, but these are only
3 the publicized incidents. The people in Ajo will tell you
4 that skeletons are found all the time of people that have
5 crossed that desert, the Organ Pipe National Monument and
6 have not survived the trip.

7 Numerous people disappear along there all the time.
8 We can only assume that they're not Mexicans because if
9 they're Mexicans, they generally cross in Douglas, near
10 Douglas or near Nogales through the fence, an easy way to
11 cross. And they blend in immediately.

12 However, Salvadorans look a little different, speak a
13 little different and have, will have very strong accents.
14 And have different appearances and different things they're
15 carrying and different characteristics that the border
16 patrol agents are, really know how to catch.

17 And as a result, they are afraid to slip through the
18 fence in Nogales and Douglas. Because they know they'll
19 be caught immediately upon getting through the fence.
20 That's why they try the treacherous border areas that they
21 try and there's a lot of death and sadness that occurs on
22 their trips there.

23 When they get into the United States, approximately
24 one-fifth of them are caught. That figure I got was from the
25 immigration service.

1 I don't know how anyone can imagine or at all predict,
2 how many Salvadorans are now present in the United States.
3 But just through various census figures and various methods
4 of documentation the immigration service now is suspecting
5 that they're detecting as they cross the border, approxi-
6 mately 20% of the Salvadorans that cross in. Some of the
7 rest are caught a year or two later, as you know, a raid on
8 the workplace or when they're picked up for a traffic viola-
9 tion or sometimes through applying for food stamps or welfare
10 benefits they're caught.

11 However, most of them, if they're caught, are caught
12 when they enter the country. For some reason at least the
13 immigration service thinks that the Salvadoran population is
14 a population that's able to burrow themselves in someplace
15 in the United States and it's very hard to catch them. I
16 don't know why they think that because I have many clients
17 that are caught by them all the time when they were not
18 entering, but the immigration service seems to think that,
19 more than the Mexicans, the Salvadorans are harder to catch
20 once they do cross the border.

21 After they enter the United States, they become subject
22 to United States Law. And United States Law, by treaty and
23 by statute says, and I'll give you the exact language, that
24 if a person's life or freedom would be threatened on account
25 of his race, religion, nationality, membership in a particular

1 social group or political opinion, then we have to grant them
2 asylum in this country.

3 The language that we look at generally in representing
4 Salvadorans is that all these people's life or freedom is
5 threatened so that's not the issue, the question is why is
6 their life or freedom threatened. And generally it's because
7 of their religion, membership in a particular social group
8 or their political opinion, that the lawyers who represent
9 Salvadorans look to that language in trying to represent
10 their clients.

11 When the Salvadorans are caught, let me explain to you
12 the problems that I see that keep them from being granted
13 asylum in the United States.

14 These are the civil rights violations I'm speaking of.
15 The first one is the problem of voluntary return. That's a
16 nice word for being sent back to El Salvador against your will.
17 The immigration service has, by regulation, the permission
18 and the authority to voluntarily return people to their
19 country of origin whether it be Africa, someplace in Africa
20 or someplace in Mexico or someplace in Latin America, they
21 can, in certain instances, voluntarily return these people
22 without any deportation hearing.

23 When I'm representing people from Mexico it's often
24 the choice that you want to pick for someone to be voluntarily
25 returned. Because their only option is other than voluntary

1 return is deportation and if you're deported it's pretty bad
2 on your immigration record and hard for you to ever immigrate
3 again. It's also a felony to reenter after deportation, under
4 federal law. So, sometimes in cases of Mexicans or even
5 Canadians, in very limited circumstances, a lawyer will
6 recommend to the person that they accept the immigration
7 service's offer of voluntary return. However, suffice to
8 say I have only met one person in my 16 months of repre-
9 senting Central Americans who wanted to voluntarily return to
10 El Salvador. This person's wife had all of a sudden become
11 very ill and there was no one to take care of her children
12 and he had made a phone call home and felt that it was necessary
13 for him to voluntarily leave and we arranged that very quick
14 with the immigration service.

15 Despite the fact that these people come up through
16 Mexico with this treacherous journey spending every cent of
17 money they have to get into the country, the immigration
18 service voluntarily returns over 50% of the people that they
19 catch.

20 Last year, in 1981, they returned 10,500 Salvadorans
21 to their country out of 16,000 apprehended. I have inter-
22 viewed a number of the people after they have come up the
23 second and third time from El Salvador and trying to flee
24 the conditions in their country. I think it's a fair state-
25 ment that not one of the people I have interviewed has ever

1 known that they have been voluntarily returned. They thought
2 that they were being forcibly returned to El Salvador, they
3 were never interpreted what they were signing when they
4 signed a voluntary return order, they are given four or five
5 sheets of paper to sign, one of which gives their name,
6 another of which does something else, another which requests
7 voluntary return. And they said sign these three papers.

8 If the person somehow gets someone to translate it
9 for him or if the border patrol agent actually tells them that
10 it's a voluntary return paper, they are then told time and
11 time again that there is no way that they can avoid return to
12 El Salvador; therefore they might as well voluntarily return
13 otherwise they're going to be held in a detention camp for
14 ten months, or 12 months in terrible conditions which they
15 are usually presently experiencing at the time of this
16 coercion or trickery.

17 And then the person voluntarily, if you can call it
18 that, signs the voluntary return paper.

19 However, I think it's fair to say that most of them
20 are never told they're signing a voluntary return paper.

21 I should, in order to be fair, say that this doesn't
22 occur as much in Arizona as it does in California and
23 Texas, in my experience. In Arizona the border patrol picks
24 up the people and soon ships them over to either El Centro,
25 California, or El Paso. And it's done so quickly that the

1 decision is made in El Centro or El Paso to get these people
2 to sign the voluntary return forms so I can't exactly criti-
3 cize the border patrol here in Arizona for having voluntary
4 return forms signed.

5 It has happened in a few cases and has happened in a
6 few where the people did not know what they had signed, but
7 I can't say that it's widespread in southern Arizona. It
8 generally happens when they get to the detention camps. Which
9 are not in Arizona.

10 The Catholic Archdiocese in San Salvador estimates
11 that five to 10% of those that are returned from the United
12 States to San Salvador are executed immediately upon return.
13 The road from San Salvador to the airport is called the road
14 of death. I understand it's from the experts that I've
15 interviewed, and the church people that work in this area,
16 that it is littered with skeletons and with bodies all the
17 time. The people who are returned from the United States by
18 airplane, it used to be a Western Airlines plane but now
19 Western Airlines has refused to carry the people after they
20 had a stockholders meeting and some of the church members who
21 were working with Salvadorans managed to buy some stock in
22 Western Airlines and raised a little bit of heck, and now
23 Western Airlines is refusing to do it.

24 And United States Government is having to use various
25 means to transport these people back to San Salvador.

1 The El Salvadoran Government is given a list of the
2 people that are getting off the plane, the people are inter-
3 viewed before they leave the country by the El Salvadoran
4 Counsel in California or in Texas, information is gathered,
5 the government knows every person who gets off the plane,
6 and then these people get off and they have absolutely no way
7 of -- no money to contact anyone, to make a telephone call,
8 to get a ride into the city, everything has been taken away,
9 from them or any have lost it to coyotes or in various means.

10 Some I assume are executed or killed because they are
11 considered particular threats to certain people in El Sal-
12 vador. Other people it's only because the information that
13 I receive from the refugees themselves and from the experts
14 says that anyone who flees the country is considered an
15 enemy of the government of El Salvador. They're considered
16 to not be loyal to that government. If they flee El Salvador.

17 This may be through because everyone I've interviewed
18 has told me that they are fleeing the government of El
19 Salvador and not the guerillas. All, say, but two, I did
20 interview two young men about three months ago that did
21 tell me that they were fleeing the guerillas, these were
22 capresinos (Phonetic) illiterate, capresinos who said the
23 guerillas stole their food and stole their crops and if they
24 didn't give the guerillas their crops then they were going
25 to be killed by the guerillas and therefore they fled up to

1 the United States.

2 Except for these two people, every single other person
3 has told me that they are fleeing the government of El Sal-
4 vador or the right wing death squad that they saw are sanc-
5 tioned by the government of El Salvador. If you flee the
6 country you are assumed to be an enemy of the government.

7 You're also assumed to be an enemy of the government
8 if you're a leader in any way. If you're a leader in the
9 Catholic Church, if you're a leader in your labor organization,
10 your youth organization, or if you're a young person.

11 Young people are considered to be enemies of the
12 government primarily because the young people in El Salvador
13 oppose the government of El Salvador and anyone who is not a
14 member of the armed forces and is a young male is considered
15 to be an enemy.

16 Therefore, these people, without any, even knowing
17 their names or knowing much about them, are killed, either
18 by the government or by what are known as the right wing
19 death squadrons of death in El Salvador. That's the first
20 problem. The problem of voluntary return.

21 If you can get over that problem of having your client
22 not voluntarily return to El Salvador, the second problem is
23 a major one. It's a problem of bonds. The immigration
24 service is authorized to put a bond on any alien while they're
25 awaiting a hearing in order to assure that the alien shows up

1 for the hearing. They are not allowed to put a bond as a
2 penalty they're only allowed to put enough of a bond to make
3 sure that the person shows up.

4 The immigration service places bonds which, in my
5 experience, range from \$2,500.00 to \$10,000.00 on each one of
6 these aliens. I have never seen a bond for less than \$2,500.00
7 that was originally placed by the immigration service.

8 I have often seen bonds as high as \$10,000.00. Even
9 when church organizations come in, community groups, leaders
10 of the community, politicians and say I will take responsi-
11 bility for this person, this person can live in my home, I
12 will give this person a job, I will take care of this person
13 and they will show for their hearing and I personally will
14 take responsibility for this person, the immigration service
15 refuses to lower the bonds low enough so these people can
16 post them and get out.

17 They insist on the monetary posting of bonds from, like
18 I said, 2,500 to \$10,000.00 depending on the alien. You
19 can't have a bond determination hearing which seems to be
20 what I do for a living these days, which will lower the bond
21 in front of a -- you can go in front of the immigration judge
22 and then you can appeal to Washington, D.C., to the Board of
23 Immigration Appeals, however you're always dealing with the
24 immigration service and the bonds are rarely lowered lower
25 than \$2,500.00.

1 You then are forced to go to bonding companies which
2 take a fee and require collateral, which none of these aliens
3 have, and as a result, numerous aliens end up in the El Centro
4 detention camp or El Paso detention camp for years just
5 because their bond can not be posted.

6 I have to give some credit here to the churches because
7 the churches have not only, specially in Tucson, the Tucson
8 Ecumenical Council has not only raised a tremendous amount
9 of money to post bonds but has also put up their own churches
10 and their own houses as collateral for these bonds.

11 I was at a seminar for lawyers who do asylum work in
12 Santa Fe last year and someone found out I was from Tucson and
13 asked me what is the Tucson Ecumenical Council, they have
14 bonded out every single person that I represent, and turns
15 out they've bonded out people that are all over the country.
16 So it's not as though there aren't people out there who are
17 trying to bond these people out but there's a limited amount
18 of money and sometimes it takes months before the money can
19 be raised to bond someone out.

20 The third problem that I see after the voluntary return
21 and the problem of bonds, is the problem of access to the
22 Salvadorans and the problem of the Salvadorans' access to the
23 outside.

24 In Tucson there is no immigration detention facility.
25 They don't have a place to keep aliens that they're holding

1 before they take them to the detention facility in California.
2 And as a result, they're put all over town. They're put in,
3 the city jails, Tucson City Jail, I mean South Tucson City
4 Jail, Pima County Jail used to take them but now, after over-
5 crowding lawsuit was filed, they don't take them any longer,
6 they're put in the MCC, which is a federal detention center,
7 they're also put in the Salvation Army, they're put in some-
8 thing called the House of Samuel, which is some sort of a
9 gospel mission of some sort, and various and sundry other
10 places.

11 It may sound odd but I'm always happy to hear that a
12 client has been put in MCC, the federal detention center,
13 because even though it's quite a distance from my office,
14 about 15 miles, and even though it's a secure facility, like
15 a prison, at least they have phones there.

16 At the Salvation Army, where the women and children
17 are, in my experience, always held, the Salvation Army does
18 not allow either phone calls in or phone calls out at all
19 during the time that the person is held there, which can be
20 up to a week before they're taken over to El Centro.

21 The churches have taken this up with the Salvation
22 Army, the lawyers have taken this up with the immigration
23 service, and finally a lawsuit was filed regarding this
24 deprivation of telephone calls to these people. There is a
25 court order out which requires them to give telephone calls

1 to these people but it's violated continually.

2 I was told that the people at Salvation Army are going
3 to be transported over once a day to the border patrol
4 headquarters where they can make a phone call so they can make
5 a phone call once a day or several phone calls there once a
6 day, that happened for three weeks and it hasn't happened
7 since, which was about six months ago.

8 So, they're presently, in my experience at least, held
9 in the Salvation Army totally incommunicado. You can't get
10 into the Salvation Army to visit these people unless you have
11 the permission of the border patrol, the border patrol won't
12 give you permission unless you file something called a G28.
13 A G28 can't be filed unless you have an attorney's signature
14 on it and can only be filed during normal working hours.

15 However, these people, at 6:00 o'clock in the morning,
16 following their arrest the night before, are often flown out
17 to El Centro, to California, well, to Los Angeles then to
18 El Centro or bused to El Centro, California, which is a two-
19 hour drive from San Diego and a three-hour drive from Los
20 Angeles where the nearest lawyers are.

21 So, one of the major problems is just getting access
22 to these clients.

23 I receive phone calls at 3:00 o'clock in the morning
24 and 4:00 o'clock in the morning and on Saturday and Sunday
25 afternoons, telling me that people have been arrested. I

1 receive these phone calls primarily from family members in
2 Los Angeles, it seems like every Salvadoran I represent has
3 a huge family in Los Angeles, and they tell me that they have
4 gotten word that one of their family members has been arrested
5 by the border patrol.

6 I then proceed to find this person in Tucson and to
7 get some access to them to make sure that they haven't signed
8 a voluntary return form unless they want to, to explain to
9 them their right to apply for political asylum and to try to
10 get the bond lowered and bond posted so we can do a political
11 asylum application for these people.

12 It is the most frustrating aspect of my job to try to
13 find these people and to try to get in to see them. My
14 latest experience was with a young 15-year old boy which was
15 being held -- who was being held in the Juvenile Detention
16 Center in Pima County. I received a phone call from a clergy-
17 man who had given a service at the Juvenile Detention Center
18 on Sunday and said that he had met a Salvadoran there who was
19 15 years old, he said he was four-foot eight tall and he was
20 scared to death. And he wanted to know if I could help him
21 and I said, sure, I'll go out and see him.

22 So, I went out to the Juvenile Detention Center and
23 they refused me permission to enter. They said that I had
24 to get permission from the U.S. Marshall to see this person.
25 The United States Marshall was holding this person in custody

1 because he was a witness against some smugglers that they
2 were holding from El Salvador. He was not being held in
3 border patrol custody. So I called the U.S. Marshall and the
4 U.S. Marshall told me that I would need a court order if I
5 wanted to go in and see this person.

6 Meanwhile, it was 5:00 o'clock on a Thursday night so
7 I went home, after placing a call to the U.S. Marshall in
8 Phoenix, this person's boss, the U.S. Marshall in Phoenix
9 called me back and at home that night about 8:00 o'clock and
10 said that although I had -- I was correct that as a lawyer I
11 should have access to this person, if I'd been asked to
12 represent him that he didn't feel that he could go over the
13 head of the U.S. Marshall in Tucson and therefore he didn't
14 feel that he wasn't going to be able to help me, although he
15 sympathized with me.

16 The next morning I went into federal court in front
17 of a U.S. Magistrate and asked for permission to see this
18 person and the U.S. Magistrate says that this person was going
19 to be attending videotaped decision and the United States
20 Magistrate was too busy to let me have access to this person.

21 Finally, approximately three or four days later, I
22 got in front of a federal district court judge and the federal
23 district court judge granted an order for me to be allowed
24 to see this person.

25 By the time that order came through the person had

1 already been transferred out of Arizona and there was no way
2 I could see him.

3 There is a happy ending to the story and that's that
4 I got in anyway. And I'm not quite sure how I did. I called
5 up the Juvenile Detention Center and I said you wouldn't let
6 me in last night without the United States Marshall's permis-
7 sion, can I get in tonight and they said well, maybe. Come
8 on down. And I think they felt very sorry for the young boy.
9 And just without authority they let me in to see him and I
10 interviewed him and eventually he was bonded out.

11 I can tell you some stories about young boys and young
12 men and young women and children who were not bonded out and
13 were returned to El Salvador without ever getting to see me
14 because of the problems in getting access to these people.

15 The fourth problem that I see in addition to voluntary
16 return, bonds and access to these people, is the separation
17 of families. Although the immigration service tries to keep
18 families together when they can, it's often too much of a
19 financial burden on the immigration service to do this be-
20 cause they don't have very many facilities which hold men,
21 women and children. So, more often than not, the men are
22 separated from the women and children. Sometimes only by
23 facilities, sometimes by cities, sometimes by state.

24 I often have families where the men are being held in
25 El Paso and the women are being held in Los Angeles and the

1 children are being held in Pasadena. I've never had them
2 take away a very, very young child from their mother but I
3 have had them take away older children, minors from their
4 families and separate them.

5 This is a most frustrating experience because the
6 family is having to make a joint decision on what to do, on
7 how to bond them out, what to do with the money, on whether
8 to return to El Salvador, as they're being encouraged to do
9 so by the immigration service, and the family can't get
10 together to make this decision at all.

11 The final problems that I see is if you get them bonded
12 out, and you manage to get through all these hurdles and
13 access and things that I've spoken of, there's a problem of
14 work permission. There's a statute that says that -- not a
15 statute, an operations instruction of the immigration service,
16 that says that a district director may grant work authoriza-
17 tion to asylum applicants, pending the determination of their
18 asylum application.

19 Asylum applications, I don't really know how long they
20 take because I've had some pending for two and three years and
21 they've never been decided yet. By the immigration service.
22 Even preliminarily, without an appeal, they have never, I've
23 never had a decision on the asylum application.

24 The immigration service, the district director, at
25 least in this area, seems to be very strict in applying the

1 determination of nonfrivolous asylum application and generally
2 denies work authorization to these people. It is not a crime,
3 for these people to work, it's not more of a crime for them
4 to work than it is for them to be here so they can work, but
5 it's very difficult for them to get work without a social
6 security number and they can't get a social security number
7 unless they have work authorization.

8 As a result, they are always held in the marginal, work
9 in the migratory work force, in the poorest, lowest paying
10 jobs because they're unable to deal with employers who are
11 used to employees with social security numbers.

12 So, work authorization is a major problem.

13 One time I had a hearing for work authorization in
14 front of one of the officials of the immigration service in
15 Tucson, and he asked where my client worked. And I said that
16 she worked at Santa Cruz Apparel Factory and he said I can't
17 give it to her because there's all these people who work at
18 Santa Cruz and they all want work authorization, if I give
19 it to her and I said that's not the standard and you know it
20 and he said, well, if you make her explain to them that
21 she's a desert survivor, this is one of the survivors of the
22 July, 1980, desert ordeal, I gave it to her for that reason,
23 then I'll give it to her.

24 And he granted her work authorization. She's one of
25 the three or four that he has granted since I've been doing

1 this work.

2 United Nations High Commissioner for Refugees said in
3 May, 1981, that any person who is left El Salvador since
4 the outbreak of civil war in 1980, is prima facie a refugee.
5 Says that they have investigated this, they sent investigators
6 both to the southwestern United States and to El Salvador
7 itself and they have determined that they -- they meet the
8 definition in the treaty and in the statute of refugee for
9 purposes of obtaining asylum in the United States.

10 It's my position as lawyer for these people and of
11 course the position of the churches that work with them,
12 that since they are prima facie refugees under this treaty
13 that we are a signator to, that they should be, immediately
14 upon apprehension by the border patrol, informed of their
15 right to seek asylum and they should be treated with some
16 dignity and with some belief as to their claims of asylum.

17 On the contrary, they are treated as being illegally
18 here in the country, they are never or rarely informed of
19 their right to seek asylum and every obstacle is put in their
20 way for them to seek asylum in this country. One of the
21 highest officials of the immigration service here in Arizona
22 told me about one of my clients, as I filed an asylum appli-
23 cation in his office. He says I have no doubt that they'll
24 make swiss cheese out of this woman the minute that she's
25 returned to El Salvador, the question is whether she fits into

1 the definition of the statute, Suzanne.

2 Of course, it's my opinion that if they'll make swiss
3 cheese out of someone, then they fit within the definition
4 of the statute of asylum.

5 The final thing I'd like to speak about is the hearings
6 that are held when you finally do get a hearing on an asylum
7 application which is very, very rare. The first thing that
8 happens is the deportation hearing is called, and you inform
9 the immigration judge that you would like to seek asylum on
10 behalf of your client. At that point they give you ten or
11 20 or 30 days to submit an asylum application.

12 Asylum applications are very long, complicated matters
13 with lots of documentation attached to them, you submit it
14 to the immigration service and they immediately send it to
15 the state department, to the state department bureau of
16 humanitarian affairs. And the state department then is to
17 make a recommendation on whether this asylum application
18 should be granted.

19 It is then sent back to the immigration service for
20 a hearing after this recommendation is made. In the vast
21 majority of the cases the state department recommends against
22 granting asylum in a form letter that does not address the
23 specifics of any of these individuals' cases. However, it's
24 been my experience that the state department doesn't even make
25 a recommendation and these asylum applications sit for years

1 and years and years with nothing happens to them.

2 I must admit that that's not the worst thing that could
3 happen. Because as long as these people are here in the
4 United States and as long as they're bonded out and they can
5 make their renewal of their bond every year as it comes up,
6 then they're not being returned to El Salvador where they
7 don't want to go, so I guess I shouldn't complain about the
8 state department not ever making a recommendation on asylum
9 application.

10 When the state department does return the asylum appli-
11 cation with a recommendation to the immigration judge, a
12 second hearing is held. And that's a full adversary hearing
13 where you're allowed to be represented by counsel, have
14 expert witnesses, and provide documentation of your asylum
15 claim. Those hearings are very frustrating hearings to go
16 through.

17 I recently had one where I showed up with a client
18 at the hearing. I had informed the trial attorney for the
19 immigration service that it was going to be a very long hear-
20 ing because I had several expert witnesses that were going
21 to testify on my client's behalf. I showed up with these
22 expert witnesses who had flown in from various parts of
23 the country at my client's expense to testify for him, he's
24 a janitor in Tucson, and he had paid the air fare of these
25 expert witnesses to fly in.

