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U.S. COMMISSION ON CIVIL RIGHTS

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VIRGINIA ADVISORY COMMITTEE

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STATEWIDE CONFERENCE ON CIVIL RIGHTS

COMPLAINTS AND COMPLIANCE

- - -

November 14, 1983

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The conference was held in the Richmond Room,
Holiday Inn-Midtown, 3200 West Broad Street, Richmond,
Virginia, at 8:30 a.m., Reverend Curtis W. Harris, Chair-
person, presiding.

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PRESENT:

- REV. CURTIS W. HARRIS, Chairperson
- ANTHONY L. AZORES
- DOROTHY J. BURKHARDT
- VINCENT F. CALLAHAN, JR.
- BERTHA (KIKI) SILVA PLA
- MAYA HASEGAWA
- JESSIE M. RATTLEY
- CARLYLE C. RING, JR.
- REV. JAMES E. VAUGHAN
- DOUGLAS J. WILCOX

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PRESENT (Continued):

BARBARA WURTZEL

ALSO PRESENT:

EDWARD Rutledge, Regional Director

ROBERT OWENS, Regional Attorney

WANDA HOFFMAN, Field Representative

BARBARA STAFFORD, Executive Secretary

P R O C E E D I N G S

(9:00 a.m.)

1
2
3 REV. HARRIS: Good morning. Let