1 I showed up with motions and documents and things that
2 I was going to file with the court, I also showed up with
3 about five or six members of the press with me, I didn't know
4 that was going to happen but they seemed to be very interested
5 in these cases when they come up.

6 And I showed up at the hearing and the judge refused
7 to let anyone in the door. He said Suzanne you come in, and
8 we'll talk about this case. And I said, Your Honor, I feel
9 very reluctant to come in and speak with you about this case
10 without my client present and he said this is a pretrial
11 conference, your client doesn't have any right to be present
12 and I said, well, pretrial conferences usually occur weeks
13 before the trial, Your Honor, they've never had one before
14 the morning of the trial after the time for the trial being
15 set. And he accused me of being unprofessional and shut the
16 door and told me to come in and speak with him about the
17 case.

18 He then chastised me for having so much testimony and
19 so much documentation that I was going to present because he
20 said that hearing had only been scheduled for one hour. I
21 told him that the hearing would take at least two days and
22 that I had informed the attorney for the immigration service
23 of this prior to coming.

24 At this point he asked me what I had, what all the
25 motions were for and I said, well, I have this motion and

1 that motion and another motion, and he said you can't make
2 motions in immigration court.

3 Well, I've been doing immigration law for a while now
4 and I've probably made a 1,000 motions in my life, and I said,
5 well, Your Honor, I would appreciate it if we could go on
6 the record and you would say on the record that I'm not allowed
7 to make the motions, then that would be fine if you would
8 just say it on the record.

9 He says I'm not going to turn on the record. And
10 he appeared to be very upset at the press that was outside,
11 I think I can assume that that was what had upset him, was
12 the press showing up at this hearing.

13 And the long and the short of it was he never allowed
14 my client into the hearing, he never allowed the press into
15 the hearing and he never turned on the tape recorder which
16 is the record of hearing but in fact, he sent us away and said
17 that it would have to be held at another time.

18 This was months and months ago and has never been,
19 the hearing has never been called again, suffice to say that
20 my client lost a lot of money because the people that he had
21 paid to fly there for that hearing just flew back that very
22 same day.

23 Another thing that happens at these hearings is that
24 when we try to get in information about the social group of
25 a client, in other words, the statute says that if you're

1 facing, if you face fear of violence because of the social
2 group that you're a member of, you're entitled to asylum. So
3 we try to prove that this person is a member of the social
4 group of Catholic activists or social group of young males
5 or the social group of labor leaders. The immigration judges
6 turn their ear at this, they say we want to hear that your
7 specific client was targeted for extermination, we want a news-
8 paper article, we want affidavits, we want these things with
9 your specific client's name in them, we don't want to know
10 about their membership in a broad, social group. Even though
11 the statute authorizes that.

12 Of course, these people don't come up with notarized
13 affidavits and with newspaper articles and most of them
14 there's never been a newspaper article written about the
15 specific person, but in fact, they're a member of a group
16 that's targeted for extermination and that's why they're
17 fleeing up here.

18 In addition, the immigration service refuses to assure
19 confidentiality of the material that you give them. I have
20 a number of clients who have very strong claims for asylum
21 but are very reluctant to disclose the information to the
22 immigration service because their family and their coworkers
23 and they're members of the groups that they're members of, are
24 still in El Salvador and they're afraid that this information
25 will be given to the Salvadoran Government and will be used

1 against the people that still exist there.

2 The immigration service, in my experience, has refused
3 in every occasion to assure confidentiality of the asylum
4 application or any material presented in the hearing. Although
5 they will exclude the press when you ask them to. That is --
6 and I have asked them in the past to exclude the press in a
7 number of cases when my client asked me to.

8 That's all I really have to say except there are a
9 couple of things happening in Congress right now which trouble
10 me about the representation of Salvadorans and the civil
11 rights of Salvadorans and I'll just mention those briefly.

12 The first is that I work for Legal Aid and that
13 presently although it's hard to keep track of what Congress
14 is doing to Legal Aid, it seems to change every week, there's
15 a new bill introduced or a new one that passes committee but
16 as it appears now, on January 1, 1983, we're not going to be
17 able to represent undocumented aliens. That means that the
18 only attorney in southern Arizona who's doing this work full
19 time will no longer be able to do it.

20 There are other social groups and community agencies
21 who are representing Central Americans in Tucson, there have
22 been various attacks on them by the immigration service in
23 their certification proceedings, whether or not they can be
24 certified to represent these people, but it looks like there's
25 going to be a great need for legal representation of the

1 Salvadorans starting January 1st in southern Arizona.

2 The other is the Simpson-Malzoli (Phonetic) Bill, which
3 is the immigration bill pending before Congress and even more
4 difficult than keeping track of what's happening to Legal
5 Aid is trying to keep track of what's happening to the Simpson-
6 Malzoli Bill. That seems to change every day as opposed to
7 every week. And I hope that the information I'm giving you
8 is current.

9 There is a provision in the Simpson-Malzoli Bill, which
10 says, which changes the entire method of applying for asylum
11 in the United States. It says that within 14 days after an
12 OSC is issued and that means approximately within 14 days
13 after the arrest of the alien, the alien must file a notice
14 of the intent to seek asylum so you have 14 days to get to
15 the alien, to interview him, to let them know of the provi-
16 sion, and have them file this notice.

17 That's not the worst part. Then, within 35 days after
18 you file the notice of intent to seek asylum you have to
19 have your complete asylum application filed with the immigra-
20 tion service. Of course I've mentioned that the immigration
21 service and the immigration judges are requiring exact affi-
22 davits and newspaper articles and things with this person's
23 name on it, letters from people who knew them in their town
24 they came from and yet you only have 35 days to file the
25 asylum application.

1 At present it takes me at least 35 days just to make the con-
2 tacts with El Salvador and the letter there and contact the
3 numbers of the people that have known my clients, and then,
4 of course, it takes months before the material is ever sent
5 back to me.

6 That again is not the worst part of this bill. Finally,
7 you're not given an adversary hearing, you're given an
8 informal hearing which, in some ways might be good because
9 perhaps some of the Salvadorans could represent themselves
10 as opposed to being in need of legal representation at these
11 hearings. It's an informal hearing where you might be able
12 to present certain types of expert testimony, you just tell
13 your story in front of the hearing officer, and there is no
14 appeal at all from that decision, whereas presently there's
15 an appeal to the Board of Immigration Appeals in Washington,
16 and then to the Circuit Court of Appeals and then to the
17 Supreme Court. In asylum cases.

18 Most people doing asylum work, if not all people doing
19 asylum work here in the United States, feel that if that
20 bill is passed, that the people, the hope for those people
21 seeking asylum in the United States right now from Central
22 American will virtually be quashed.

23 Are there any questions?

24 THE CHAIR: Thank you, are there any questions, Mr.
25 Pena?

1 Q (By Mr. Pena) Just to clear something in my mind, an
2 undocumented alien, an illegal alien has no civil rights in
3 this country because of that; is that right?

4 A No, that's not right.

5 Q That's not right?

6 A No, that's not right.

7 Q He does have the same civil rights that --

8 A No, that's not right. He has different civil rights
9 than citizens or than aliens admitted for lawful, permanent
10 residence. One of the most controversial subjects that is in
11 front -- has been in front of the Supreme Court for the last
12 five or six years has been the rights of aliens and undocu-
13 mented. For instance, the Texas School Case was just decided
14 where we found that if they are residents that they do have
15 a right to go to school, they have that civil right to attend
16 school, yet there are various other rights which the Supreme
17 Court has denied them.

18 There is a case which I'm involved in which is a law-
19 suit we filed with the nationwide class, which means that it
20 covers all Salvadorans presently in the United States or who
21 may enter the United States in the pending, as this class
22 action pends, and it attacks the civil rights violations of
23 these people.

24 We have a court order out right now which allows them
25 to have access to attorneys, allows them to have telephone

1 calls and which limits some of this, the problems that I speak
2 about here with voluntary return, of the federal district
3 court judge that we are in front of, did agree with us that
4 these are civil rights violations of the aliens, so it's
5 kind of a, you never know until the Supreme Court speaks on
6 whether aliens do have that right or don't, it's a selective
7 decision.

8 Q Once one of these aliens is given asylum, then he has
9 more civil rights?

10 A It's a little confusing, there are two ways you can
11 seek asylum, one is by just walking in like the Soviet
12 ballerinas do, and just walking in and saying I want asylum
13 and that's before they ever arrest you or anything, and
14 that's decided by the district director of the immigration
15 service where you are.

16 In this case it would be in Phoenix if you're arrested
17 in Arizona.

18 The other way is to be caught, to have an order to
19 show cause issued and arrest order, and then you apply for
20 asylum in front of an immigration judge. If you are granted
21 asylum there are various provisions but generally if, in a
22 year, you still are entitled to asylum and in other words,
23 you're still fearful of returning to your country because
24 of violence there or the fear for your safety or life, then
25 you can apply for permanent residence to be a lawfully admitted

1 alien for permanent residence. In other words, get a green
2 card.

3 So, generally, people who are granted asylum assume
4 that they're going to get green cards and it happens routinely
5 in those cases but we've only had two Salvadorans that I know
6 of granted asylum in the last year here in the United States
7 whereas those people who come from communist countries are
8 granted asylum pretty much routinely by the immigration
9 service.

10 Those people who come from right wing dictatorships
11 like Haiti and El Salvador, things like that, it's much
12 more difficult to get asylum. We assume because our country
13 has diplomatic relationships with these countries.

14 Q (By the Chair) Is the statute governing that action
15 the same for both groups?

16 A Yes, it's --

17 Q It's unequal application or uneven?

18 A Well, I would assume that that's the case, yes. It's
19 a treaty that we're a signator to that's the supreme law
20 of the land, Congress can't even change the treaty, then
21 eventually, in 1980, Congress passed a statute mirroring
22 the language of the treaty which applies to anyone from any
23 country, from Canada, from Mexico, anyone seeking asylum in
24 the United States, if they can show that their life or free-
25 dom would be threatened on account of race, religion, the

1 different things I mentioned, membership in a social group,
2 then they are entitled to asylum in the United States.

3 But it seems like people who come from communist block
4 countries are granted it routinely and very simply, and people
5 who come from right wing dictatorships it's much more diffi-
6 cult.

7 In order to give the immigration service and the U.S.
8 Government some credit, I should also explain that we have
9 less people arriving from communist block countries than we
10 have arriving from Central America. I was told by the
11 officer in charge of Tucson Immigration Service that they're
12 picking up now 100, what they call other than Mexicans, OTM's,
13 every week in southern Arizona. The vast majority of these,
14 99% of these are Central Americans and 99% of those Central
15 Americans are Salvadorans.

16 Three or four years ago we weren't picking up any
17 Salvadorans in southern Arizona, so the U.S. Government is
18 faced with a huge amount of people coming in from Central
19 America right now whereas people coming in from the Soviet
20 Union and Rumania and various other countries it's a little
21 harder to get here, I guess.

22 Q (By Mr. Pena) One of the problems that you cited is
23 the voluntary departure form. Has Legal Aid tried to con-
24 fincé the immigration people that they ought to have one in
25 the native langauge?

1 A We have, not only have we tried to convince them but
2 we have a lawsuit filed on this very issue. I understand,
3 and it's only from rumor, that there are certain sections of
4 the country that do have them in Spanish. Yet Arizona is not
5 in Spanish. So we are working on that. None of the sheets
6 of paper that are given to the aliens are in Spanish except
7 for sometimes they will be given a list of community organi-
8 zations that they can contact. That is in Spanish.

9 For representation, I have tried unsuccessfully to
10 have Legal Aid added to that and they refused, it's Catholic
11 Social Services, one of them that's listed, and they don't
12 do any representation of asylum applicants, anybody in
13 hearings they don't represent and they're listed as one.
14 Monzo Area Council is listed as another which does a lot of
15 representation of asylums but Monzo, over the last year and
16 a half, has been primarily working out of El Centro and not
17 out of Tucson, so if someone's arrested in Tucson they're
18 given a form that is totally useless to them of who to call.

19 MR. PENA: That's all.

20 Q (By the Chair) I was looking at the specific civil
21 rights violations, first I have listed voluntary return in
22 that area, the problem of bonds, the problem of access to
23 clients and the separation of families, work authorizations.
24 Could you give us an example of a specific law or policy,
25 regulation, statute and so forth, that -- or a conceptual one,

1 that guarantees these rights to the entity that you're talking
2 about?

3 A Well --

4 Q I think you stated it and I may have missed it.

5 A Well, it depends on which one you're speaking of.

6 For work permission it's an operations instruction of the
7 immigration service, which is in their operating manual which
8 is made public, which says that they may grant it to non-
9 frivolous asylums. For the voluntary return, again it's
10 operations instructions of the immigration service, which
11 require them to explain the voluntary return to the alien.

12 In a number of these, bonds, it's by statute, by case
13 law, and by Constitution that you can not set a bond as a
14 punitive measure or to force someone to forego a right, the
15 only reason you can set a bond is to insure their appearance
16 at the hearing. And these bonds, in my opinion, are set
17 excessively high as punitive measures or to force them to
18 return to El Salvador, so that's by statute, case law and
19 Constitution.

20 The access problem is a bigger problem. The access
21 by way of, to their attorneys and to their families, generally
22 you basically look at the United State Constitution and due
23 process which entitles these aliens in a deportation hearing
24 to due process of law, and due process of law entails the
25 right to consult with an attorney of your choice, not paid

1 for. In other words, it's not a court-appointed attorney,
2 but an attorney of your choice, if your family can get one,
3 or if Legal Aid can represent you or something like that.
4 So, those are -- we believe that we have a statutory or
5 constitutional basis for every single one of those requests
6 and the federal judge in California has agreed with us but
7 it's difficult to monitor these when there are so many being
8 picked up at one time.

9 THE CHAIR: Okay, do you have any other questions?
10 Thank you so much.

11 A Thank you very much.

12 THE CHAIR: The next person to appear is Mr. Gene Blue,
13 who is the Executive Director of the Opportunities Industrial
14 Center.

15 Mr. Blue, will you state your name and organization
16 for the record?

17
18 GENE C. BLUE

19 A (By Mr. Blue) Yes, sir, my name is Gene C. Blue.
20 Organization: Phoenix Opportunities Industrialization Center.

21 Q (By the Chair) And what is your position with the
22 organization?

23 A I am the Executive Director and Chief Administrative
24 Officer.

25 Q Do you have a prepared statement or were you --

1 A Yes, sir, we do.

2 Initially, Mr. Chairman and Members of the Commission,
3 we express our appreciation for this opportunity to appear
4 before the Commission. And the preliminary conversation and
5 information that we have received, our comments are directed
6 toward that area of employment discrimination, equal employ-
7 ment opportunity being denied within the confines of our
8 operation which is a manpower training placement, counseling
9 operation.

10 We will be careful and attempt not to specifically
11 name companies that we are working with, and deal rather
12 in generalities. Our comments represent an attempt to iden-
13 tify some concerns and long run objectives for employment
14 discrimination policies and civil rights.

15 The enormous attention that's being paid to short
16 term disruptive effects of affirmative action programs at
17 the present time may have significant changes in the sub-disci-
18 pline, labor and industrial relations.

19 Is there a modification process such that employment
20 discrimination will be incorporated as a central component
21 of the core areas of personnel labor management and manpower
22 development of human resources or are the activities pre-
23 viously mentioned being put on a back burner?

24 When the National Labor Relations Act was passed in
25 1935 and the Fair Labor Standards Act in 1938, few individuals

1 could have forecast how these laws would shape behavior in
2 labor markets. Employment discrimination procedures are
3 slowly, very slowly, altering labor market procedures. The
4 pace of change is too slow for some individuals, and we cer-
5 tainly are among that category.

6 For others, however, that the intervention of govern-
7 ment in the labor market should be reduced. The employment
8 discrimination laws that now operate across the entire
9 American economy both public and private sector, evolved from
10 earlier regulations on racial discrimination by federal
11 contractors. Although Title VII of the Civil Rights Act of
12 1964 prescribed discrimination in employment on account of
13 race, color, sex, religion or national origin, the primary
14 concern initially was the economic status of Blacks.

15 The exceedingly high unemployment rates among Blacks
16 then, as today, in the word of John Kennedy, creates an
17 atmosphere of frustration, resentment and unrest.

18 By the early 1970's, the increased labor force partici-
19 ation of women and disenchantment with many of the great
20 society programs of the 1960's contributed to the major shift
21 from racial to sex discrimination issues. The Black-White
22 backlash moved into high gear at a time when the presence of
23 women as protected individuals may have provided the support
24 needed to maintain employment discrimination as a national
25 priority.

1 This basic shift in emphasis also occurred as the
2 economy experienced one mild recession stagnation, and the
3 severe downturn of 1974-1975. During the latter part of
4 the '60's, with the economy performing well, employers could
5 be induced to undertake aggressive outreach, recruitment
6 and hiring of Blacks. Individuals who had been previously
7 excluded could now be absorbed into the labor market. And
8 Black Americans accounted for a significant percentage of new
9 hires in many companies.

10 However, the economic climate of the 1970's and the
11 1980's has created new tensions in the work place as the
12 validity of seniority systems was challenged. Blacks were
13 and are disproportionately laid off when the work force re-
14 ductions were made in accordance with the last in and first
15 out principle.

16 Attempts to reconcile affirmative action objectives
17 and seniority procedures has split civil rights organizations
18 and labor unions and former allies appeared in court and do
19 appear in court as adversaries. The state of the economy,
20 we suggest, especially in its ability to generate enough jobs
21 for those seeking work, is a major determinant of how
22 effectively equal employment opportunity rules and regulations
23 will be implemented. And it is necessary that planning for
24 future antidiscrimination activities take into account
25 economic environmental factors.

1 It is highly unlikely, based on the information that
2 we have today, that the aggregate unemployment rate will be
3 reduced by 1983. Conversely, it may be increased. How will
4 this affect the hiring, training and promotion of minorities
5 and women? Will a sluggish economy mean an intense competi-
6 tion for jobs between experienced workers and newcomers into
7 the labor market or into nontraditional jobs?

8 We feel that an emphatic yes is the answer. All will
9 be affected. And individuals will utilize this employer's
10 market to prevent access to the job for ethnic minorities.

11 For the past dozen years employment discrimination
12 programs have been perceived as secondary and not essential
13 in collective bargaining, arbitration personnel and manpower
14 activities, all core elements of what might loosely be termed
15 labor and industrial relations. This may have been a mis-
16 judgment, a misperception, or by design. For as the courts
17 were interpreting Title VII or ruling on discrimination on
18 constitutional grounds, and as the EEOC developed guidelines
19 on testing validations, sex, national origin and religion,
20 as the labor department for the United States Government
21 attempted to develop an operation definition of affirmative
22 action, as the Congress expanded the scope of Title VII under
23 the Equal Employment Act of 1972, employment discrimination
24 became a central issue to labor market activity.

25 Poor immigration and better linkage of employment

1 discrimination and industrial relations can be achieved in
2 the long run, we sincerely believe.

3 The continued isolation of manpower, labor management,
4 personnel programs and policies from employment discrimina-
5 tion, will prolong the tensions and disruptions of changing
6 the rules of the game for labor market participation.

7 The manpower programs of the '60's emphasize training
8 and education as effective techniques to improve the supply
9 of disadvantaged workers. Many programs also provided work
10 experience for these workers.

11 After the passage of a comprehensive Employment and
12 Training Act, commonly referred to as CETA, state and local
13 manpower officials have set new manpower priorities. However,
14 the creation of large numbers of public service jobs as tech-
15 niques for helping to reduce unemployment, deal with urban
16 crisis, and welfare reforms, the employment discrimination
17 activities need to be better coordinated with these efforts.

18 The expected transition from public service to private
19 sector jobs has not occurred for many of the minorities who
20 participated in these programs. Traditionally, collective
21 bargaining contracts have emphasized the bread and butter
22 issues such as wages and fringe benefits and the duty to fair
23 representation was of least importance. Will they be more
24 accomodative to employment discrimination concerns in the
25 future?

1 In the private sector the personnel function or staff
2 activity is treated as peripheral to line function of selling,
3 manufacturing, production. Employment discrimination rules
4 and regulations initially were restricted to the private
5 sector. And personnel departments responded by assigning a
6 low level employee the responsibility of dealing with Black
7 workers.

8 Directors of personnel did not see how equal employ-
9 ment opportunity was related to the functions of their units
10 and frequently did not provide the guidance needed in many
11 corporations. What was required was a better device for inte-
12 grating these new problem workers into larger personnel sub-
13 systems. This lack of foresight was costly to many firms,
14 because the consent decrees, litigation and affirmative action
15 plans had to be overlaid on structures that were not the most
16 effective for the utilization of employees.

17 Perhaps some personnel directors downgraded equal
18 employment opportunity efforts because in the early days they
19 could not obtain programmed solutions to difficult problems.
20 Although personnel directors complained about the nuisance
21 of complying with employment discrimination laws, they no
22 longer ignore the fact that with the proliferation of self-
23 defined minority groups and the greater presence of women,
24 more of their workers are under the protective class umbrella.

25 The charges of reverse discrimination from workers not

1 so protected have upgraded the employment discrimination
2 concerns and increased protectional efforts applied to prob-
3 lems of development and management of human resources.

4 In spite of what might appear to be setbacks, currently,
5 in the implementation of affirmative action, the character-
6 istics of labor markets are changing. With more than half
7 of all workers in the civilian labor market included in the
8 protective classes, the labor market outcomes will reflect
9 this new emphasis.

10 Employment discrimination as a concept and remedial
11 programs as techniques to alleviate discriminatory conditions,
12 will not wither away. Is this currently an employer's
13 market? We believe certainly that it is. Are civil rights
14 and EEOC activities being relegated to a back seat? Maybe
15 not in all cases but certainly in some we believe the answer
16 to that is in the affirmative.

17 We can and we must make a difference. At Phoenix
18 OIC we are continually deluged by requests from the United
19 States Department of Labor which read, in part, that this
20 office is currently conducting an equal employment opportunity,
21 EEOC, compliance review and requesting from us information as
22 to whether or not this particular company mentioned in the
23 correspondence is working with us.

24 It is painful, and yet true, that of the last 35
25 letters received, of this ilk, we could reply in the affirmative

1 to only one, and all of these are Arizona companies primarily
2 based in Phoenix and Maricopa County. While some may say that
3 this is a result of the current administrative posture as a
4 result of an overreaction to discriminatory and EEOC acti-
5 vities, whatever the reason, we believe that affirmative
6 action, civil rights and EEOC activities still have a priority
7 and must retain a priority in our city, in our county, in our
8 state and in our country.

9 We will work and endeavor to maintain that equal
10 employment does not, does not wither way.

11 That concludes my opening statement, thank you very
12 much.

13 THE CHAIR: Do you have questions, Mr. Pena? Of the
14 presenter?

15 Q (By Mr. Pena): Are you able to resolve any of those
16 discrimination problems through EEOC, working together with
17 them?

18 A Through what? Through EEOC?

19 Q Yes.

20 A Yes, sir, we are. We have a very good relationship,
21 I might add, Senator, with the equal opportunity office as
22 well as with the EEOC offices of several of the companies,
23 commonly referred to as quad A, Arizona Affirmative Action
24 Association. and we work with them in an attempt to solve
25 the problem or situation rather than adding fuel to the fire.

1 We have been able to work with some companies, we're
2 working with two companies right now, this is a very timely
3 kind of hearing where they have -- well, the records indicate
4 that they are grossly underutilizing Blacks, Mexican-Americans,
5 they never even heard of Native Americans, because that's not
6 been cited, and women. We have met and the procedure that
7 we follow once we get one of these letters and send back our
8 response, then we get together, we try to schedule a meeting
9 on the premises of the company and the second followup meeting
10 at our facility. Where we go over with them what their par-
11 ticular concerns are or what they are saying is not available,
12 and a system in recruitment efforts and educational programs
13 to get individuals into those companies.

14 And we have been successful. We've been -- we haven't
15 been successful enough. I'm the first to say that because
16 certainly we aren't batting a 1,000, we're far from it, but
17 it is very painful as I mentioned when we get these, this
18 correspondence, only one out of 35 have we been able to re-
19 spond when we got and said yes this company is working with
20 us of their own volition, only one out of 35.

21 MR. PENA: Thank you, that's all.

22 Q (By the Chair) Can you give any specific operational
23 examples of where federal law or policy, etcetera, is in
24 respect to discrimination or denial of equal protection under
25 the law, is being violated?

1 A Without giving the name of the company --

2 Q Without the name of the company.

3 A Certainly we can -- companies who have federal con-
4 tracts of course are required to abide by federal law and that
5 takes in --

6 Q And essentially the federal law says what?

7 A Essentially, that there will not be any discriminatory
8 practices regarding employment as it pertains to race, sex,
9 religion, national origin, and individuals will be given
10 equal opportunity for the jobs.

11 Q Okay, does that require affirmative action on the part
12 of the company in developing the work force to have an inte-
13 grated work force?

14 A Yes, it does. Yes, it does. Definitely. And we
15 feel also, and working with EEOC and some of their represen-
16 tatives, that this also means when there is a federal con-
17 tract, that of their own volition the companies should, should
18 certainly canvass the community where they are operating to
19 see if they can acquire those individuals that they need to
20 bring their ethnic representation up to par across the board,
21 not just at the lower level or middle, but across the board
22 and if that can not be accomplished that they should seek
23 out those agencies, that is OIC, the Urban League, the other
24 agencies that work in the city and county, to assist them
25 in that endeavor.

1 Q And you have, back to my original question, you have
2 examples without naming the companies and so forth, who
3 actually do not follow that procedure?

4 A Yes, sir. And if I may --

5 Q And I take it in your testimony you have alluded to
6 processes followed in trying to relieve those injustices?

7 A Yes, we have.

8 Q And at this point you are not satisfied?

9 A Well, we think certainly as I mentioned, there has been
10 some success but we think there's going to be more. We think
11 we can do more, the same excuses, Doctor, that were used ten
12 years ago are being used now, we can't find anybody. And
13 that is nonsense to us.

14 And we think that there certainly needs to be more
15 aggressive action directly from the companies involved. These
16 companies have secured federal contracts, they are making a
17 good deal of profit, we are sure, from those contracts, and
18 yet they are reluctant to follow the antidiscriminatory
19 regulations that go with the contract.

20 And use, for the example, the idea that, well, we
21 tried, we asked how did you try? Have you utilized any of
22 the ethnic, in minority newspapers, have you used any of the
23 ethnic minority programs that are on television or radio?
24 They said, well, we use the general papers, that is in the
25 city. We said, well, we don't think that's enough. You've

1 got to go further than that, why haven't you used the minority,
2 ethnic minority vehicles that are available? We didn't know
3 about them. Well, we inform them.

4 Q Now, the entities whose responsibility it is to monitor
5 the law, the application of the law, are you pleased with
6 their action and activity?

7 A We are. We work, with the Office of Federal Com-
8 pliance and those individuals I must say, now certainly
9 they're sincere, I don't think we have enough, don't have
10 enough staff to do the job as adequately as it should be done
11 but we are pleased with their activity, with them informing
12 us off paper as well as on, of some things that need to be
13 done, and those personnel have worked with us over the years
14 and they indicate a sincere desire to bring about equity and
15 equality and more FCC personnel work very closely with us.

16 Q Are there hindrances for them to be increasingly more
17 effective whether it's budget or staff or whatever?

18 A Well, certainly -- yes, I think the one that's mentioned
19 the most recently in the last few years has been budgetary
20 constraints and not enough personnel to do an intensive and
21 close followup timely on companies that say yes, we're going
22 to comply, we're going to work with XYZ, then getting back
23 to them in a timely fashion and budget, budgetary constraints
24 in personnel have been what they have indicated to us are two
25 of their areas of real concern.

1 Q As a parallel to some questions that I've raised,
2 as we look at projections for the labor force in this area,
3 ten, 20 years from now increasingly, a disproportionate
4 number of personnel will be involved in high tech. Is there
5 any talk in our discipline about increased retraining or
6 any involvement with companies as they are raising require-
7 ments for their forces?

8 A Yes, sir, Doctor, we are looking at that, as a matter
9 of fact Mr. Ben Pope and Ray Ilsee (Phonetic), two individuals
10 from Lawrence Laboratories, we have, in the last two months,
11 well, we've been doing it over a period of time but in the
12 last two months come up with some specific programs that we
13 think will be able -- that will enable, excuse me, folks to
14 overcome two basic things, and we talk about high tech,
15 we're talking about we think two basic obstructions, both of
16 them can be classified as phobias.

17 One is computer phobia and the other being math phobia.
18 Our research indicates that if individuals can get over that
19 math phobia, really and if you can get to a good functioning
20 eight, nine, in that area, eight to tenth grade math function-
21 ing level, that high technology does not pose a problem. It
22 doesn't pose a seizure problem.

23 But, for example with the women, 80% of the women in
24 this country have this math phobia, they just really, you
25 know, it's a block and so we are working with Ben Pope and

1 with Ray, trying to put together a comprehensive module, if
2 you will, and they will be dealing with, that's probably
3 going to be the title of it, overcoming the math phobia and
4 computer phobia, that we think will enable folks to be re-
5 trained in a reasonably short period of time so that they can
6 enter the field of high tech. without these fears of not being
7 able to compete because I've got to, you know, robotics or --
8 are going to take it all, that kind of thing.

9 But that is very salient, that's very current and it's
10 something that must be addressed, I think on a large scale
11 across this country.

12 Q In view of the fact that you interface with a number
13 of people who may have experienced, either in their personal
14 lives or within schools, difficulties, do you have any pro-
15 fessional input into school boards or professional education
16 groups, as feedback of expert observation of effects and
17 suggestions for future curricula and so forth?

18 A We have, at this point, Doctor, been dealing primarily
19 with Dr. John Scoulan (Phonetic) and the counseling component,
20 and our attempt to get them, number 1, aware of some of the --

21 Q Them being the Phoenix Union High School?

22 A Right, Phoenix Union High School counseling --

23 Q Or a high school district?

24 A -- aware of the resources that are available, parti-
25 cularly from an ethnic minority standpoint.

1 For example, those ethnic minorities of Black and
2 Brown, engineering societies, nursing societies or what-
3 haveyou, that are available and will come in or send in rep-
4 resentatives to work with children not just in high school
5 but in the junior high school and elementary area as well,
6 it is --

7 Q In other words, added resources?

8 A Oh, yes, added resources to them and it's practical,
9 something that individuals will be able to come in directly
10 into the classroom.

11 From the curriculum standpoint, we have not, on a
12 formalized basis because we've met with Dr. Scoulan and we've
13 done some things already that he's put into place with the
14 council, but on a formalized basis, we've just made some
15 suggestions so far pertaining to curricula, introduction of
16 math at a much earlier level, well, I'm -- I suppose I've
17 arrived at a point that I think maybe six years old is a
18 little late to start school, you know, we think that if we
19 could start individuals, the Headstart Program, I think, is
20 very key, that we not just have people painting but we have
21 introduction to math and English and those particular communi-
22 cation or computational skills and those have merely been
23 suggestions to this point, that we feel will be necessary
24 and they're certainly salient.

25 The earlier we can introduce our kids and the next

1 generation to computational skills and communication skills,
2 the better we think they are going to function.

3 THE CHAIR: Fine. Do you have any other questions?
4 Thank you so much, Mr. Blue.

5 A Thank you, thank you very much.

6 THE CHAIR: It's near 12:00 o'clock and I would suspect
7 we will -- I guess we'll break and reconvene at 1:30.

8
9 (Noon recess, reconvened at 1:30 p.m.)

10
11 THE CHAIR: Just a little bit of background for the
12 persons who will report this afternoon. We are primarily
13 interested in finding, from your perspective, the critical
14 civil rights issues in Arizona, and to somehow get a fix on
15 what the, in your view, the impact of these issues have on
16 the social, the political, the economic well being of the
17 state.

18 And trying to tease out what efforts have been made
19 to resolve these issues. And we do that within the context
20 of the form and the function of the state advisory committee
21 to the United States Civil Rights Commission, who's interested
22 in voting rights, equal protection under the law, taking a
23 look at the federal laws, rules and regulations that may dis-
24 criminate or deny equal protection under the law.

25 You referred to the little booklet. The commission

1 serves as a clearinghouse of information about discrimination,
2 and it does submit reports and findings and recommendations
3 to the President and Congress. And with that as a background
4 then, Ms. Emily Ferguson, will you sit here, please, and we'd
5 be interested in your testimony.

6
7 EMILY FERGUSON

8 A (By Ms. Ferguson) Well, as you can see, in the report
9 I chose only one area to concentrate on since I'm sure you
10 have other groups who are focused in certain areas, interest
11 in that area. And I wanted to be able to make it concise
12 enough that it would be something that is important and yet
13 that needs -- some changes need to be done and that's why I
14 selected the issue that is probably one of the most important
15 in the whole women's movement, not just in Arizona, is
16 equal pay, equal opportunity and equal rights for women,
17 which we feel at this time are not being looked after properly.

18 And I would go through, just go mainly through the pre-
19 sentation and you know, we can have dialogue after that.

20 As most of you know, the laws are already on the books
21 for protection of equal opportunity and equal pay for women,
22 Title VII was specifically denied -- excuse me, was specifically
23 devised to insure equality for sex as well as race and
24 religion. Also under the executive order, the Office of
25 the Federal Contract Compliance and progress was to be working

1 on the affirmative action of women, which at this point in
2 time is practically zero.

3 To say how does sex discrimination happen in the work
4 place? I think it's easier to look and best to look and the
5 indicator is the earnings of women that are in the job market.
6 And the charts in the back of the report show the earnings
7 fo full time women working and the variance in the amount of
8 money they earn per dollar as a man earns, as well as educa-
9 tion-wise the difference in pay in education.

10 Very interesting are the amount that women are earning
11 as according to men has decreased over the years instead of
12 increasing. Although since the statistics have been taken,
13 Title VII which was supposed to see that equal pay was there,
14 obviously is not working or we would see a closer gap instead
15 of a wider gap.

16 Women, of course, are entering the work force at an
17 increasingly large number, with over 51% of the women in the
18 United States holding full time employment or actively seeking
19 a full time employment position. Increasingly we are going
20 to see the work pattern of both females and males to be full
21 time workers in the paid work force. It seems clear that
22 a particularly significant factor in the increasing partici-
23 pation in the American work force and the achievement of such
24 equal opportunity as women currently possess, is the enforce-
25 ment both public and private of federal antidiscrimination

1 laws and executive orders.

2 And I think the underlined word here is enforced. The
3 laws are on the books. The present federal administration
4 has expressed its desire to curtail the most successful vehicle
5 for achieving equality of opportunity. The enforcement of
6 equal employment opportunity by the EEOC has been substantially
7 undermined by cutbacks in their spending as well as staff
8 cutbacks, which result in a long delay of completing hearings.

9 Often, if one is to go through the complete EEOC
10 process, it could take up to four to five years to conclude
11 a case. Without aggressive leadership and funding the com-
12 mission can not fulfill its trust which was broad, industry-
13 based investigations of institutionalized discrimination among
14 the larger employers.

15 These sorts of actions would have a meaningful result
16 for a significant number of people, as well as be a deterrent
17 to employers that are not following fair labor practices. In
18 our state we are involved in, and personally aware of two
19 cases that have been brought against employers within Arizona.
20 Unfortunately, these cases are being brought by individuals
21 at their own expense, money and emotional expense.

22 Norris versus Arizona was actually a landmark decision
23 because it has already been found in the Arizona Courts that
24 an annuity fund set up by the State of Arizona that allowed
25 women to receive less money after retirement than men because

1 of the sex segregated actuarial tables was not constitutional
2 and Arizona had to stop that kind of a payment. Nadine Norris
3 is the person who brought this suit.

4 It is next going to be heard at the United States
5 Supreme Court. She has to get funding in order to be able to
6 pay in order to take this to the United States Supreme Court.
7 Such encompassing cases should not be the responsibility of
8 an individual. When there are agencies that are committed to
9 these goals.

10 However, when agencies, they can only lead this struggle
11 when they are given the means by which to pursue this type of
12 discrimination. The other case I'm referring to is Ford
13 versus Revlon, in which Leta Ford, a buyer for Revlon, has
14 filed suit against Revlon for sex harassment, sex discrimina-
15 tion as well as assault. This case has only been going to
16 two years and is at the filing stage, but again Leta Ford is
17 an individual that is going against the weight and power of
18 one of America's largest corporations that not only will
19 affect thousands of women in Arizona, it will also affect
20 the entire United States.

21 We should not have to see an individual trying to amass
22 thousands of dollars to insure that a multi-billion-dollar
23 American corporation follow equal employment and equal rights
24 for women. Progress will be achieved when these cases are
25 finalized, however it has been the use of class actions and

1 the obtaining of affirmative action class relief that brings
2 the greatest gains. By curtailing enforcement of the equal
3 employment advancement by the EEOC, unlawful practices of
4 employers are allowed to continue.

5 The federal administration's attitude toward equal
6 opportunity can also be observed in the changes to the
7 regulations in the Office of Federal Contract Compliance
8 progress. The federal government is substantially withdraw-
9 ing its longstanding commitment to equal opportunity for women
10 and minorities. It's doing this by eliminating approximately
11 75% of all federal contractors, the requirement that they
12 prepare written affirmative action programs.

13 By eliminating the requirement that contractors report
14 annually on their progress in meeting their affirmative action
15 obligations, creating loopholes by which corporations avoid
16 the preparation of affirmative action plans by the use of
17 numerous small contracts as opposed to one large. Providing
18 blanket exceptions for future compliance reviews for certain
19 employers who are now in compliance, and eliminating pre-
20 award reviews of a contractor in EEOC records before that
21 contract is given.

22 The allegation that affirmative action programs are
23 forms of reverse discrimination since they take into account
24 race, sex, and employ a numerical indices to measure women and
25 minority representation, negates the enforcement.

1 Commitment to equal -- equality of opportunity can
2 only be measured by equality of result. With inflation biting
3 harder into women's smaller wages, this is not the time to
4 retreat from affirmative action. Rather, necessary support
5 for vigorous enforcement should be given the Equal Employment
6 Opportunity Commission and the Office of Federal Contract
7 Compliance programs. This is not the time to back off liti-
8 gation or class action suits. Just as piecemeal legislation
9 is not the answer, piecemeal litigation is not the answer.

10 Now more than ever, families and women are dependent
11 on female salaries and only a systematic effort to eliminate
12 massive sex discrimination can be effective for those who
13 suffer because of sexual discrimination in the work place.
14 Moreover, because in the work place there is sex segregation,
15 there is a definite sexual differentiation in jobs, the EEOC
16 previous commitment to comparative worth efforts is almost
17 completely eliminated and needs to be rigorously encouraged
18 and increased.

19 It has taken a long time to get where we are today.
20 And that is not very far. The women of this state and nation
21 will not tolerate reversals and impediments to their obtaining
22 full equal opportunity.

23 Do you have some questions or clarifications?

24 Q (By the Chair) Yes, there probably will be some ques-
25 tions and clarifications. Am I correct in saying that you

1 indicated that in your judgment, the laws are in place?

2 A Correct, I think the law, in my judgment, the laws are
3 there, the enforcement is not there.

4 Q The enforcement is not there?

5 A Yes.

6 Q And you also indicated that there is developing policies
7 that curtail enforcement?

8 A Correct.

9 Q So we get the record clear.

10 THE CHAIR: Did you have any questions, staff?

11 Would you care to interpret the charts that you sub-
12 mitted in that, there may be some subtleties that I missed.

13 A There really are not any subtleties. What it is
14 showing is all the -- from the analysis of income by by sex
15 and education level, that from elementary school education
16 through five years of college, that a full time worker, if
17 they are a male, are going to be earning more money than a
18 female employee. And it -- no matter what the education is
19 or what the starting level is of the salary when that happens.

20 The other form which is the gap of the annual earnings
21 is showing that we are, the more women in the work force,
22 the larger the gap is becoming, and in areas the gap is larger
23 than the national average.

24 So that for every dollar a man earns in Arizona, a
25 woman would earn 57.6 cents.

1 Q So this means that grouping, first chart, grouping all
2 women who are employed --

3 A Yes, that is true.

4 Q -- and all males who are employed --

5 A Full time employees, yes.

6 Q -- so it does not indicate persons doing the same type
7 of jobs?

8 A No. However, if we were to take any particular job,
9 you would find there is still a difference, it would not
10 matter what the job is.

11 Q With the same amount of training?

12 A Correct.

13 Q Same amount of education?

14 A Yes, sir.

15 Q Similar skills, etcetera?

16 A Right.

17 Q Is that right?

18 A Beginning, students that come out of four years of
19 college with an engineering degree, when you average all of
20 the starting salaries, the male is earning more than the
21 woman graduate, start right out of college.

22 Q (By Mr. Palacios) Do you know of any particular fields
23 or professions that were -- where the male and the female is
24 in fact making the same for the same job, or can we just state
25 categorically that wherever you go it's the same?

1 A No, I do not know any job where you could say by taking,
2 you know, the income of all the men in that profession and
3 all of the women, that they would come out equal, I know of
4 no profession that way.

5 Q (By the Chair) Piggybacking on that question, are
6 there certain jobs that you use as focal points or light-
7 houses that points the way, such as broadcasting, say? I
8 hear of some top females, males in the 500,000, 600,000,
9 I was reading last week in Newsweek where Mrs. Chung, CBS,
10 600,000. Are there some occupations that you use as examples,
11 as criterions to show that for equal skill, equal ability and
12 so forth, that it's working?

13 A That it's -- no, see, the premise is and I think it's
14 an accurate premise, is that it is not working.

15 Q It is not working?

16 A There are a few people that are, or a few women that
17 get into top paying jobs, I don't think there is any doubt
18 about that, there are women that are in vice presidencies of
19 large corporations but they are the minority. And not the
20 majority. Or not even the average. But there are only a
21 very few that ever reach that stage.

22 Q So, essentially, you're saying that the laws are in
23 place, the administration of the laws are questionable?

24 A Uh-huh.

25 Q The effect is that with equal skills, equal level of

1 education, equal abilities, men historically are currently
2 are making more money than women?

3 A Correct, and the gap is not getting closer, it's
4 getting farther apart.

5 Q Getting farther apart and it's become especially
6 critical now in view of the fact, always has been but
7 especially since women heads of households, families and in-
8 creasingly will be working full time have greater responsi-
9 bilities and so forth?

10 A Right.

11 THE CHAIR: If there are no other questions, then,
12 that's all and we have your report.

13 Ms. Hughes, are you prepared to report to the com-
14 mittee?

15

ALLISON HUGHES

16 A (By Ms. Hughes) Indeed, Mr. Commissioner --

17 Q (By the Chair) Will you state your name and the
18 organization for the record?

19 A Yes, my name is Allison Hughes, I'm a private consul-
20 tant in women's affairs. I served for six years as the
21 executive director of the Women's Commission and six years
22 prior to that as the head of the grants office at Pima College.

23 I worked at the United States Commission on Civil
24 Rights in Washington, D.C., and I've worked at the University
25

1 of Wisconsin.

2 Q The Women's Commission housed where?

3 A In Tucson.

4 Q In Tucson.

5 A I also served on the governor's commission on women
6 for five years.

7 Q Fine. And do you have a prepared statement?

8 A I do. There are a number of concerns I want to bring
9 before you today. Chiefly that relate to discrimination on
10 the basis of sex.

11 In August, 1982, the Arizona Daily Star noted that
12 Tucson was the fourth fastest labor force growth rate in a
13 survey of 30 western cities done by Chase Econometrics.
14 Phoenix ranked third in that survey with a 15.4% growth rate.
15 Manufacturing employment grew by 9.2% while the national
16 work force in manufacturing fell below almost 4%.

17 In Phoenix, manufacturing jobs account for about 17%
18 or 11,000 of the 646,000 jobs in that city. According to
19 Michael York, and cited by the Star as being the chief research
20 of the Arizona Office of Economic Planning and Development.

21 Now, according to Dr. Lawrence Mann, Professor of
22 Public Policy at the University of Arizona, manufacturing
23 employment will continue to increase. He's quoted by the Star
24 as saying that all hell's about to break loose in relocation
25 of major companies including electronics firms in Tucson.

1 A few weeks ago, the Star printed a story informing us
2 that the Garrett Corporation, another major electronics
3 firm, would move its headquarters to our city. While I wel-
4 come to Tucson, and to Arizona in general, new industries,
5 especially of the clean air variety, which will offer jobs to
6 our out-of-work populace, I am necessarily concerned over the
7 policies and practices some companies might carry which have
8 detrimental effects on workers.

9 For example, in June of 1979, the Arizona Daily Star
10 reported in National Semiconductor Corporation would begin
11 hiring nonskilled labor at its new Tucson plant. One of the
12 firm's top executives indicated that the firm would hire
13 three or 400 people and that by 1985 payroll was expected to
14 go to 25 million dollars with 2,000 employees. 95% of whom
15 would be hired locally.

16 The company's top executive, was quoted by the Star
17 as explaining that many of the company's jobs involved working
18 with intricate circuitry including 100 square mil silicone
19 chips. Experience, and I quote, experience has shown that
20 women seem to be more dextrous and generally better suited
21 for this kind of work. He said. Young men seemed to get
22 antsy.

23 He went on to say that among the reasons the company
24 chose for moving to Tucson was availability of labor, quality
25 of labor, quality of life, and the university.

1 Another long term conversation was Arizona's right to
2 work law, which eliminates union membership as a requirement
3 for holding a job. National wage scales will be based on what
4 is competitive in the Tucson market, he added. Clearly,
5 the company expected that women would be segregated into
6 the firm's assembly jobs.

7 The Motorola Company plant, located in Phoenix, was
8 faced with losing a serious court battle with female assembly
9 plant workers who challenged that the company segregated
10 women into assembly level positions and did not provide
11 opportunities for them to the technician level jobs held
12 mostly by men.

13 Company did lose and as a result, developed an out-
14 standing program to train assembly workers for technician jobs.
15 The program is currently under way and it is proving that
16 female assembly workers are perfectly capable of learning
17 technician jobs, some of the employees in the plant are
18 even hoping to enter engineering school as a result of the
19 training.

20 I went to Motorola, met with some of these employees
21 and I should say that about 50% of them are women of color.
22 I served on a Tucson citywide committee which is working to
23 plan for our city's future development. Among the community
24 leaders in this committee are presidents of major corporations
25 located in the city, in Tucson.

1 On one occasion I raised the issue of integrating into
2 our planning papers a discussion of comparable worth. With
3 the goal of seeking community reaction to the issue. At first
4 the businessman did not understand. They thought I was talking
5 about equal pay for equal work. I explained the different
6 connotations of meanings between that and the comparable
7 worth and suddenly one executive reacted. That is an economic
8 issue, he said, we don't want to deal with it. I responded
9 he was absolutely right, comparable worth is indeed an eco-
10 nomic issue.

11 Last year the Supreme Court opened up the possibility
12 of court suits by women who claim they're paid less for jobs
13 that are comparable to what men are doing. 13 states now have
14 comparable work language in state equal pay statutes.
15 Arizona does not.

16 Also, the Equal Employment Opportunity Commission has
17 not yet adopted guidelines on comparable worth. I believe
18 it is imperative that the commission adopt such guidelines as
19 soon as possible.

20 But why do we need new guidelines on comparable worth
21 and why could states need to modify their equal pay statutes?
22 The issue goes back to the time that women were pushing for
23 passage of laws which would assure them equal pay for jobs
24 of comparable worth. The standard used by the War Labor
25 Board during World War II, the federal Equal Pay Act, which

1 ultimately emerged from Congress in 1963, mandated equal pay
2 only for equal, not comparable work. Consequently, the wage
3 gap between male and female workers did not increase after
4 passage of the EPA. Women earned only 59 cents for every
5 dollar earned by men in today's working world. Maybe up to 60.

6 Research over the past ten years suggests that the
7 current disparity is not primarily due to unequal pay for
8 equal work, the problem addressed by the EPA, but rather to
9 the concentration of women in low paying jobs which are dif-
10 ferent in content from men's job.

11 The descriptions I have given above about electronics
12 firms illustrates the point. The Arizona Legislature, to my
13 knowledge, has not attempted to deal with this issue, although
14 the Arizona Women's Political Caucus this year insured that
15 candidates this organization endorsed for legislative office
16 agreed to support those candidates who support comparable
17 worth.

18 I recommend that the Arizona Advisory Committee to the
19 United States Commission on Civil Rights, recommend that the
20 commission members publish a substantive paper on the issue,
21 and that it asked the commission to urge the EEOC to adopt
22 guidelines of comparable worth as quickly as possible.

23 Second issue I want to discuss is again in the civil
24 rights laws of Arizona, which is administered by the Arizona
25 Civil Rights Division, Department of Law. Article III of that

1 law and the topic of public accommodations, Section 41, 1442,
2 prevents discrimination in places of public accommodation.
3 The law protects Arizona residents from discrimination in
4 this area on the basis of race, color, creed, national
5 origin or ancestry. Notice that there is no mention of pro-
6 tection on the basis of sex. This is a serious omission.

7 Staff members of the civil rights division are acutely
8 aware of the omission, the Arizona Legislature has not
9 modified the law. Of course, had the Equal Rights Amendment
10 been passed into law this past June, I believe it would have
11 provided some additional protection necessary to women in
12 Arizona but it did not become law and we're now faced with
13 trying to find other means of insuring equal protection as
14 women, through our legal and administrative structures.

15 While I'm aware that the jurisdiction of the Arizona
16 Advisory Committee to the Commission on Civil Rights at the
17 state level makes recommendations on state legislation, I
18 urge your commission to ask the state civil rights committee
19 to review this matter publicly and to seek appropriate
20 changes in the law.

21 And I want to give you an example of the implications
22 of this sex discriminatory law. While I served as the
23 executive director of the Tucson Women's Commission, I received
24 a complaint from a male member of a private club, against that
25 club, because it would not allow females to hold office.

1 Females, that is to say wives of members, could attend
2 club meetings but not participate in the voting process. The
3 man was angry as his wife was a good sailor, it was a sailing
4 organization and he believed she should be able to hold office
5 if she desired.

6 The club claimed it could do as it wished as it was a
7 private entity. Yet the club offered public voting classes
8 from which it recruited its male members. I was unable to
9 file a complaint against the club with the state civil rights
10 division because the division can not accept sex discrimina-
11 tion complaints related to places for public accomodation.

12 In New Jersey women were able to file a complaint
13 against the same club for a similar discriminatory action.
14 The New Jersey law protected them against discrimination in
15 places of public accomodation.

16 And incidentally, although I have not written in my
17 account, that the club, when faced with the lawsuit in New
18 Jersey, disbanded its operations in New Jersey. Because it's
19 still in litigation.

20 Finally, I want to focus your attention to discrimina-
21 tion by insurance companies in areas like pensions, annuities,
22 deferred compensation plans. While Title VII laws do not
23 mention insurance benefits, the courts are beginning to
24 interpret this law to mean that discrimination in insurance
25 is forbidden. Arizona, however, has no law that protects

1 its populace from discrimination in insurance on the basis
2 of sex, race, religion, etcetera.

3 A few years ago I was involved in a project with the
4 Arizona Women's Commission at the state level to attempt to
5 get the legislature to pass such a law. The insurance com-
6 panies went to great deal of trouble and spending funds to
7 lobby our legislature not to pass such a law. They won. As
8 a compromise we managed to get the Arizona Department of
9 Insurance to pass an administrative ruling preventing dis-
10 crimination on the basis of sex, race, religion, creed and
11 in insurance, but insurance companies know well that an
12 administrative rule does not have in it the teeth found in a
13 law.

14 I recommend that the Arizona Advisory Committee to the
15 U.S. Commission on Civil Rights, recommend that the commis-
16 sion study the issue of discrimination in insurance, and
17 that it also recommend that the state civil rights advisory
18 committee review this matter publicly and seek appropriate
19 change in the law.

20 Clearly, issues such as those I have presented today
21 can have a demoralizing effect on the people who believe they
22 are being discriminated against, however I believe we have
23 the talent, commitment and ability to change things for the
24 good of our community and state and everyone living here.

25 I hope the advisory committee will be able to accomplish

1 changes and let me know if I can be of further assistance.

2 Q (By the Chair) Thank you. You referred to the concept
3 of comparable worth. Can you explain it, give an example?

4 A Sure. When you have women who are working at -- in
5 a class, and men working in another class of jobs, say women
6 are all working as secretaries as a class, and a skill is
7 required of them, they must be able to type. Okay? That's
8 a skill, they must have a GED. But most of that class is
9 composed mostly of women.

10 Then you take another class of employees and say it's
11 emptying garbage and no skill is required for them to empty
12 garbage. But mostly men are in that class. They don't have
13 to have a GED, perhaps, they don't have to have a skill,
14 they just are hired. But they are paid more. Because that's
15 a more -- it's considered a job that -- that not too many
16 people would do, perhaps, but nevertheless they are paid more
17 in that class regardless of skill than the other class of
18 people are paid with -- with skill.

19 It's a complicated one because what has to happen is
20 that jobs have to be analyzed, skills have to be analyzed,
21 job descriptions have to be analyzed and they all have to be
22 compared and how do you compare them?

23 You see, because you're -- what we're looking for is
24 equal pay for jobs that are comparable in value. We want to
25 know that the secretary is valued as much as the garbage

1 collector, or that the librarian is valued as much as the
2 engineer. If a librarian is going through graduate school
3 and the engineer is going through graduate school, but
4 engineers are as a class are mostly men and librarians as a
5 class are mostly women, both have master's degrees, you see?

6 Q If both of those groups became mixed, would that
7 eliminate the concept of comparable worth?

8 A If all jobs --

9 Q If men became secretaries and women became engineers?

10 A I would hope so, but I'm afraid that what might happen
11 is if men took over the job of being librarians, then the
12 jobs might be valued more, and then they might be getting
13 paid more. Because -- because of the fact that they're men.

14 Q Can you help me capture the essence of the law in
15 states where the concept of comparable worth is operating?
16 In your own words? What -- help me capture the essence of
17 the law, what does it say, in effect? That jobs will be --

18 A Let me see if I can remember. Take the one in the
19 State of Oregon that resulted in the Supreme Court decision
20 to allow Title VII. The Supreme Court didn't decide that on
21 comparable worth, what it decided was that Title VII, as a
22 law, could be used as an avenue for discrimination complaints
23 in that area. But to my knowledge, the first test of com-
24 parable worth through Title VII has still to get to the
25 Supreme Court, I don't think that they have actually decided

1 yet on comparable worth through Title VII. Okay?

2 So, the case in Oregon that was the main case that
3 originally went to the Supreme Court was one of the matrons
4 in the Oregon prison system who were getting paid less than
5 the men who act as jailors. Regardless of their longevity,
6 and that sort of thing. And they felt that their work was
7 under valued as women.

8 And they filed on that basis, because they, you know,
9 they -- the personnel system as it was structured could
10 justify paying the women less. Because as I say, their jobs
11 were valued differently than the jobs of the jailors.

12 Q That raises another question. All of your recommenda-
13 tions appear to be grounded upon, I'll say ex post facto,
14 after women were in jobs. Was there any reason why you did
15 not make recommendations regarding access to training or
16 education or whatever?

17 A Well, I did point out the example at Motorola.
18 Where the complaint that was filed against the Motorola Cor-
19 poration in Phoenix was specifically because the company had
20 women as a class as assembly workers and men as another class
21 as mid-level technicians and was not offering the women train-
22 ing access to become mid-level technicians, so they filed
23 through Title VII and challenged the company.

24 The women won and the company lost and as a result of
25 the negotiations of that, the company agreed to provide the

1 training program. I think it's a good training program to
2 watch. I've been and visited it, it's outstanding the women
3 -- I've met those women, some of them don't have high school
4 diplomas, never had an opportunity, some of them are the first
5 in their families to ever go to college and this is providing
6 them with an opportunity to be in college, they're becoming
7 inspired now with this opportunity that's been given to them,
8 talking about going on to engineering school.

9 So, I think that if I -- I mean the point that you've
10 used is excellent, I would recommend that the commission
11 push that, say the labor department through the CETA replace-
12 ment, employment and training programs that are designed to
13 replace CETA, I would recommend that the commission try to
14 work within the federal system to insure that some adminis-
15 trative priorities are placed into the new Employment and
16 Training Act to train women into high technology positions
17 and when Senator DeConcini was running for office recently,
18 I met with him and raised this issue to him as a senator and
19 asked him if he could not possibly sponsor some legislation
20 geared to provide technician level training, because in the
21 high tech. jobs, women are left out.

22 Q I raise that question too because as I read future
23 studies and strategic planning done by organizations, X
24 percentage of jobs that will characterize our state don't
25 exist today?

1 A Right.

2 Q So unless there's some provision for access to training
3 programs --

4 A I really frankly didn't think about having the commis-
5 sion recommend that I went through the senate level, it would
6 be wonderful; it would come from a lot of different levels
7 because it's definitely needed.

8 Q And there's one other point, you've referred a couple
9 of times in your recommendations, the first one being a sub-
10 stantive paper by the commission.

11 Q Could you amplify what that commission --

12 A Well, the commission creates some good publications
13 that I think affect public policy.

14 Q You mean our commission?

15 A Yes, the Civil Rights Commission.

16 Q The U.S. Civil Rights Commission, I didn't know
17 whether you were referring to another commission.

18 A I think it would be worthwhile for the commission to
19 do a study.

20 Q A position paper?

21 A Another thing I'd like to bring up is that the commis-
22 sion in 1968 gave a superb conference on race and education
23 in Washington, because I helped with the organization of it,
24 it was really outstanding, there were 2,000, maybe 4,000
25 people, we had two hotels, and it was at that conference that

1 some of the basic papers on school desegregation took place
2 and I think that it would be great if the commission could do
3 a reassessment of that issue, because there's been sort of
4 public -- a change in public opinion, as I've perceived,
5 especially of the civil rights movement, as to, you know,
6 the debate over whether school desegregation is working or
7 not. Or whether you know the issue of whether more money
8 should be put into schools that are predominantly minority
9 and upgrade the education within that rather than, you know,
10 desegregating.

11 I mean I come from the old school, I believe in school
12 desegregation. But I think that it's an interesting issue
13 for current debate, although I don't know whether, under
14 the current administration, this is the appropriate time to
15 do it.

16 THE CHAIR: Okay, any questions of staff?

17 A There was one other thing, Alvin Baker is the President
18 of the Tucson Chapter of the NAACP and I'm on his board and
19 he called me yesterday with his presentation because he
20 couldn't come, it's very brief and so would you mind if I
21 read it?

22 THE CHAIR: Fine.

23 A Okay. This is by Alvin Baker, President of the Tucson
24 Chapter of the NAACP.

25 A very critical civil rights concern for Arizona in

1 1983 is education of government and business to the needs and
2 concerns of Black Arizonans. Sensitivity to the Black
3 community of Arizona has to do with respect, yet respect for
4 Black concern may be lacking due to the small percentage of
5 Blacks living in our state.

6 Institutions such as the University of Arizona have
7 shown a lack of understanding and respect towards the needs
8 of Blacks. The Black students have demonstrated their frus-
9 trations and concerns to the university administration, yet
10 the institution has still to take positive action to respond
11 to the satisfaction of the students.

12 Similarly, the university displayed a dismal employ-
13 ment record of Black faculty and staff. Why must the insti-
14 tution be compelled to hire more Blacks instead of doing so
15 because it's the human thing to do?

16 The advisory committee should recommend that the
17 major educational institutions in our state generate dynamic
18 recruitment drives for faculty members and staff members into
19 top positions representing Black concerns. Qualified Blacks
20 are available.

21 The universities need to do the outreach to find them.

22 Granted, these are difficult times in terms of the
23 employment of citizens of Arizona, regardless of our ethnic
24 background, but as always, economic hard times hit minorities
25 hardest of all.

1 As long as the Black community suffers because of the
2 denial of civil and human rights, then the total community
3 suffers. I recommend that the commission continue to educate
4 business and governmental officials to respect the human
5 rights of all Arizona citizens regardless of color or race.
6 This will help equal employment and equal justice under the
7 law.

8 THE CHAIR: Had you planned to leave copies of both
9 of those reports?

10 A Yes.

11 THE CHAIR: Do you have any questions?

12 Thank you kindly.

13 Are you familiar, Mr. Fox, with the dynamics of --

14

15 HUGH FOX

16 A (By Mr. Fox) No, except that you would introduce me
17 and I would speak, is that what you're speaking of?

18 Q (By the Chair) Yes. Certainly. Are you aware of the
19 form and the function of the state advisory committees in
20 relation to the U.S. Commission on Civil Rights?

21 A It has an advisory role.

22 Q Yes, an advisory role.

23 A Uh-huh.

24 Q And this is a fact-finding hearing, non-adversarial,
25 and we're trying to gain the perspective of persons who are

1 employed in the civil rights area generally, so that we can
2 inform the U.S. Commission as well as establish some state
3 priorities so that we can go further in-depth.

4 A I see. I came here today to give you information about
5 the major issues of concern to the disabled community and so
6 I think that that would fit right into your purpose.

7 Q Certainly. Sure, handicapped is one of the areas of
8 interest and also responsibility of the U.S. Commission on
9 Civil Rights. So, with that as background, will you -- take
10 a seat, please?

11 And for the record, will you state your name and the
12 organization that you represent?

13 A Yes, my name is Hugh M. Fox, and I'm with the Metro
14 Independent Living Center in Tucson, Arizona.

15 Q And will you also state the position, your position
16 within that organization?

17 A Yes. I head up the legal information and negotiations
18 section of the Metro Independent Living Center.

19 Q And do you have a prepared statement, Mr. Fox?

20 A Yes, I do.

21 Q Fine.

22 A First I'd like to say that it's an honor to be here
23 and it's a particular honor to follow Allison Hughes. I hope
24 you'll take what she says with great weight because she is
25 very well respected in Tucson.

1 I appreciate this opportunity again from the civil
2 rights advisory board to speak to you here today, on some of
3 the more urgent problems people with disabilities have here,
4 in Arizona. I say the people with disabilities rather than
5 disabled people because we are not a separate class or a
6 separate anything. We are just people with the same emotional
7 and other needs as everyone else.

8 This is something that able-bodied folks tend to forget
9 sometimes and it causes confusion in dealing with disability
10 rights:

11 First, what is needed in the State of Arizona in the
12 way of civil rights for people with disabilities. And
13 incidentally, my sources here are our own clients at Metro
14 Independent Living Center and also the Tucson Commission on
15 the handicapped.

16 My experience working for two years with Metro Inde-
17 pendent Living Center has been that there's such a waste of
18 people's potential in Arizona. There are many, many dis-
19 abled people with skills and training, they have Ph.D's, they
20 have master's degrees but yet they can't find jobs because
21 of traditional ways of looking at disabled people, that the
22 employers and other people have. And so they're forced to
23 resort to public assistance.

24 The biggest need, therefore, I think, in Arizona, is
25 to enforce and promote the idea of independence and self

1 sufficiency. If we as a nation can sell breath deodorant we
2 can certainly sell independence to those with disabilities,
3 especially since most people with disabilities would be such
4 willing listeners. And willing adherence to such a philosophy.

5 Once people with disabilities have their natural desire
6 to live productive lives satisfied, many of the other problems
7 I will talk about will disappear through the increased par-
8 ticipation of more people with disabilities who are anxious
9 to get on with their jobs and lives. The civil rights advisory
10 board should have an active policy of encouraging -- encour-
11 aging this through effective use of the mass media.

12 Independent living training, for example, has been
13 proven to be much cheaper than maintenance. More training,
14 therefore, in independence and self sufficiency is needed.

15 But now more specific areas of need in Arizona.
16 In the area of jobs. There's still much discrimination going
17 on in Arizona. Though section 504 and I speak, of course, of
18 section 504 of the Rehabilitation Act of 1973, though 504 is
19 being better enforced as it relates to employment. Section
20 504 is useless. This is because the federal courts have
21 ruled that 503 only provide to those programs specifically
22 funded to increase employment opportunities. So, companies
23 are free to discriminate freely against otherwise qualified
24 people with disabilities.

25 So, federal antidiscrimination laws have got to be

1 made stronger.

2 Also state laws need to be legislated. It's fairly
3 ridiculous to pay for someone's support when that person
4 wants to support himself but can't because of outdated laws
5 and ways of thinking.

6 Some of the more graphic discrimination comes from
7 those disabilities that have traditionally been ostracized
8 from the mainstream. Such as epilepsy or visual handicaps,
9 and people with low back problems, even though it has nothing
10 to do with the job, they're being turned away from employ-
11 ment because of this state's particular second injury law
12 that could penalize employers if the person was injured
13 again.

14 I'm not going to get too much into that particular law
15 because it's fairly complex, suffice it to say, though, that
16 for three years, leaders of the disabled community have been
17 attempting to get statewide 504-type legislation but have
18 been unable to because of the -- the myths and ignorance
19 over what people with disabilities can do. So, some progres-
20 sive thinking and action is needed here.

21 If we just look at it economically, it's clear that
22 it's cost effective to bar discrimination in employment. Let
23 people pay their own ways, give them the chance to pay their
24 own way.

25 Another area that has come up recently has been that

1 of mental disabilities in the sense of learning disabilities.
2 That's where a person can be very intelligent, can have
3 nothing wrong with them except that they might, on certain
4 days, even be able to read -- I mean on certain days be unable
5 to read or certain days be unable to write, whereas other
6 times they can write. It's just some minor problem in the
7 brain but nevertheless, a lot of them have been neglected
8 before 94-142 was brought in in the schools: So, they were
9 neglected in the schools and now they can't get jobs and
10 they're not qualified for vocational rehabilitation. They're
11 not qualified for vocational rehabilitation because they're
12 not severely disabled enough to satisfy their requirements.

13 So, a lot of them have low paying jobs and aren't given
14 jobs that match their true capabilities. Only slight modi-
15 fication sometimes are needed in the job place so that people
16 with learning disabilities can be very effective employees.

17 As far as the deaf community goes, the deaf community,
18 and here I'm speaking for Tom Agee, a leader of the deaf
19 community in Tucson, who asked me to say a few things about
20 their particular problems. Their main problem in employment
21 is that a lot of time they have entry level jobs but they're
22 not advanced. The reason they're not advanced is that the
23 employers don't see the need to provide interpreters.

24 For example, at staff meetings or at interoffice con-
25 ferences and things like that. The deaf employees are left

1 out because there are no interpreters, and so this is some-
2 thing that should be encouraged also. Another critical need
3 in Arizona, not so much in Tucson, but especially in Phoenix
4 and very much so in the more rural areas, is transportation.
5 Transportation of people with disabilities is essential for
6 people to be able to have their own jobs, to live independently.
7 There are many modifications to cars and vans, of course,
8 that can be made to transport disabled people, but until
9 they can earn the ten or \$15,000.00 that's often necessary to
10 get these adaptive devices or adaptive vans, it's awfully
11 difficult to make the money to do that if you can't have
12 transportation to your job. The community of people with
13 disabilities in Tucson has worked very hard to get adequate
14 transportation, it's not exactly adequate now but it -- we
15 soon hope to make it adequate.

16 But in the rural counties there's absolutely nothing,
17 there's absolutely no way of transportation for people with
18 disabilities and in Phoenix it's restricted to social service
19 programs only, no type of socialization and no type of work
20 transportation is available to people in Phoenix. A city of
21 almost a million and a half, including the outlying areas.
22 The opportunity for disabled people to learn their civil
23 rights has been neglected in Arizona also. Especially those
24 people with hearing impairments.

25 They don't know their rights as citizens and more

1 training programs are needed for this. The people in Phoenix
2 and Tucson have certain programs started for that but it's
3 very different between the urban areas and the rural areas.
4 So, no more -- excuse me, more training programs for their
5 own civil rights are needed for that.

6 The office of civil rights may, I'm sure, complain
7 about a lack of funding that they have, but there are numerous
8 numbers of people with disabilities that would like to volun-
9 teer for something like that. That could be volunteers for
10 the civil rights. At Metro Living Center, we have 20 people
11 volunteering and we can't accept more right now because we
12 simply don't have anything for them to do but we have another
13 20 to 40 that would like to volunteer and those folks, I'm
14 sure, would love to work with the office of civil rights
15 in having classes or something like that where they train
16 other people with disabilities in their civil rights.

17 Another area that I would like to address today also,
18 is that of housing for people with disabilities. There is a
19 definite need for more housing, for people with disabilities,
20 but right now I think that it would be of more value if the
21 department of health -- I mean the department of housing and
22 urban development took a more active role and a, more
23 responsibility in following their own regulations. As far as
24 section 504 goes.

25 I know when I was at the Metro Independent Living

1 Center for a couple of months and I phoned up the director
2 of housing and urban development in Phoenix, to get some
3 information, and I asked him if I could talk to him a little
4 bit about section 504, and he said what is section 504? And
5 so I think there's definitely more need for that.

6 In Tucson, for example, there was an apartment build-
7 ing that was built just recently. It started accepting people
8 a couple of months ago. And it had a lot of apartments for
9 those people with disabilities, and it had had some federal
10 monies involved there, some active participation by HUD to
11 get this built.

12 Well, the way they put folks in there was they just
13 had a list, they made a list of people, of their names and
14 then they assigned them room, there was no way that those
15 folks could go and check out the areas in the apartments to
16 see whether or not it fit their disabilities. And some of
17 the apartments were different as far as disability modifica-
18 tions went. So you had -- you had some people in apartments
19 that would have been very good for other disabilities but
20 that they couldn't use them. And so it's very difficult also
21 for those apartments to be changed after the people are
22 already in them and it's difficult for those apartments,
23 the construction of those apartments to be modified after
24 they're already built. It's a shame that there wasn't some
25 sort of effort by HUD to fit the disability to the apartments.

1 Of course, as far as the TTY's for the community of
2 people with hearing impairments, that's been fairly good in
3 Arizona, but still a lot more work in that area is needed.
4 Many more of those machines to more government agencies are
5 necessary. Those machines now are down to \$400.00 or \$300.00,
6 they're very simple to work, you can just put a phone onto
7 them, and you can have their -- they're about the size of my
8 briefcase except a little bit thicker. And I'd really like
9 to see more of those put in the various government agencies.

10 What I would like to do now is answer any questions
11 that you might have about the specific needs of the people
12 with disabilities in Arizona. I would hope that you would
13 orient it towards Tucson because that is my main area, of
14 course.

15 Q (By the Chair) Are you an attorney?

16 A No, I'm a paralegal, I work, though supervised, in
17 the sense of giving out legal information. I don't give legal
18 advice but I do give legal information such as attorney fee
19 schedules or attorney fee methods and things like that, I
20 talk to folks about social security, I'll be training to
21 represent people at social security hearings soon but I'm not
22 doing that right now.

23 Q You alluded to needs of the persons with disabilities.
24 Was there implication that federal or state laws were not
25 being properly administered? Laws in place? Or was there an

1 implication that there's a need for new law? Or --

2 A It's both. I've had to spend a lot of my time educating
3 folks that are charged with the responsibility for carrying
4 out section 504 for their respective agencies. They're
5 usually willing to do it, but, in the government sector, but
6 they do need the information presented to them.

7 In the private sector, if I come across like I try to
8 do, in a very educational and reasonable way, I usually make
9 the people responsible in companies understand and believe
10 that not discriminating is much better for the good of the
11 company.

12 But when I say both, I mean state legislation, for
13 example for a statewide section 504-type law is definitely
14 needed, there are many people with that.

15 Q We don't have one?

16 A No, no. There is --

17 Q But we do have it at the federal level?

18 A Yes.

19 Q And you said it needs to be stronger?

20 A Yes, the one at the federal level does need to be
21 made stronger also, especially section 503. The courts tried
22 to find the congressional intent on that and they severely
23 restricted it. It would be comparable to saying that you
24 could -- that you would -- you were not responsible for the
25 civil rights laws on race except if your company was -- had

1 a government contract that was specifically to promote the
2 hiring of minorities, and if you didn't have money like that,
3 if you were just getting money for, say, contractual reasons,
4 for example to supply the federal government with planes,
5 then you could freely discriminate because you would have --
6 you would have -- you would have no legal requirement to do
7 otherwise. And that's the state of the civil rights laws for
8 disabilities in private industry today.

9 And so, congressional intent or a congressional law
10 that definitely states that 503 is for at least everyone that
11 has or receives federal money or has a contractual relation
12 with the federal government and is needed, of course the
13 community of people with disabilities would like to see it
14 apply to everyone, but Congress didn't want to go that far.

15 But we feel it should certainly apply to any company
16 that receives federal funds for whatever reason. To bring it
17 into equality with the other civil rights laws. Did that
18 answer your question enough, Dr. Warren?

19 Q Sure. Did you make any reference to mobility, access
20 in public buildings and so forth?

21 Q At all?

22 A No, I did not. That, with the new construction that
23 is being followed pretty well except for the -- for the way
24 that it's done in apartment houses, as I mentioned.

25 More sensitivity to the needs of disabled people are

1 needed in that area by the department of housing and urban
2 development, but in other construction, that's moving --
3 that's required now, especially in Arizona, most of the zoning
4 laws comply with accessibility requirements.

5 In older type existing buildings, then there definitely
6 is a problem. But that is moving along fairly well now.
7 Tucson, for example, we finally got the city to start putting
8 in curb cuts so that people can get around town and other
9 areas.

10 THE CHAIR: Do you have any questions?

11 Q (By Mr. Palacios) No, just a comment and perhaps Hugh
12 would like to comment on this. As a culture or as a society
13 or nation or whatever you care to label us as, I think it's
14 true in, say in that we as a group tend not to want to be
15 around old people, we tend not to be -- want to be around
16 those that are so-called disabled, that have disabilities,
17 and in some cases even tend not to want to be around those
18 that are of different colors or different religions and so
19 forth, but I think particularly so with older people and with
20 those that have some kind of so-called disability.

21 And we tend to feel very uncomfortable around people
22 like this, I think, as a culture. We idolize and place on
23 pedestals Farrah Fawcett-Majors and these kinds of images and
24 I'm wondering if -- how in the world do you fight a battle
25 like that, what do you do, how do you combat that type of

1 mentality?

2 A Well, the way that you combat something like that is
3 to provide integration, you provide integration of, in the
4 schools, in the -- in housing and the jobs. it's worked --
5 it hasn't worked to the satisfaction of minorities, but it's
6 -- I think that people of minorities would agree that it's
7 much better now than it was 20 years ago, and it's the same
8 with disability, especially with Public Law 94-142 and section
9 504, that required mainstream of people with severe disabili-
10 ties in the schools. As a substitute teacher I was a
11 substitute teacher before I became employed with Metro Inde-
12 pendent Living Center, and I noticed then a lot of the
13 students that were severe disabilities in classrooms and
14 when the teacher, depending on how the teacher introduced them
15 at the beginning of the year, they are very, very well
16 accepted by the other students. You would tend to think that
17 children can be very cruel and they can if it's not introduced
18 right, but when a teacher introduces the children as simply
19 other children with certain things wrong with their arms or
20 their legs or their-- or parts of their brain and does it in
21 a very sensitive way, the other children accept them for what
22 they are. Other human beings.

23 And I think that the answer to your question of how
24 to negate this societal--

25 THE CHAIR: Myth --

1 A Myth, yes, of strangeness or other -- or seeing other
2 people with disabilities or seeing people of minority races,
3 you know, as something different, it just, you know, is much
4 better if you integrate them.

5 Q (By the Chair) That was a very significant question,
6 particularly in light of the changing face of America, people
7 are living longer, there are fewer children. So the possi-
8 bilities of interaction between young people and senior
9 citizens or people with disabilities or differences,
10 diversities, will become increasingly now. Which has implica-
11 tions for our socializing processes, public schools, homes?

12 A That's right.

13 Q Print media, electronic media, etcetera.

14 THE CHAIR: If there are no other questions, then,
15 that's all, and thank you very kindly for your comments.

16 A Thank you.

17 THE CHAIR: Mr. Ray Valenzuela.

18 I think you've heard, Mr. Valenzuela, the form and the
19 function of this meeting today. Primarily fact-finding. And

20

21

RAY VALENZUELA

22 A (By Mr. Valenzuela) Yes, I have. I'm not sure I fully
23 understand the --

24 Q (By the Chair) Well, then, will you state your name
25 and the organization whom you --

1 A My name is Ray Valenzuela and I'm with the Federation
2 of State, County and Municipal Employees, which is a labor
3 organization that primarily represents public employees.

4 Q And what is your position with that organization, Mr.
5 Valenzuela?

6 A I am a project staffer.

7 Q Do you have a prepared statement?

8 A Not really. I do have some topics that I would like
9 to speak on, however. I don't know if they're appropriate,
10 and then, when I indicated that I wasn't sure of what the --
11 what the advisory committee purpose is. But the area that I
12 wanted to speak on was the procedural practice of the civil
13 rights commission and some of the problems that we have
14 experienced with the case processing.

15 Q And the civil rights commission referring to --

16 A The EEOC office.

17 Q Okay. Fine. Well, we, to restate, we're interested
18 in trying to identify the critical issues in Arizona, the
19 civil rights issues, and then trying to somehow get a fix on
20 what the impact of these are upon the social, the political
21 and the economic well being of the state, and also to get
22 some idea of what efforts have been made to resolve these
23 issues?

24 A Well, as a labor organization, we do assist employees
25 with discrimination cases to whatever extent we're permitted

1 to do so. I think that, you know, it's -- to have a system
2 that deals with this area is great, but for the system to not
3 adequately function, I think, you know, the idealism of the
4 whole concept of having the system to deal with discrimination
5 doesn't do much for us if the system itself does not provide
6 adequacy in a lot of areas and that's the area that I wanted
7 to deal with.

8 If you have no problem with that I can go into some
9 of the experiences that we have had. It seems like more and
10 more there's some reluctance by the -- these agencies to per-
11 mit labor organizations to participate in assisting employees
12 to any extent. I've had the experience of not being allowed
13 to accompany people that are within our organization that
14 are having these problems to certain discussions with certain
15 people from the commissions, I've had problems with hearings
16 and the participation that you're allowed in these fact-
17 finding hearings. Outside of that, however, the many cases
18 that we have assisted with or attempted to assist some
19 employees with, we often find that the process is either not
20 followed through completely, I don't know whether it's a prob-
21 lem of staffing in these economic times or it's a problem of
22 commitment by the particular individuals involved in the local
23 agencies or what it is.

24 But many cases the fact-finding hearings have not even
25 come about when the decision has been made that the employee's

1 comment -- complaints have no merits. And that is very dis-
2 turbing to me. And I know that the -- as far as the en-
3 forcing the employer participation, that there is some limi-
4 tations. However, I think that more could be done, because
5 often these individuals go back into the work force and their
6 complaint was not adequately dealt with, and then they're
7 subjected to retaliation because they did file a complaint
8 in the first place, and yet the complaint itself was dealt
9 with as having no merits.

10 So, they see no other recourse than as a labor organi-
11 zation we are constantly making efforts in those areas where
12 we have contractual agreements with the employer to deal with
13 that area in those contracts.

14 The problem is that the -- you know, we're often told
15 and the position of the employer often is that there is an
16 agency for that. Why should we deal with this in the con-
17 tractual -- in the negotiation process?

18 And so we find ourselves in a helpless situation in a
19 lot of cases because we don't feel the agency is adequately
20 dealing with many of these cases and I'm not saying that some
21 may not be adequately dealt with, I don't know what, again
22 where it lies, whether it's the work load, whether it's the
23 backlog of cases or efforts to just expedite any of these, I
24 don't know what the problem is.

25 But having knowledge ourselves of the circumstances

1 that these employees find themselves in, it's beyond us to
2 begin to rationalize why the agency would find no fault with
3 the employer in many of these cases. And I think some of
4 these are blatant cases where, you know, the facts will speak
5 for themselves. But again, if you're not going to have a
6 fact-finding hearing to even go over these situations before
7 a decision is made, then you know, at least these things are
8 often not brought to light. And again I don't know,
9 I don't work for the agency, I don't know what the internal
10 problems might be if there are any that are causing these
11 results, but there certainly ought to be some effort to
12 strengthen the agency to allow more adequate processing of
13 these cases. And I suspect that the backlogging of cases
14 may have a lot to do with this, because often you find that
15 the investigators that deal with these cases appeared to be
16 very sincere and do appear to want to make an effort.

17 Often, however, the employer is -- refuses to cooperate
18 and the agency does very little about that. You know, we
19 have other employees that went up with letters of release to
20 sue, when actually the case was not even brought to light
21 before the agency or even disseminated like it should have
22 been. And then these employees, you know, we can not finance
23 these legal battles outside the system and many of these
24 employees can't themselves. And we have in many case group-
25 type discrimination cases where we feel the agency should

1 take a stronger position and pursue whatever legal remedies
2 they have at their disposal to deal with that, and we see,
3 there seems to be some reluctance of that also. Whether it's
4 economic or whatever, I don't know, but this has been our
5 experience and it's a frustrating experience, we don't know
6 what to tell the -- our members or our employees we attempt
7 to assist and, you know, we encourage them to go ahead and,
8 you know, the system does work sometimes, but that appears
9 to be less and less true in many of the cases. And I don't
10 have anything else to add other than whatever the problems
11 are, they should be looked into internally.

12 There should be some form of review, I don't know
13 if there is or there isn't over the case load and what's been
14 done with a lot of these things, but there certainly needs
15 to be some review as to what these particular agencies, what
16 the practices are in these case loads. And I don't have
17 anything further to add unless you have any questions.

18 Q (By the Chair) In your judgment, are adequate laws
19 in place?

20 A Well, you know, there's always -- well, you know every-
21 thing can always be better. I'm sure that there's a lot of
22 changes that can be made, particularly in the area of en-
23 forcing the employer to cooperate with the agency. And I
24 don't know what the legal ramifications of that are. We've
25 had cases where the investigator has told us that the delay

1 is that the employer refuses to appear, refuses to provide
2 documentation, and there appears to be some reluctance by the
3 agency to subpoena this information, to subpoena the employee,
4 and as a consequence, the effective fact-finding hearing never
5 comes about.

6 The next thing the employer receives is a letter of
7 release to sue and that's where our problems mainly lie.

8 Q So you're questioning the administration of the law?

9 A For the most part, that is correct. But you know,
10 there can be some changes made, I'm sure, to assure in the
11 enforcement area of the law, you know, as far as what -- what
12 the employer's obli -- should be obligated to do, in that
13 area there's certainly room for improvement.

14 But there are also problems in processing the cases,
15 using the existing laws and provisions adequately to deal
16 with these problems.

17 THE CHAIR: Fine. Did you have any other questions?

18 MR. PALACIOS: No, no, fine, thank you.

19 THE CHAIR: Thank you, Mr. Valenzuela.

20

21 (Short recess)

22

23 THE CHAIR: As a frame of reference, we are interested
24 in trying to identify the critical civil rights issues in
25 the State of Arizona and to somehow get a fix on how these

1 issues are impacting upon the social, political and economic
2 well being of the state, as well as some idea of what steps
3 have been taken to resolve these issues.

4 We then will report to the U.S. Commission on Civil
5 Rights, our findings, and we will also attempt to prioritize
6 these issues and then, at a future time, to study more in-
7 depth their realities and their implications and so forth.

8 So, we've asked a number of people who are involved
9 in the civil rights field or where there are civil rights
10 dimensions to their jobs, to share their perceptions with us.

11 And with that as a background, if you will state your
12 name and your position in the organization that you represent,
13 please?

14
15 CONNIE BALDWIN

16 A (By Ms. Baldwin) My name is Connie Baldwin, I'm the
17 executive director of the Area Agency on Aging, Region 1,
18 which encompasses Maricopa County.

19 THE CHAIR: And the other persons?

20
21 MARGARET MACIAS

22 A (By Ms. Macias) My name is Margaret Macias and I'm
23 Director of Aging Services for Chicanos Por La Causa.

24

25

1 WILBERT NELSON

2 A (By Mr. Nelson) And my name is Wilbert Nelson, I'm a
3 full time care specialist of the State of Arizona, employed
4 by DES Aging and Adult Administration.

5 THE CHAIR: Do you have prepared statements? Do you
6 want to proceed, please?

7 A (By Ms. Baldwin) One of our panelists has not arrived,
8 Ms. Diane Porter, who's program specialist with the Inner
9 Tribal Council and we're hoping she arrives, she also has a
10 prepared statement.

11 I'm just going to give a little bit of introduction
12 before I have Wilbert and Margaret give their prepared state-
13 ment. Just in terms of aging and how it is defined in some
14 of the federal regulations, as most of us know that aging
15 is not defined only biologically but also socially and that
16 many government programs define who is old.

17 Some programs are 55, some are 60, some are 65, 75
18 and on it goes. And as to when a person is considered a senior
19 citizen, and of course, the general population internalizes
20 that kind of thing which programs put up in terms of categori-
21 cal eligibility. so, society looks on an old person as a
22 person who's forced to retire, people have to produce age
23 proof for securing benefits and not to mention getting a
24 senior discount card. You have to prove that you're of a
25 given age, that you're eligible.

1 To be old in America is typically to live in fixed
2 income at a reduced level, to compete for housing, to have
3 limited access to needed services, facilities, family, friends
4 and self-enrichment opportunities.

5 In American culture ageism has become more than a
6 matter of individual attitude, it has become institutionalized
7 in a number of legal and moral codes that are widely known
8 and enforced.

9 Institutionalized ageism can be found in mandatory
10 retirement laws which always have been 65 and are presently
11 at age 70, and of course, that takes a federal response to
12 do something about that particular thing. And also we look
13 at substandard nursing homes, not to mention board and care
14 homes in which we house elderly people.

15 The panel will speak today to problems facing elderly
16 persons in Arizona that are the ones that we feel are the
17 most glaring and need immediate attention, and with that I'll
18 hand the microphone to Wilbert Nelson.

19
20 A (By Mr. Nelson) The test of protecting the dignity
21 and civil rights of the elderly in Arizona is a complex and
22 confusing issue. Simply because the majority of these rights
23 are written in state and local laws and policies. And along
24 with protecting these rights, these laws and policies and
25 regulations are designed to insure an elderly person in

1 Arizona is not denied the benefits and entitlements to the
2 services and the programs.

3 However, the problem and difficulty of insuring par-
4 ticipation in programs and services stem from the overall
5 pattern of state and federal policies and the technical re-
6 quirements associated with them.

7 Many good things are accomplished by these programs,
8 but they never seriously address the central problem of frag-
9 mentation and discrimination. Every program and every fund-
10 ing source relates to something else, it could be a diagnosis,
11 a specific income, a special type of building assistance,
12 and things of that nature.

13 The old Arizona American Act, for instance, in section
14 B, states that it is the public policy of this state to pro-
15 vide subject to available funding, and I want you to note the
16 subject to available funding, a wide variety of coordinated
17 services that enable older Arizonans to maintain an indepen-
18 dent lifestyle of their own choice, avoid premature and
19 unnecessary institutional care and live in dignity.

20 The cornerstone to this policy is survival, selfhelp,
21 selfdetermination of the older Arizonan. And these are key
22 provisions within this law that could lead to violations of
23 civil rights for the elderly.

24 The first example of the provision is extremely
25 important because Arizona policy makers have a history of

1 being fiscally tight in relation to social programs. The
2 Medicaid law was on the books for years but funds were never
3 appropriated to implement the program. And this particular
4 program pays for long term care, and it is a necessity for many.

5 Arizona's substitute system under the counties are
6 unable, in many areas, to meet the demand for long term care
7 services and programs because of lack of funds. Ironically,
8 these programs utilize federal guidelines to determine eligi-
9 bility for program participation. The examples are SSI,
10 social security and so forth.

11 Primary concern is that the Arizona Legislature may
12 not feel that the funds are available and the law does not
13 mandate that the funds be available. The low income and
14 minority elderly population would be the most at-risk in terms
15 of receiving benefits because of no funds for the program.

16 Selfhelp programs ineffective, particularly in some
17 communities and reasons vary from community to community,
18 but are not exclusive of funding, adequate methods of outreach,
19 transportation and technical assistance.

20 Survival and selfdetermination ideally is based upon
21 an informed population, which is not always true of the elderly.
22 Arizona has a large Spanish speaking population and many of
23 the program brochures and program descriptions are published
24 only in English which contributes to the lack of knowledge
25 about programs in behalf of the Hispanic elderly person.

1 This problem is often magnified by the lack of Spanish
2 speaking personnel in community agencies and programs. The
3 older Arizonan Act goes on to identify services in section
4 46-192, and I just pulled out some examples but there are
5 many more services identified in the section.

6 For example, transportation, transportation is abso-
7 lutely essential for program access in Arizona, yet the
8 public system and other methods of transportation remain
9 inadequate. Example: No low cost public transportation on
10 Sunday.

11 The elderly person must either depend upon taxies, a
12 friend or a relative to move about. This contributes to
13 isolation, particularly when the elderly person must choose be-
14 tween a cab fare and purchasing an adequate amount of food.

15 Protective advocacy and legal services is another,
16 and in a state such as Arizona which has a large elderly
17 population, protective services are essential to protect
18 one's civil rights.

19 Currently, the State of Arizona does not have a law
20 or policy mandating their professionals such as social workers
21 and doctors, report the abuse of an elderly person when it
22 is encountered. Past attempts to propose such action has been
23 defeated and it is paramount that such a law have the necessary
24 mandated funds to purchase services and hire staff, otherwise,
25 civil rights violations may occur.

1 In the area of long term care, programs and resources
2 can not be easily coordinated or combined in a way that
3 specifically focuses on the individual. The lack of coordina-
4 tion in public programs also results in fragmentation of
5 services in the private sector, because of reimbursement
6 system provides no incentive for integrating services that
7 have been traditionally separate. This means that the elderly
8 person must go to several different sites or agencies to
9 obtain the range of services necessary to accomodate their
10 needs, thus creating an additional drain on their resources.

11 The individual in a long term care setting is limited
12 in their capacity for selfhelp and selfcare and this makes
13 them dependent on others for extended periods of time for
14 survival.

15 The low income person has a limited financial resources
16 and Arizona does not participate in the Medicaid program and
17 the fact that its present system, county-supported, is
18 straining under the high cost of providing that particular
19 care, leaves even more elderly at-risk of being isolated in
20 the community or prematurely institutionalized.

21 Economical factors are not the only concerns about
22 the approaches to long term care, other problems such as frag-
23 mentation and lack of coordinated services, inadequately
24 trained providers and a lack of knowledge contribute greatly
25 to rights being violated.

1 In summary, the Older Arizonan Act makes a valid
2 attempt to address the elderly needs and concerns, however
3 the inability of the law to mandate adequate funds to develop
4 the programs and services will perpetuate a piecemeal approach
5 in which many elderly persons will continue to either be
6 denied service or prematurely institutionalized.

7 The current administration has emphasized deregulation.
8 Arizona complied by passing its own version of nursing home
9 deregulation and this law was designed to give Arizonans a
10 choice of selecting alternatives to nursing home care.

11 To date, complaints in the on-going programs from
12 boarding homes have increased by almost 10%. However,
13 Arizona currently has no regulations governing boarding homes
14 and many residents are abused in these types of facilities.
15 And some of the recommendations to this presentations are:
16 One, the older Arizonan Act must be amended to mandate the
17 necessary funds to implement and insure the services it has
18 identified. Two, Arizona must consider and pass a law that
19 will require elderly abuse be reported. Also, the necessary
20 funds to purchase staff and carry out the law's intent.

21 Arizona must mandate that agencies hire the necessary
22 staff to service the Spanish speaking community. Advisory
23 board and policy making committees should be examined for
24 adequate minority representation, and Arizona will have to
25 develop a policy to monitor and protect elderly persons

1 in boarding homes.

2 And in relation to the number of elderly people in the
3 state, many of these people are exposed to abuse, neglect and
4 exploitation because of the economy but in the case of a
5 minority it's even worse.

6 For example, in the community as it relates to the
7 Black elderly, the Black elderly is often isolated because
8 they are sometimes very few in terms of being placed in a
9 nursing home, they may be only one or two in numbers, and a
10 lot of times they are placed along with other minorities in
11 many substandard-type placements because they are usually the
12 ones that may be contracted out by the county system or some
13 other major provider.

14 The Black elderly is unique in a sense that it has --
15 is -- skin color. And a lot of times the staff is inadequate
16 in order to be able to address some of the concerns and the
17 needs that they may have, simply because they may not be aware
18 of the history and understand the adjustment factor that they
19 went through in terms of dealing with discrimination and
20 low socioeconomical factors, and many times this leaves them
21 to be isolated in long term care facilities, particularly
22 when you talk about activities, programs that are geared to
23 create socialization among the elderly.

24 The fact that Arizona has a low Black population also
25 contributes to some degree. However, there are, in some

1 areas there are a larger number of Black elderlies than there
2 are of younger Black elders -- Black persons, I mean, and so
3 what you often have is you have different types of discrimina-
4 tion with agencies.

5 For example, may identify a Black social worker or pro-
6 fessional person in an agency and will often call that person
7 simply because they are Black, not because they may be the
8 best person to handle the problem or the situation that has
9 arisen.

10 I'll close with an example that happened to me as a
11 long term care specialist, I received a call from one of the
12 local communities from the local police department, and they
13 called me and they said we have this Black gentleman who
14 hitchhiked on a train from Yuma and we don't know what to do
15 with him. And can you handle him? Those are the kinds of
16 things that often happen. And it's -- may sound kind of
17 strange, being 1982, but it still occurs.

18 THE CHAIR: We have another member of the state advisory
19 committee to the U.S. Commission, who recently came from
20 another meeting, Attorney Hilda Manuel, who is a legislative
21 aid to the Tribal Council at Sells, at the Papago -- fine.

22 We will not, in terms of procedure, we won't ask
23 specific questions to you yet, in view of the fact that there
24 may be some structural questions that apply to all the groups.
25 So why don't we hear your testimony first and then there

1 probably will be some questions.

2 MS. MACIAS: Okay.

3 THE CHAIR: Thank you, Mr. Nelson.

4
5 A (By Ms. Macias.) A critical civil rights issue facing
6 Hispanic elderly in Arizona is the considerable underuse of
7 social services that on the surface appear readily available.
8 Our minority elderly remain among the most isolated and poor
9 citizens in Arizona. Examples of underutilization are in the
10 nursing homes, medical services such as the hospitals or
11 clinics, senior centers, housing, legal services, and entitle-
12 ment programs like social security and SSI.

13 The availability of these programs are sometimes widely
14 publicized. For instance, several years ago, about three
15 years ago a Casa De Primavera, which is a section 22 housing
16 project for elderly and disabled opened its doors here in
17 Phoenix amongst a lot of publicity, it was announced on the
18 radio, TV, newspapers, flyers, a lot of PSA's. The grand
19 opening was attended by Lillian Carter, a well known elderly.
20 Hispanic elderly were strongly encouraged to apply for housing.
21 Its owners, Chicanos Por La Causa, is community based so
22 recognition wasn't a problem.

23 However, applications for housing from elderly Hispanics
24 was still very low. It was not until Chicanos Por La Causa
25 sent its bilingual staff on a door to door campaign that people

1 began to apply for apartments. Almost every person that we
2 contacted expressed the same concern, was the staff at
3 Primavera able to speak Spanish?

4 After talking with us, they felt more at ease because
5 they identified us with their children or grandchildren. In
6 this instance, cultural barriers were preventing the elderly
7 from using the service.

8 Since only about 9.7% of Hispanic elderly lived in
9 extended families, information on housing becomes an impor-
10 tant issue. If underutilization also occurs in the area of
11 nursing homes.

12 In Maricopa County, less than 3% of eligible His-
13 panic persons are in nursing homes. Lack of bilingual,
14 bicultural health personnel impedes older elderly Hispanics'
15 access to health care.

16 Fear and mistrust also deters older Hispanics from
17 seeking medical care from clinics.

18 As evidence of underuse by Hispanic elderly occurs in
19 legal aid services, senior centers and entitlement programs,
20 the question of how must accessibility to and utilization of
21 these services be addressed.

22 The Hispanic elderly suffer from a greater number of
23 problems when compared to non-minority elderly. Hispanic
24 elderly tend to have lower educational levels, were employed
25 in low salaried, blue collar and agricultural positions that

1 were not covered by social security, retirement or insurance
2 plans. They live in substandard housing and suffer
3 from poor health. Older Hispanics tend to live in inner city
4 areas and are prime targets of crime, consumer fraud, air
5 and noise pollution and vandalism. Perhaps the greatest
6 tragedy Hispanic elderly face is a slow but steady disinte-
7 gration of their natural support systems, placing them in an
8 extremely vulnerable position.

9 As the natural support system breaks down, Hispanic
10 elderly do not make use of outside programs. Reasons for this
11 include language barriers, pride and lack of knowledge about
12 the bureaucratic process, lack of information on available
13 services and distrust of the federal government because of
14 past discrimination. This is supported by the findings of
15 Hispanics in HDS Programs, April of 1980, which indicated
16 that language was cited as a barrier to effective communica-
17 tion more frequently than any other factor. 16.9% of the
18 sample cited language as a barrier.

19 Cultural differences and service delivery structure
20 were also singled out as major impediments to effective
21 communication. 14.1% and 15.5% respectively.

22 The most striking finding, however, is that 87.9% of
23 the sample claimed to know of no instance of effective use
24 of established communication channels to convey program
25 information. It is one thing to develop good social service

1 programs, it is quite another to communicate vital information
2 on those programs to potential Hispanic clients.

3 Another significant finding from the Hispanics in HDS
4 Programs was that less than 1% of the contractors and grantees
5 of human services in the State of Arizona, are Hispanic.

6 The findings further indicated that 16.8% of all
7 employees in HDS-funded programs are Hispanic, this informa-
8 tion is misleading as it doesn't indicate the percentage of
9 Hispanics in clerical, semiskilled and professional positions.

10 In executive summary of Perspective on Equitable Share
11 in Public Benefits by Minority Elderly, provides additional
12 support for barriers to services encountered by minority
13 elderly. This study found that minority group membership
14 is a significant factor in under and non-utilization of public
15 benefits, particularly among the Hispanic.

16 The study further supports the assumption that cultural
17 factors act as further barriers to utilization of services.

18 In planning a comprehensive service delivery system,
19 it becomes apparent that not much consideration is given to
20 outreach efforts, dissemination of information on the avail-
21 ability of programs to the elderly Hispanic population.

22 Mesa Senior Citizen Center conducts an outreach pro-
23 gram, the executive director stated at a presentation on
24 outreach services to the elderly, that the Hispanic elderly
25 reached required more of the specialists' time and more

1 explanation of programs due to the high illiteracy rate of
2 Hispanic elderly.

3 Documents which are distributed in Arizona DES offices
4 are only helpful to those Hispanic elderly who were fortunate
5 enough to get some form of education or whose family support
6 system is willing to read and explain these documents to them.

7 Some recommendations for improving an outreach pro-
8 gram are, number 1, for policy makers to pay serious atten-
9 tion to the cultural background and behaviors of the minority
10 benefit users. Number 2, to translate documents, regulations,
11 forms and etcetera, into languages used by the elderly.

12 Number 3, to place services in neighborhoods and staff
13 programs with ethnic minority personnel devoted to the welfare
14 of the elderly, and this is extremely important.

15 And number 4, for planners to deal with the reasons
16 both cultural and psychological associated with certain
17 reluctance to use public benefits by Hispanic elderly.

18 MS. BALDWIN: I'd like to introduce Ms. Diane Porter,
19 who's with the Inner Tribal Council.

20

21

DIANE PORTER

22 A (By Ms. Porter) Thank you for giving some time.

23 Arizona aging Indian residents share with the aging
24 members of the other ethnic groups the hope that they will
25 live out their lives in comfort and with dignity. Comfort

1 and dignity for the elderly depends on a safe physical environ-
2 ment, adequate health care, a family or community support
3 system, a stable income and the freedom to make important
4 decisions about their own lives.

5 When we talk about critical civil rights issues in
6 reference to elderly Indian people in Arizona, we must always
7 point out that the denial of passing the buck for provision
8 of services to them. This denial is in the form of misinforma-
9 tion that the Bureau of Indian Affairs and the
10 Indian Health Service meet or provide assistance and ser-
11 vices that covers the whole spectrum of human service needs.
12 This is not true.

13 It is also a misconception that Indian people are wards
14 of the federal government. They are citizens of the state,
15 county and/or city where they reside and this should be
16 understood first and foremost.

17 In regards to income, the following information applies
18 to Arizona Indian elderly who live on Arizona's 20 Indian
19 reservations. Although Arizona has an estimated 3,000 Indian
20 residents over the age of 60 who live in off-reservation com-
21 munities, little accurate information about their circumstance
22 is available.

23 Social security income supports the great majority of
24 Arizona's Indian elderly, 96% of those over the age of 60.
25 Of the 8,852 Arizona Indian elderly who reside on reservations,

1 57% live on earned social security benefits only. 19% receive
2 SSI only. Of the remaining 4%, 1.5% live on earnings from
3 public service employment positions, .5% live on earnings from
4 their regular retirement, 1.7 live on income from BIA general
5 assistance and .2% are supported by income from private or
6 public retirement programs.

7 Sixty-nine percent of Arizona Indian elderly live on
8 incomes below the poverty level as compared with 19.9 of the
9 elderly in Arizona's non-Indian population.

10 it should be noted that full income from SSI is approxi-
11 mately 284 per month for a single person, and approximately
12 \$337.00 per month for a married couple.

13 BIA job assistance benefits are approximately \$130.00
14 per month for a single person and 180 for a married couple.
15 providing their own shelter.

16 In order to qualify for benefits under SSI an indi-
17 vidual must be 65 years of age, be declared disabled under
18 regular social security disability criteria. An Indian widow
19 -- a widow, Indian or not, with no minor children, is not
20 entitled to social security benefits under her husband's
21 account unless she reaches the age of 60. Then she can apply
22 for reduced benefits.

23 Upon application and denial of benefits many Indian
24 people fail to follow or protest the denial for fear of
25 challenging the massive system. Indian people have been

1 taught early on that non-Indian community has the upper hand
2 in that they wrote the laws, policies and procedures, they
3 interpret, regulate and usually are the providers of services
4 setting the laws into place. It is rather a stacked deck.

5 The Indian elderly's access to employment on the
6 reservation is very limited, first of all there is a minimum
7 -- there are minimal job opportunities to reservations be-
8 cause of little or no business or industries on the reser-
9 vations.

10 Secondly, many job opportunities have been federally
11 or tribally subsidized in the past and employment and funding
12 for these types of programs have been cut in recent months.

13 The principal employment resource for Indian elderly
14 is the Title V, Elderly Employment Program, under which Arizona
15 tribes are allotted 150 employment slots. Not only does this
16 benefit the elderly individual but the jobs provide many
17 needed manpower to augment the community based programs.

18 In regards to health, Indian elderly depend on the
19 Indian Health Service for health care, both on-reservation
20 and in urban communities. The function of the Indian Health
21 Service is to directly provide the support, the provision of
22 health services to Indian reservation residents. IHS directly
23 operates hospitals and health clinics and contracts with
24 tribal governments to provide community health and alcoholism
25 programs.

1 The community health function is a high priority among
2 tribes in Arizona. All tribes operate community health ser-
3 vices, including community health nursing, health home care,
4 hospital discharge followup, health education, maternal and
5 child health and environmental health services.

6 The two major tribal human services target populations
7 are dependent children and the elderly, and they are directly
8 impacted by tribal community health functions. Tribal pro-
9 grams provide support services to families to help them cope
10 with childhood communicable diseases.

11 Tribal programs also provide for elderly people with
12 health problems.

13 Most of the tribes in Arizona closely coordinate their
14 community health and Title XX services and Title III services
15 through the Older Americans Act program.

16 A major concern of Indian tribes during these past two
17 years has been the funding of the tribal health programs.
18 During fiscal year 1982, tribally operated community health
19 programs were reduced by 21%. For fiscal year 1983, IHS has
20 proposed to totally eliminate the tribal community health
21 functions.

22 If this comes to pass, the elderly will be hard hit
23 because it is through these types of services that elderly
24 people are given in-home support which enables them to stay
25 in the home rather than be placed in off-reservation facilities.

1 It should be emphasized that most of the 150 Indian
2 people, elderly, now in nursing homes did not relocate to
3 those facilities in and around Phoenix by choice. They were
4 placed in urban nursing homes by the BIA and/or IHS because
5 of several reasons. One, they had no families or reservations
6 to care for them. Two, their families were unable or un-
7 willing to care for them. Three, they are seriously ill and
8 there are no skilled care nursing home facilities on most
9 reservations.

10 Most of the off-reservation placements were made before
11 the tribes established programs and services to meet the
12 needs of the elderly. With the reduction in funds from both
13 Indian Health Service and the Bureau of Indian Affairs,
14 responsibility for needed placements have been tossed back
15 and forth between agencies. Tribes are attempting to identify
16 other resources at this time, among them the Arizona Health
17 Care Cost Containment system, which totally ignores need for
18 out-of-home placement, and Medicare, which funds only skilled
19 care and mandates strict certification provisions for both
20 the client and facilities.

21 There have been efforts to resolve the problems of the
22 past, jurisdictional considerations have been an obstacle
23 to state and tribal cooperation in providing human services.

24 The member tribes of the Inner Tribal Council of Arizona
25 and the Arizona Department of Economic Security have developed

1 interim approaches for passing federal human services funds
2 through the state to the tribes without jeopardizing tribal
3 sovereignty. For example, one of Inner Tribal Council's
4 functions is that of being the Region 8 Interim Area Agency
5 on Aging for 17 tribes who subcontract to provide Title III
6 nutrition and social service for the elderly.

7 The tribes and the state also work to clear some prob-
8 lems in contracting Title XX monies by developing an inter-
9 governmental agreement that both the tribes and the state
10 could live with.

11 Recommendations. It is important to emphasize that
12 programs developed for elderly on reservations must be done
13 in the context of that particular community and with the con-
14 sultation of the elderly. There should be a continuing effort
15 to educate service providers and governmental agencies of the
16 unique status of tribes and the responsibilities they have in
17 the provision of services to their community members.

18 Thank you.

19 Q (By the Chair) There were a number of specific
20 recommendations made by you, my question is, whether or not
21 there are federal or state laws that hinder doing those things
22 that you recommended or is it within the franchise of the
23 local groups to do them under the present laws?

24 A (By Ms. Baldwin) I'll respond to one of those and then
25 see if there are other panelists --

1 Q And when I say law, I'm including policies also.

2 A Okay. I would say that the Older Arizonans Act is
3 really a law that is on the books that there is no intention
4 or has not been in the past, of meeting the intent of that
5 law. Even though it is written in there subject to the avail-
6 ability of funds, elderly people in Arizona do not have a
7 choice of alternatives of care outside of those nursing home
8 and board and care placement. In terms of home care.

9 And the law specifies that they will, but there is no
10 provision for it.

11 A (By Mr. Nelson) As I stated earlier, a lot of the
12 services are identified in the Older Arizonan Act, for
13 example with protective services and for the past three years
14 that I've been employed by DES, Aging and Adults Administra-
15 tion, there have been some requests that legislation be passed
16 to insure that protective services would be provided.

17 However, it usually gets tied up in some -- some
18 person or some committee and never hits the floor.

19 The other thing, too, is that the, again the Older
20 Arizonan Act and most of the policies are based on the assump-
21 tion that the elderly of Arizona are aware. For example,
22 with many of the programs outreach services and funds have
23 been cut. So, when you cut those funds, you defeat the
24 provision in there that says that you will therefore go out
25 and improve or increase community awareness.

1 The other -- the other factor, too, is that many of
2 the programs have policies that even some of the workers
3 don't understand. So, the policies exist, it's a matter of
4 interpretation and implementation, and the intent of the whole
5 law as it now exists.

6 Q (By Mr. Palacios) How old is the act itself? How
7 long has it been --

8 A It was passed in '80, 1980.

9 Q (By the Chair) Am I correct in thinking, then, that
10 there is no internally consistent group represented with
11 advocates for the effective carrying out of the law? Among
12 the elderly?

13 A You have assistance groups but it's a matter of who
14 is enforcing the policy and who is getting it through. For
15 example, with House Bill 281, ... it was a compromise of a
16 lady who has consistently violated state health laws in terms
17 of setting up her own facility, it was a compromise between
18 her, the nursing home association and even to some extent the
19 health department.

20 To this date, even though when that law was passed
21 and I'm referring to House Bill 281, there was a provision
22 that allowed for her to comply with the law. She has said
23 that she will not comply and in fact is in the process of
24 putting together another piece of legislation to even increase
25 her autonomy from the system.

1 A (By Ms. Baldwin) Could I just make another comment,
2 that in terms, I think one of the problems that really hap-
3 pens, there's a lot of legislation that's proposed, there's
4 a lot of things that are proposed, and they never get out of
5 the department of economic security, where the state has
6 placed the emphasis on the elderly is in a division which is
7 aging and adult administration, which is under a department
8 head who has responsibilities for many other programs, and so,
9 at the state level, the visibility of the elderly is very low,
10 the aging and adult administration can do somersaults and
11 stand on their head and may never get out of their department.
12 It's stifled right there, never gets beyond.

13 THE CHAIR: Do you have any questions?

14 Q (By Ms. Hilda Manuel) I was going -- I had a question
15 for Diane Porter. How does the Older Arizonan Act affect
16 the Native elderly? Or does it?

17 A (By Ms. Porter) Well, it's just there. We, you know,
18 can respond to it. I think a lot of the language or the
19 concepts that are in there are, you know, that Indian people
20 are aware of, but it's just as effective as the other elderly
21 population.

22 Q Because, you know, as you know that oftentimes, whenever
23 particular needs of Native people is an issue that always,
24 especially the states, will always defer back to, well, you
25 have a Bureau of Indian Affairs or you have a federal

1 government looking out for you, therefore, you know, you
2 really shouldn't be asking for services under this state law,
3 and I'm wondering whether it may not have been the intent
4 but maybe that's the effect that it has?

5 A Well, there's nothing in place so there's nothing
6 to bounce anything off of anyway, but you know, what you said
7 is true and what I stated in my beginning statement.

8 Q (By the Chair) If the law was actually applied evenly
9 and with force, would it be effective? I guess my question
10 is whether the law is in place or whether or not the law needs
11 to be changed?

12 A (By Mr. Nelson) I just want to make a comment related
13 to her and then I'll turn this over to someone else.

14 But I just completed an evaluation and assessment on
15 the Navajo Reservation of two group homes, and one of the
16 things that is astonishing to me is the level of fragmentation
17 among the interpretation of policies. For example, the group
18 homes had a great deal of difficulty establishing other group
19 homes in terms of being able to accommodate the communities
20 or different chapters.

21 For example, funds were set aside to provide housing,
22 however the federal policy does not allow for the flexibility
23 to accommodate the Navajo culture. For example, they will not
24 go in and weatherize or rebuild a hogan. And I visited one
25 of the clients and all he was asking for them was to put a

1 roof over his place and maybe run a pipe in there for some
2 water or either help build a new bathroom. But they have
3 these modern homes and half of them are not complete. You
4 know, they're just setting there. So that's -- if that's an
5 example of policy being inflexible, that is definitely one.

6 And they consistently go back and forth.

7 THE CHAIR: Any other questions?

8 Thank you. We'll take a short recess.

9
10 (Short recess)

11
12 THE CHAIR: Mr. Cibirac, I think you're familiar with
13 the form and purpose. He's appeared before these commissions
14 over the last 20 years, I guess.

15 With whatever we've said as background, we'd be
16 interested in your report.

17
18 ALEX PAPPAS

19 A (By Mr. Pappas) Thank you, Dr. Warren, and the rest
20 of the committee. My name's --

21 THE CHAIR: I'm sorry, one other point, will you give
22 us your name and the organization that you represent and
23 also your position with that organization, please, for the
24 record?

25 A Yes, sir. My name's Alex Pappas and I'm the Chairman

1 of the Board of the Phoenix Human Relations Commission.

2 My presentation today is going to be both verbal and
3 visual and Henry Cibarac, the Human Relations Administrator,
4 is also going to get himself involved in making some comments
5 also in various areas.

6 There are some critical areas of civil rights in the
7 City of Phoenix that we'd like to talk about, and that Human
8 Relations Commission gets itself involved in. Those four par-
9 ticular areas that I'm going to be speaking about are the
10 administration of justice, schools, employment and fair
11 housing.

12 Now, these particular four areas have a significant
13 impact on what happens in the City of Phoenix with regard to
14 the social, political and economic well being of the city.
15 In these particular areas. It involves the degree of racial
16 tension in the community, it also involves and concerns the
17 economic development of the city, whether we have an increase
18 or a decrease in industry and jobs, whether these individuals
19 in the city share their opportunities and education, etcetera.

20 How much unemployment there is, what kind of welfare,
21 does it breed crime or eliminate crime, what kind of image
22 does it represent to the city, and obviously the degree of
23 satisfaction by the citizens of the city for their government.

24 How do we resolve these problems? There are a lot
25 of ways that they are resolved, one way that the city has

1 helped resolve it is by establishing this commission. It was
2 established in 1963, and obviously that establishment was
3 for two specific reasons: Prevent discrimination because of
4 race, religion, national origin and sex, and to promote
5 harmony among people of all races.

6 And we hired an administrative director, Mr. Cibirac
7 will attest to that fact. We passed some ordinances. As a
8 matter of fact, we've passed three ordinances. One ordinance
9 has three parts to it that involves public accomodation, it
10 involves housing and employment, and we monitor this par-
11 ticular ordinance with companies that have one or more
12 employees.

13 The second ordinance is the affirmative action ordi-
14 nance with suppliers. People that supply the City of Phoenix
15 and we monitor this group that has 15 or more employees.

16 And the third one is the affirmative action with con-
17 tractors. Contractors that do business with the city, build
18 things for the city, etcetera, and this also is monitored,
19 those companies that have 15 or more employees.

20 Let me talk specifically, then, about the four areas
21 that were mentioned previously, administration of justice,
22 housing, schools, employment and education. Under the adminis-
23 tration of justice area, we're involved in a lot of training.

24 In our fiscal year '81-'82 we trained 250 police
25 recruits, the type of training that we were involved in with

1 them were conflict-type training, how to differentiate the
2 difference between various type peoples because of color,
3 etcetera, because that's important to them since they come in
4 contact with a lot of various-type people in their work.

5 We also do that similar type of training with the bus
6 drivers. We trained in our fiscal '81 and '82, 70 bus drivers,
7 in our '82 and '83 fiscal, we trained 30 bus drivers to date.

8 We reviewed the shooting policy of the City of Phoenix,
9 and that was a very extensive policy that they presented to
10 us for our consideration and we approved of what they were
11 planning to do in this shooting policy. And we also have a,
12 quote, hot line at the Human Relations Commission, conflict
13 resolution service where people like gangs that have a prob-
14 lem with conflicts among each other, if they would like to
15 have us get involved and help resolve some of those conflicts.
16 We have a hot line that our staff is involved in and has
17 been involved in in the past.

18 The second area that the Human Relations Commission
19 gets involved in is the schools, and in that particular area
20 we also do training. We have trained 2,000 faculty and staff
21 members to better adapt their skills to accept the racial
22 changes that are happening in the school system. And this,
23 these racial changes not only are affecting the staff and the
24 faculty but are also affecting, in our estimate, 20,000
25 students.

1 Another area that we get ourselves involved in is
2 housing, which is probably an area that we have most, a lot
3 of emphasis in. I don't know if you're aware of it but the
4 City of Phoenix was given the honor, was one of ten cities
5 initially, to achieve HUD equivalency. That means HUD is
6 -- feels confident in referring all fair housing complaints
7 within the city limits of Phoenix to the commission. We are
8 one of, or the first, I should say, the first of ten cities
9 to achieve that.

10 We've done a lot of training with regard to realtors
11 and apartment managers. As you can see, we have trained
12 approximately 250 of those in our '81-'82 fiscal year and
13 we're going to continue to do that in '82 and '83.

14 We make a lot of presentations to minority groups,
15 informing them of their rights in housing. What their rights
16 are and what kind of restitution they can expect if they have
17 a specific complaint in housing through the Human Relations
18 Commission.

19 Another area to promote the rights in housing is we're
20 going to provide posters that are going to be put in the
21 buses. Posters to be put in the -- in half of the city buses
22 that indicate that you do have certain rights as far as
23 housing and if you do have a complaint in that area, contact
24 the Human Relations Commission.

25 We distributed 50,000 pamphlets, largely to minority

1 neighborhoods, about what we do and particularly in housing,
2 through the Human Relations Commission.

3 The next area that we get involved in is employment.
4 We monitor approximately a 1,000 suppliers and contractors
5 that do business with the City of Phoenix. And of those 1,000
6 contractors, there are approximately 114,000 employees that
7 are covered -- that they employ, and those individuals,
8 those companies that do not comply with our ordinances we
9 negotiate them -- we negotiate with them in hopes that they
10 will comply. However, there have been some cases where city
11 business has been denied some contractors because they have
12 refused to comply with the ordinances.

13 We have, as far as the employment area, in our opinion,
14 had a successful increase in the utilization of minorities
15 as far as our statistics have been able to determine. For
16 example, the number of suppliers in fiscal year '74-'75 were
17 149, in '81-'82 were approximately 749. In the '74-'75
18 fiscal year, those people that were employed by these con-
19 tractors totaled 46,000 and they now total 114,000, at that
20 same time the minority utilization in '74 and '75 was approxi-
21 mately 15.1%, and it is now 19.6%. In other words, 4,000
22 more minorities employed now than they were in '74-'75 fiscal
23 year.

24 In our opinion, because of our handling of these
25 ordinances.

1 Those are the four areas that we get involved in, and
2 specifically our commission, which is comprised of 17 board
3 members, has four committees that get involved with each one
4 of those specific areas and has a chairman that chairs the
5 particular area. The charge that I made in the commission
6 when I came on board about a year ago, is I wanted to see
7 more exposure by the Human Relations Commission, about what
8 we do, what we can do. And we've attempted to do that in a
9 couple of areas here.

10 One, obviously, is to better inform the protected
11 classes of their rights and their -- yes, primarily their
12 rights, we have used the mass media to our benefit, we've
13 made presentations on television, we've written some articles
14 that have appeared in realtor magazines, we have had the city
15 newspapers interview us about what the commission is doing
16 and what we'd like to do.

17 We're developing currently a slide presentation that
18 will run approximately 12 minutes that we will present to
19 various organizations, about what we do and what their rights
20 are, and we do make presentations now to minority organiza-
21 tions, the Chicanos Por La Causa, the Urban League, the OIC
22 groups, let the staffs know that there is an organization
23 such as ours that's under the City of Phoenix that we can
24 help in working with their constituents.

25 There are a couple of other areas that I think are of

1 interest, that would be of interest to you that we get involved
2 in. I want Henry to mention those.

3 One in the area of housing, I'd like Henry to give you
4 some statistics with regard to what we've done in the complaint
5 area in housing. And also I'd like Henry to give a -- well,
6 let us know about two additional activities that the Human
7 Relations Commission is doing with regard to the Phoenix
8 Chamber of Commerce and the Maricopa County Bar Association.

9 Henry, why don't you make some comments on the housing
10 statistics, what we'll be doing in that area that I have not
11 mentioned and the chamber and the bar committee and then
12 I'll end up the presentation.

13
14 HENRY CIBIRAC, JR.

15 A (By Mr. Cibirac) Thank you, Alex.

16 If it's okay with you I'll remain seated.

17 Since the Phoenix -- City of Phoenix Fair Housing
18 Ordinance was passed in 1968, we've handled approximately 400
19 complaints, last year we handled about 25 and this year we're
20 handling them at the rate of about four a month. If the
21 average is maintained we'll handle approximately twice as
22 many as we did last year.

23 We find that -- we find reasonable cause in approxi-
24 mately 25 to 30% of these complaints, our first priority is
25 to try to secure the living unit for the victim of discrimination

1 at a reasonable cost and we're placing increasing emphasis on
2 trying to secure some kind of compensation for the victim in
3 addition to out-of-pocket costs.

4 The compensation is because of pain and injury that
5 person may have experienced.

6 Along those lines, we have recently established a work-
7 ing relationship with the Maricopa County Bar, who have
8 established a human concerns committee, and they are -- we've
9 gotten them in -- we've gotten them interested in this and
10 they are now going to put up a small amount of money to do
11 research to see how our ordinances might be improved.

12 And they have asked for training of the members of
13 the bar who are interested in this to handle fair housing
14 complaints to get the maximum leverage and compensation for
15 the victim under the 1866, the 1969 federal fair housing
16 laws, and also the City of Phoenix Fair Housing Law. Because
17 we find that they sort of supplement one another.

18 Regarding our activities with the chamber, we found
19 that there was an impression among some smaller and medium-
20 sized business people that the federal equal employment
21 opportunity laws and executive order were not being enforced
22 to the extent that they previously were and we felt that
23 ultimately they would wind up, that is these businesses would
24 wind up being hurt because they would perhaps not be as
25 careful about complying with them and find themselves being

1 sued for a complaint of discrimination. So we are putting
2 on, in conjunction with the chamber, in January, a workshop
3 and inviting smaller and medium-sized business people to
4 attend this workshop, and we will have a couple of local
5 attorneys who are very well informed about Title VII of the
6 1964 Federal Civil Rights Act, and also contract compliance
7 to make a presentation on the -- to give a contemporary view
8 of the enforcement of the -- of Title VII and also the
9 Executive Order 11-246.

10 Alex or I would be happy to try to answer any of your
11 questions regarding any of the information that's been
12 presented.

13 THE CHAIR: Any questions of the committee?

14 Q (By Mr. Palacios) The meeting you're just talking
15 about right now, when is that to be held?

16 A (By Mr. Cibirac) Pardon?

17 Q The meeting you're talking about right now, when is
18 that going to be held?

19 A You mean the jointly sponsored chamber --

20 Q Yes.

21 A Probably late January.

22 Q Will that be an open meeting?

23 A Yeah, well, we'll invite, you know -- we're going to
24 invite businessmen because that's the people that need it.

25 Q No, I'm just curious about whether or not someone from

1 our staff could attend that.

2 A Sure, we'd be happy to invite you, if you would provide
3 us with those individuals or that address.

4 Q Sure. It's something that sounds interesting and some-
5 thing that I would like to, myself or one of our staff members,
6 attend.

7 A (By Mr. Cibirac) Sure.

8 MR. PALACIOS: Thank you.

9 THE CHAIR: Questions, Ms. Manuel?

10 I'm impressed with the report. I do have some ques-
11 tions.

12 Q (By the Chair) Would you classify your activities
13 primarily as reactive or pro-active or do they lend them-
14 selves to classification?

15 A I think really both.

16 Q Both --

17 A Because on one hand we're responding to complaints
18 but as Alex says, he is making an increased effort to inform
19 the protected classes so that the results of that is that
20 we're probably getting more complaints than we did formerly,

21 As far as, I think that's -- that's both reactive and
22 taking affirmative stands. As far as the affirmative action
23 suppliers and contractors ordinance, that's obviously not
24 reacting, that's going out and doing something without waiting
25 for reaction. In fact, we receive very few complaints against

1 city suppliers or contractors, but we find maybe 20% that are
2 not in compliance when we monitor them.

3 Q One other point, as I glance at the four areas you
4 identify of concern, administration of justice, housing,
5 schools, employment, etcetera, another question strikes me.

6 Increasingly, the literature is speaking that a con-
7 comitment of a high technology area is increased human
8 relations problems, need for communication, quality communi-
9 cation, and of course the human relations problem, whether
10 they be in the family, between groups and so forth. And
11 it appears as if, in our projected growth plans in this area,
12 that as we look at the projections on the nature of persons
13 whom we'll attract to the area, beyond college training,
14 so forth, but at the same time large groups of immigrants,
15 persons moving from reservations into urban areas and so
16 forth, and a predicted gap in earnings from higher class to
17 low income. Which it will increase crimes and tensions and
18 so forth.

19 Do you buy that scenario?

20 A (By Mr. Pappas) Sure.

21 A (By Mr. Cibirac) We would find it difficult to argue
22 with it.

23 Q All right. Now, I guess my question is, are there any
24 attempts on your part to position or structure yourself to
25 be ready for or to prepare for, whether it's information

1 programs or whatever, to public policy makers or organiza-
2 tions or groups who move in or whatever? In preparation for
3 those projected type of expectancies? Or should you? Do you
4 view that as a responsibility?

5 A Well, a couple of things. In monitoring city suppliers
6 and contractors, one of the big things that we urge them to
7 do, and we do this on a daily basis, for instance our employ-
8 ment specialist monitors maybe -- well, we monitor about 600
9 a year. Traditionally, he encourages them to use typical job
10 agencies, urban council, OIH, etcetera, to recruit their
11 manpower. Excuse me, their staff. That's not a good word.

12 In doing so, he finds that, because of the variety of
13 industries in the valley and their variety of needs. In
14 other words, we know that those job agencies by regulations
15 are only turning out certain skills, certain basic skills,
16 and not a whole variety of skills. Some of the city suppliers
17 and contractors are not able to obtain technical and pro-
18 fessional type of skills that they need. So they come to us
19 or we find this out when we monitor them and ask us, well,
20 gosh, where can we recruit the kinds of skills that we need
21 so far as minorities?

22 So, what we've done is we've spent considerable time
23 compiling a list of recruiting sources nationwide and broken
24 it down by Indian, Hispanic, Black, as to where they might
25 get these specific skills by professional, by technical,

1 etcetera. And we just completed that, or that's probably
2 one of the things we'll do at the joint EEOC-chamber workshop
3 and also we want to -- I just haven't had a chance to issue
4 a news release that we've done that kind of thing and make
5 these recruiting lists available to people.

6 So, it's not exactly in response to what you're saying,
7 but we're not just waiting and letting -- letting people come
8 in haphazardly, hopefully this kind of a thing will also
9 attract the kind of skilled people from all over the country
10 that are a rapidly growing industry need, so it won't be just
11 the low income people.

12 Secondly, and this is not exactly in keeping with what
13 you have, but we are studying the 1970 and 1980 census data
14 as far as population is concerned. And what it means as far
15 as residential segregation is concerned. We have made an
16 analysis and found certain things. We are concerned about
17 the findings and we are looking for ways to interpret that
18 to people who might be able to do something about the situa-
19 tion.

20 Q This is what I'm talking about, yes.

21 A (By Mr. Pappas) And those findings obviously relate
22 to the polarization of the minorities.

23 Q Yes.

24 A Quotes. And the City of Phoenix is doing additional
25 study to see if that, those findings that was done by the

1 national individual, you know, really fit what they see,
2 and obviously the city is one that would not benefit if that
3 were to be true and those minorities were in fact polarized,
4 so we have an interest in making sure that isn't happening.

5 Q That's what I'm talking about. Pick a vibrant community
6 with many outsiders, roots other places, hedonistic views,
7 and if the structures are not here to encourage certain
8 kinds of socialization, and then there will be problems.
9 And problems that lend themselves less to intervention after
10 the fact than anticipation and orientations and so forth.

11 I'm impressed, myself.

12 Are there any other questions?

13 Q (By Mr. Palacios) Just a comment, your question is
14 so pointed because as a society we tend to be reactive rather
15 than active. We tend to sit back and when something happens
16 then we tend to apply many bandaids to that situation, that
17 individual situation, and then go on again. Rather than trying
18 to come up with some kind of a process that will mediate
19 before this event, whatever it may be, takes place.

20 And I think Dr. Warren's absolutely correct on that.

21 THE CHAIR: Thank you.

22 Mr. Steve Darden, may we hear your testimony, please?

23 For the record, may we get your name and the organi-
24 zation that you represent?

25

STEVE DARDEN

1
2 A (By Mr. Darden) My name is Steve Darden, that's D-
3 a-r-d-e-n, I'm an Executive Director of Native Americans for
4 Community Action in Flagstaff, Arizona.

5 Immediately to my left is Ms. Phyllis Big Pond, the
6 Executive Director of the Phoenix Indian Center, Incorporated.

7 I will be making a presentation on the behalf of the
8 Affiliation of Arizona Indian Centers, Incorporated, of
9 Phoenix, Arizona.

10 THE CHAIR: That's the report that we received?

11 A That is the report you have received.

12 Without really knowing the format of the presentation,
13 we didn't really know how to approach it nor address it, so
14 we have presented that for the record.

15 THE CHAIR: Yes, it was a very fine report and our
16 interest is in trying to identify, through the eyes of sensi-
17 tive representatives of civil rights organizations, or organi-
18 zations have civil rights orientations, their views about
19 the state of civil rights in Arizona.

20 And what has been done to try to resolve those issues
21 identified in order that we then can inform the U.S. Commission
22 on Civil Rights who then informs the President and the
23 Congress.

24 Later we will somewhat prioritize these perspectives,
25 identify what, in our view, seems to be the most important,

1 because of limited resources including staff, etcetera, and
2 then pursue more in-depth, the issues.

3 A Okay. If I may retract that Native Americans for
4 Community Action is located in Flagstaff, Arizona. And the
5 affiliation, if I may just to sensitize and educate you a
6 little bit about the affiliation, the affiliation, if you
7 will, is the central voice of the other Urban Indian Centers
8 that are situated in the State of Arizona.

9 We have an Indian center here locally, located at the
10 Phoenix Indian Center; Flagstaff Indian Center, Winslow
11 Indian Center, the Yuma Indian Center, Prescott Indian Center
12 and we're also attempting to have a satellite established in
13 Safford, Arizona, so the affiliation -- and excuse me, Tucson.
14 Tucson, Arizona.

15 We also have -- the affiliation is involved in pro-
16 viding relevant national and state information pertaining to
17 Indian situations, whether they be in health, housing, educa-
18 tion or whatever.

19 Your Urban Indian Centers basically evolved because
20 of the in-migration, if you will, or out-migration from
21 reservations to urban areas. Today we have more urban
22 Indians, I don't know what an urban Indian is, honestly,
23 okay? Because my plans are to return to the Navajo Reserva-
24 tion. I've Navajo, Cheyenne and Swedish. My lifestyle and
25 my culture and my roots are Navajo. And I plan to return

1 there.

2 But for the record, and in legal terms, if we go back
3 to Washington and/or the state, I am considered urban for
4 the present.

5 Okay. And because of the social and economic and
6 political disparities that had existed in urban communities,
7 urban-rural communities and our metropolitan communities,
8 Urban Indian Centers developed.

9 And they have developed basically to address the areas,
10 the social areas, the political areas, the economic areas,
11 educational areas. For instance, the Flagstaff Indian Center
12 is a multifaceted human services agency providing what we
13 would call human services, meaning social services. Those
14 services involved in counseling individuals that have prob-
15 lems in dealing with acclimation to a rural setting, an urban
16 setting, individuals from the reservation.

17 However, all of the Urban Indian Centers that I know
18 of today offer services to everyone, irregardless of race,
19 creed, national origin, we provide services to anyone.

20 Last year, and I will speak probably mostly on
21 Flagstaff Indian Center, because I'm most cognizant of that
22 entity.

23 Last year 11%, the second largest percent of our clients
24 at Flagstaff were non-Indians, specifically Anglo Americans.
25 So, we provide services to everybody.

1 The statements that we will provide today are really
2 an analysis coming from all of the Indian Centers. When we
3 were first informed of this session and we do thank the
4 commission for inviting us so that we could share with you
5 some of our problems that we have identified and we thank you
6 for that. — will be, the statements will be a compilation from
7 all of the centers that are involved with the affiliation.

8 And we will address specifically employment, education,
9 voting rights, health and the administration of justice.

10 Going firstly into employment rights of Indians in
11 Arizona, basically we did an analysis at the federal, state,
12 the county and the local levels, specifically on how many
13 Native Americans were employed and the total work force in
14 specific areas, i.e., and we have an attachment, the Exhibit
15 A to this report that has been submitted.

16 For the City of Tucson, which had a total of 3639,
17 rather 3,639 persons employed as of 1981, of that total, 45
18 were Indians. There were 34 males and 11 females. The
19 Indians represented 1.23% of the total work force of the
20 Tucson City Government.

21 Phoenix, Indians composed less than 1% or .95% of the
22 city government employees. There were 50 males and 26
23 females of Indian descent out of a total of 7,974 city
24 employees.

25 Then the following communities, we found Flagstaff,

1 city government, employed ten Indians, which amounts to 2.19%
2 of the total 456 city employees.

3 Prescott City Government hired five Indians as a
4 total personnel force of 269 employees. The Town of Kingman
5 was found to have three Indians out of a total of 173
6 employees.

7 In Holbrook, the city had 6.89% of its total 87
8 employees as Indians. This amounts to six Indians.

9 Winslow failed to respond but known to the Winslow
10 Indian Center there is only one Indian in city employment.

11 In the state government, the affiliation found the
12 following: Within the department of economic security there
13 are 179 Indians out of a total 4,830 state DES employees.

14 The department of public safety hired 24 Indians, which
15 is 1.48% of the 1,619 employees in that agency.

16 In the department of health, there are 24 Indians in
17 a total of 1,631 health employees.

18 In comparison, the Indian population of Arizona was
19 estimated to be 157,510, or 5% of the total population of
20 Arizona residents.

21 Reasonable estimates show that 26% of Native Americans
22 in Arizona reside in communities or urban areas such as
23 Phoenix, Tucson, Flagstaff and Holbrook.

24 In terms of unemployment rate, studies show estimates
25 as high as 80% on the reservations. And varies in off-

1 reservation areas from 30 to 65%. The high unemployment rates
2 of Indians on and off the reservations have been exacerbated
3 as a result of funding cuts resulting from the present
4 administration. The high unemployment rate causes social
5 distress and I would venture to say not only with Indians
6 but with many other individuals.

7 Many live in poverty in the urban communities. Many
8 receive aid for dependent children, AFDC. Numerous families
9 rely on social services programs and food stamps.

10 The economic impact is constantly a thorn in the
11 state's side. It would be helpful for the Civil Rights Com-
12 mission to solicit the state's facts and figures regarding
13 social service programs rendered to Indian clients.

14 Efforts to relieve the unemployment rate have been
15 made by organizations such as Flagstaff Indian Center, Phoenix
16 Indian Center, Yuma Indian Center, Prescott Indian Center,
17 moreover, by the affiliation.

18 Our services include job training, adult education,
19 social services, alcoholism counsel, youth education, sub-
20 stance abuse counseling. Again a multifaceted type of human
21 service.

22 Jobs discrimination is evidenced in the underemployment
23 of Indians in city and state governmental agencies. Job
24 discrimination is found by the classification of Indians in
25 the lower positions and pay status. Straight across the board,

1 many of our Native Americans are found to be employed in
2 the clerical and/or the what we would call your maintenance-
3 type positions. Very low skill positions, very few, Flagstaff
4 specifically, 5% of Native Americans are employed in the
5 administrative type capacities.

6 It is recommended by the affiliation that more strin-
7 gent enforcement of equal opportunity laws be brought about
8 by the state and federal officials. Greater affirmative
9 action in the entry level of employment is required to raise
10 the levels of Indian employment.

11 The U.S. Commission on Civil Rights should investigate
12 the flow of federal dollars through the state that are ear-
13 marked for employment purposes, training and support. Are
14 there any questions on that portion?

15 Health of Indians in Arizona. The delivery of health
16 services to Arizona Indians has been without great difficulty.
17 Allegedly because of Indians the State of Arizona refused for
18 years to undertake the Medicare program offered by the federal
19 government. And until last year, the State of Arizona declined
20 federal assistance for the medically indigent because it was
21 felt that the number of poor Indians would bankrupt the system.

22 In an unpromised form, officials of the state and the
23 federal department agreed to provide an experimental program
24 termed as the Arizona Health Care Cost Containment System.
25 Access to Arizona's health care program is not applied equally.

1 All eligible indigent Indians are assumed to be the responsi-
2 bility of the Indian Health Service of the federal government.

3 The cost of treating those Indians by the new Arizona
4 health care program would be reimbursed by the Indian Health
5 Center. There are many of us who choose to reside in urban,
6 off-reservation areas first and foremost because of education.
7 Second because of jobs, training opportunities, very few will
8 remain on their own will in the urban areas.

9 The Indian Health Service is geared to provide services
10 to Indians living on the reservation. This new scheme, what
11 we are calling the new Arizona health system's cost contain-
12 ment system, is what we feel is schemed to funnel monies from
13 the reservation Indians to cover the indigents Indians in the
14 urban areas and totally a lesser amount of medical dollars
15 are available to the Indian population in Arizona, particularly
16 those living on reservations.

17 The state, through this plan, we feel, is relieved
18 of its obligation to provide financial service to medically
19 needy indigent Indians residing in urban, off-reservation
20 areas. And thus, Indians residing in these areas are not
21 treated in the same manner as other eligible, non-Indian
22 recipients.

23 This inequity by the State of Arizona should be
24 scrutinized by the U.S. Civil Rights Commission and also the
25 Arizona Civil Rights Commission. In the past health services

1 for Indians residing on reservations, has, for the most part,
2 been provided by the Indian Health Services.

3 The problem exists that many of Arizona's urban Indians
4 are caught in a gap. Again, what is urban Indian? That means
5 the gap.

6 Voting rights of Indians in Arizona. Another civil
7 rights issue is the attempted violation of the Voting Rights
8 Act as amended, reference is made to HB 2191, which was an
9 attempt by the Arizona State Legislature to segregate Indians
10 in northern Arizona into their own county. The majority of
11 Republicans in the House of Representatives and the
12 Senate who cohorted to pass an all-Indian county bill that
13 would have segregated the Navajos into a separate county and
14 Apache County and Navajo Counties. Fortunately, and thankfully
15 the Governor of Arizona saw clearly the definite constitutional
16 problems associated with this legislation and vetoed the bill.

17 The bill was characterized as racist. The legislation,
18 by the Arizona Daily Star, in an editorial, which you have
19 as an exhibit, Exhibit B. Efforts to resolve the problem
20 include the establishment of a task force study committee
21 including representatives from the counties affected, repre-
22 sentatives from the Arizona Legislature, representatives from
23 the congressional offices, private citizens and also repre-
24 sentatives from the tribes. Several meetings have been held
25 to study the income factors of Indians in the affected counties.

1 The taxation issues, the federal dollars involved, the
2 tribal revenues and the court expenditures. It is hoped the
3 efforts of the committee will result in a peaceful resolution
4 of this matter. Judicial remedies in the past have allowed
5 Indians to vote in the affected counties as well as in other
6 counties.

7 Remedies of one person, one vote have allowed Indians
8 to participate in the electoral process. The exercise of
9 Indian voting power in Apache County has resulted in, again
10 let me emphasize in Apache County have resulted in an Indian
11 majority, two of the three Apache County Board of Supervisors
12 are Indian.

13 Therein lies the crux of the issue. Should a reser-
14 vation Indian be disenfranchised from holding an elected
15 public office because the Indian is legally exempted from
16 paying property taxes?

17 Judicial holdings say no.

18 All Indians, whether residing on-reservation or off-
19 reservation have the right to vote and hold public office.

20 The U.S. Commission on Civil Rights should be made
21 aware that an attempt will be made in the U.S. Congress to
22 achieve the same result, i.e., an all-Indian county which
23 failed in the state legislative process.

24 Any attempt to disenfranchise the Indians' voting right
25 and gain elected public offices should be discouraged by

1 the Civil Rights Commission. Basically, if we're allowed to
2 fight this country's battles, our country's battles, we should
3 not be denied the right to vote, i.e., the Navajo Code Talkers.

4 The commission should keep abreast of all election
5 activities in Apache and Navajo County. The establishment of
6 a community college proposal supported by a majority of Indian
7 voters in Apache County was challenged and defeated.

8 And another matter, a majority of Indian voters favored
9 a non-Indian clerk of the court over a challenger supported
10 by the group to divide Apache County. The votes of the
11 Indian constituency were challenged. Indian-favored candi-
12 dates are carefully scrutinized and challenged by the so-
13 called representation without taxation group. Such election
14 challenges should be closely monitored by the U.S. Commission
15 on Civil Rights.

16 Educational issues. Education rights of Indians in
17 Arizona. This particular aspect constitutes another body of
18 civil rights issues. Many urban Indians seeking employment
19 have limited formal education. The Affiliation of Arizona
20 Indian Centers found a serious lack of high school diploma or
21 a GED of many Indian applicants. The Phoenix Indian Center
22 reported that out of six clients during the fiscal year of
23 1982, four did not have a high school diploma or a GED cer-
24 tificate.

25 During the same year, the affiliation found that 37%

1 of the clients seeking employment among the affiliated agencies
2 has not completed high school.

3 In your packets you have a very short, in fact 100
4 words, biography of myself. I am a high school dropout.
5 And I have put a quote in there, because of administrative
6 cultural indifference. Okay? That is something that is very
7 rampant on the reservations or public schools systems too, I
8 just wanted to emphasize that.

9 The Indian families in the towns and cities face
10 adverse conditions in the towns and school systems. Let me
11 state a specific instance to illustrate how a student was
12 assisted from a federal program.

13 A very young student was totally disoriented, stumbling
14 and groping manners were diagnosed by school teachers to be
15 a case for special education. The student was introduced to
16 an employee funded by a federal program, Public Law 92318,
17 Title IV. Which addressed Indian educational issues and needs.

18 A brief interview between the student and a student
19 adviser established the fact that the child had broken her
20 glasses and was unable to see.

21 And without the federally funded program and personnel
22 existed, the wrongfully diagnosed child would have been
23 incarcerated in a special education program and perhaps
24 stigmatized for the rest of her life.

25 Other barriers to equal educational opportunities in

1 the high school include the requirement of students to pur-
2 chase their own books. Efforts have been made in the state
3 legislature to provide all students with free textbooks so
4 enhance their education. The price of textbooks to students
5 of indigent parents are substantial indeed.

6 A sampling of the cost of textbooks to Indian students
7 was made by the affiliation. The report is as follows: One,
8 a senior girl in a Tempe high school paid \$65.00 for books
9 and fees. A junior boy, a junior high school boy in the
10 Phoenix Union High School paid \$60.00 for books and fees.
11 An Indian freshman in Mesa paid \$47.00 for books and fees.
12 A senior high school boy in Flagstaff paid \$105.00 for books
13 and fees. These fees impact heavily upon the Indian families
14 with very low income. And some reservation schools federal
15 funding is available and somewhat utilized to pay Indian
16 students' portions for books and fees, i.e., your Johnson-
17 O'Malley-type programs, and some other off-reservation areas
18 federal funding for Indian students is unavailable and the
19 textbook purchase becomes a financial burden upon the Indian
20 parents.

21 In several cases students lacked the funds for books
22 and simply drop out of school. In other cases Indian student
23 delays in purchasing the books and therefore falls behind in
24 studies and assignments and readings.

25 Textbook issue has a definite impact on student

1 achievement.

2 It is recommended that the state pass legislation to
3 provide free textbooks to all students since education is a
4 mandatory state requirement. The alternative is to recommend
5 funding or continued federal funding for programs such as the
6 Johnson-O'Malley Title IV program. To be expanded to cover
7 textbooks.

8 The denial of equal educational opportunities is cer-
9 tainly an area for the U.S. Civil Rights Commission and the
10 Arizona State Civil Rights Commission to pursue. The text-
11 book issue is a subject matter worthy of the commission's
12 attention.

13 Criminal justice of Indians in Arizona. The adminis-
14 tration of justice is impacting heavily on the Indians in
15 Arizona. Crime in Arizona, Exhibit C, you have specific
16 statistics and documentation. Crime in Arizona established
17 that Arizona Law Enforcement Officers arrested a total of
18 152,749 persons in 1981. This is 15,902 or 12% more than in
19 1980.

20 As to race, Indians accounted for 8.34% of the total
21 arrests, the greatest offenses committed by those Indians
22 arrested included driving while under the influence, DWI,
23 3,411.

24 Liquor laws, 1,973, disorderly conduct, 1,464. Larceny-
25 theft, 1,743, and all other offenses except traffic, 2,066.

1 In a recent incident, four drunk Indians murdered, and
2 I use that in quotes, from a report, four drunk Indians,
3 murdered a postal worker named Karen Raine (Phonetic) on a
4 local Indian reservation. The Federal Bureau of Investiga-
5 tion were immediately called upon to, which responsibilities
6 by the federal agency were immediate and magnanimous.

7 Contrast to that there was a Navajo mail shot on the
8 reservation by a gas service attendant. The individual spent
9 not even one night in jail and was released on his own
10 recognizance and recently, some of you may have read that he
11 was given one year sentence of probation.

12 In contrast, a request for an investigation of a murder
13 of an Indian is nonresponsive or dilatory. The United States
14 Attorney's Office is replete with tribal requests for FBI
15 investigations of serious felonies to which response is absent
16 or seriously lacking.

17 The indifference is serious violation of the adminis-
18 tration of justice. It is incumbent upon the U.S. Civil Rights
19 Commission to investigate the unequal treatment afforded the
20 Native American by the Federal Bureau of Investigation.

21 The civil rights of Indian victims are not promptly
22 and properly addressed by the U.S. Attorney's Office and
23 the Federal Bureau of Investigation. If the federal govern-
24 ment is reluctant to pursue prosecution of serious felonies,
25 it is recommended that the Indian Civil Rights Act of 1968

1 be amended to allow the tribal justice system to take care of
2 misdemeanors as well as felony matters. Perhaps the commission
3 can be of assistance in these matters.

4 The number of Indian inmates at the Arizona State
5 Prison at Florence has been estimated at 67. This group of
6 Indians have made known the overcrowded conditions at Florence.
7 Double bunking is a violation of the prohibition against over-
8 crowded conditions in prison facilities.

9 The affiliation believes federal court orders have
10 mandated such conditions to be alleviated by the state which
11 resulted in the erection of a minimum security prison at
12 Perryville (Phonetic). Double bunking is prohibited at other
13 penal institutions in the state.

14 Another civil rights complaint emerging out of the
15 state prison concerns the violation of religious rights. I
16 would also like to recognize at this point the American
17 Indian Religious Freedom Act, which would protect our specific
18 rituals. Many Indians practice their native religions and
19 the Indians at the Florence Prison are no different. The
20 Indian inmates have lodged a complaint with the Director of
21 Corrections, Ellis McDougal, citing a denial of religious
22 time off other than on Sundays to exercise their First
23 Amendment right.

24 Such Indians enter a religious sweathouse to pray.
25 And also, personal hygiene. These practices are not limited

1 to Christian Sundays as many of you are familiar with. The
2 effect is a denial of religious freedom.

3 Neglect of spirituality and loss of well being is a
4 result of the Indian inmates.

5 The issue can be resolved administratively by the
6 director of corrections with particular problem by the United
7 States Commission on Civil Rights.

8 The affiliation urges the commission to investigate
9 this complaint from the Indian inmates of the Arizona State
10 Prison.

11 Housing of Indians in Arizona. Housing problems,
12 landlord/tenant situations have affected the urban Indian.
13 With relocation, Public Law 93531, Navajo and Hopi Land
14 Settlement Act, from the former JUA, Flagstaff has received
15 the greatest influx of relocatees, a forced relocation, the
16 largest peacetime relocation of any person in these
17 United States.

18 With relocation of Navajos from the Navajo and Hopi
19 land dispute area, observations have been made and reported
20 that relocatees have been placed in homes without being fully
21 informed that they must pay mortgages, that they need to --
22 that mortgage payments need to be made on the house and that
23 utility payments are also required.

24 Many are basically taken from their traditional home-
25 site, their property assessed at a certain value, and a home

1 is bought outright. A home that you and I would consider
2 upper middle class. Very nice. But they don't even know how
3 to deal with the electricity, the gas and the utilities that
4 is now available to them, things that you and I would consider
5 luxuries.

6 Well, basic, staples of life are luxuries to them now
7 and they can not, some of these relocatees can not even handle
8 these things, the cost of them. Many of them are unemployed
9 when they come into the Flagstaff community.

10 Many, again, of these relocatees are the older, more
11 traditional people from the reservation. Although they were
12 able to maintain themselves in the extended family structure
13 and your reservation living because most of them had livestock,
14 corn fields and whatnot. They can not carry that type of
15 lifestyle into the rural-urban setting any more, and thus have
16 to try to acclimate to a very alien type of world.

17 In a recent court case a lending institution was pro-
18 hibited from foreclosing on one relocatee's home in Flagstaff.
19 The lender had exacted exorbitant rates and large balloon
20 payments that the relocatees could not possibly meet. The
21 effect was nonpayment in the first instance in which the
22 lender attempted to reclaim the relocatee's home. The un-
23 justified extortion was prevented by a court order.

24 Other Indians faced such lending practices. This
25 should be reviewed by the civil -- U.S. Commission on Civil

1 Rights. Reports from Flagstaff have stated that Flagstaff
2 landlords have refused Native Americans access to rental
3 housing. Proffered payments are not accepted from the Native
4 Americans. Some landlords have even refused to accept the
5 state funded energy assistance program checks as partial
6 payments on utility bills even when the landlord's name was
7 evidenced on the check.

8 Some Indians have signed leases without fully compre-
9 hending the nature of the contract. One such client's mobile
10 home was sold by the landlord for back rent and eventually
11 was sold at a loss by the landlord.

12 These various instances of housing issues establish a
13 pattern of discrimination in urban communities. These inci-
14 dents, as I assure you, are widespread.

15 In summation, the affiliation has documented numerous
16 incidences of discrimination again in housing, education and
17 health services, employment and also the political process,
18 and the judicial process.

19 While tremendous progress has been made in civil rights
20 issues, via sensitization, education, and sessions such as
21 this, there are still numerous areas that need to be addressed
22 more fully. Discrimination has taken in recent years a much
23 more subtle and not, if you will, so blatant or patent scene.

24 In the case of the division of Apache and Navajo
25 Counties we feel this is a notorious uprising among the

1 Anglos, the non-Indians to segregate the Navajos into an all-
2 Indian county. And the argument has been basically sovereignty.

3 Yes, Native Americans speak of sovereignty but when
4 you try to isolate them onto an island, that is not sovereignty,
5 that is total segregation.

6 In conclusion, the last vestiges of discrimination in
7 Arizona should be abolished, and hopefully with the help of
8 the Arizona Civil Rights Commission, this will be, hopefully,
9 seen in my day and your day.

10 THE CHAIR: Mr. Darden, undeniably this is a very
11 excellent report and well put together.

12 Are there any questions that any member of the committee
13 has?

14 Mr. Darden?

15 A (By Mr. Darden) If I may, like to address one comment
16 in the judicial area. Flagstaff, what we would normally call
17 a border town, has made one fine attempt and we acknowledge
18 that attempt by the City of Flagstaff. They have appointed
19 the first Native American magistrate, Mr. Joe Washington,
20 who's the former executive director of the Indian Center in
21 Flagstaff, so there are attempts but we certainly need to
22 again address a lot of other areas but I did want that to go
23 on record for the City of Flagstaff, we thank you.

24 Q (By Mr. Palacios) A question. Do you, to any degree
25 at all, interface with the Bureau of Indian Affairs, the BIA?

1 A Very little, because the Bureau of Indian Affairs has
2 for years basically stipulated that their responsibilities lie
3 on the reservation.

4 Q Exclusively?

5 A Exclusively. And because of that, we have found
6 basically an undermining straight across the board and total
7 exclusion of urban Indians from any of the federal funded
8 programs, and although there is mandates that, well, for
9 instance the bureau is to afford members of the Navajo Tribe,
10 the Hopi and the Havasupai Tribes social services in the
11 community of Flagstaff because Flagstaff was designated as a
12 non-Indian reservation, to date there is no services provided
13 by the bureau in social services in Flagstaff for any of
14 those tribal members. So, there has been very little, if
15 you will, cooperation from the bureau in that respect.

16 The only cooperation we have seen to date, really has
17 been in the Indian Child Welfare Act, which they provided
18 urban programs funding which is specific real dollars. And
19 that's been really the extent of it.

20 Q (By Ms. Manuel) I was just curious whether there was
21 any interaction with this group tht was here before, the
22 human, what are they called the Human Relations Commission?
23 You noticed -- or you heard their report?

24 A Yes, I have addressed that question directly to Phyllis
25 And they do have -- Phyllis is personnel director from the

1 Indian Center as a member of that Human Relations Commission.

2 Q I was curious about their membership and I wondered
3 if there was -- if they had a Native American on the --

4 MS. BIG POND: On the commission, the presentation
5 unit they referred to, I don't think we've had that kind of
6 presentation in our organization, but we do have that kind
7 of communication with them, yes.

8 Q (By Mr. Palacios) You're a member of their --

9 MS. BIG POND: I'm not, the person who is our personnel
10 manager at the Phoenix Indian Center is a member of their
11 commission.

12 Q One of how many? Do you know how many people are on
13 the commission itself?

14 MS. BIG POND: I don't know.

15 MS. MANUEL: Seventeen.

16 MR. PALACIOS: Seventeen? . . ?

17 MS. MANUEL: There's also, the other comment I wanted
18 to make was that the -- I don't know if you've seen the report
19 that the commission on civil rights, I guess most of the prob-
20 lems that were identified in there were directly related to
21 the reservation setting, I don't recall that they paid any
22 particular attention to urban Indian problems.

23 You know, that might be something that the commission
24 should look at certainly because there are a large numbers of
25 Native Peoples residing in urban settings.

1 MR. PALACIOS: More and more, yes.

2 A (By Mr. Darden) In fact, there are more Indians in
3 off-reservation areas than on-reservation today.

4 Q (By the Chair) What is your source of funding?

5 A Our source of funding runs the gamut. For the affilia-
6 tion or for the -- I keep thinking of Flagstaff Indian Center.

7 Q Well, for the Flagstaff, Phoenix?

8 A The Flagstaff Indian Center we have the gamut, we have
9 private funding from private foundations, we have local fund-
10 ing from the city, we did have county funding, we do have
11 state funding via the Title XX project, and the majority of
12 our programs are federal funded.

13 In employment services we have the GETA Title III, we
14 have Indian Health Services, we did have the Indian Child
15 Welfare Program, and because Flagstaff is really impacted
16 by Public Law 93531, we have a subcontract with the relocation
17 to provide acclimation services to relocatees, but we do have
18 quite a gamut of sources of funding for the affiliation.

19 The majority of it's federal, they also have an employ-
20 ment training program, they have an adult education component,
21 they have just recently gone for some private foundation monies
22 and Phyllis can give you basically --

23

24

PHYLLIS BIG POND

25

A (By Ms. Big Pond) We have many of the same sources,

1 I think, but the greatest portion of our money is federal.
2 we also have from the state, both city and county and United
3 Way. All the Indian Centers are private, nonprofit corpora-
4 tions and contract for services from those various sources.

5 I might add, too, that the affiliation of Arizona
6 Indian Centers they have responsibility for the balance of
7 state in terms of most of their funding, their services are
8 extended to those cities where the larger Indian Centers
9 are not located, that would include those smaller cities that
10 Steve referred to, Yuma, Winslow and Prescott.

11 Q (By the Chair) Do you have any relationship with
12 schools?

13 A Well, in Phoenix we have -- we have some programs, I
14 guess, where we may do some cooperative things with the
15 schools but primarily the Indian programs, you know, they
16 have a Title IV program in the Phoenix Union High School
17 system and we would relate to that group because they have
18 counselors in the schools who are working with Indian
19 students, so our -- most of our contacts are there.

20 We have had in the past some contact with the Phoenix
21 Union High School in some Indian high school in various areas.

22 A (By Mr. Darden) With Flagstaff specifically we've,
23 I believe, have developed quite a few unique network in
24 specifically career and training areas. We have a program,
25 Ralston-Purina Summer Youth Program which we afford on a non

1 discriminatory basis to our two local high schools in Flag-
2 staff. But also many times we're afforded the opportunity
3 to go into the schools, specifically during the latter or
4 spring months, to provide cultural sensitization, education
5 programs. And that we do. And one thing that we're trying,
6 that we're attempting to develop is a, prior to school re-
7 convening in the fall, we want to develop these programs for
8 the schools for the educators there, because Flagstaff does
9 have quite a large Native American population and they also
10 have a dormitory there for the Navajo students, and the
11 enrollment there is quite large so those are some of the
12 things that we're into.

13 A (By Ms. Big Pond) I might mention also that we did
14 have a project that was funded by the Office of Juvenile
15 Justice and Delinquency Prevention to do a specific project
16 with Phoenix Union and Phoenix Indian High School and that
17 was to look at the Indian dropout rate as well as the
18 disciplinary systems of those schools. And one of the pro-
19 jects that did come out of that something that we feel will
20 go hopefully towards helping students to a great extent is
21 to put out a handbook on the rights of Native American
22 students in Arizona.

23 Q (By the Chair). Do you relate at all to the center for
24 Indian education, Arizona State University?

25 A (By Mr. Darden) Yes, we do.

1 Q There's a large Indian leadership program there now,
2 it's conceivable that some internship relationship could be
3 established.

4 A We have worked with their school social work also, as
5 far as interns, internships are concerned, and also, as we
6 have with the university in Flagstaff.

7 THE CHAIR: Any other questions?

8 Thank you.

9 We will recess until tomorrow morning at 9:00 o'clock.

10

11 (Meeting recessed)

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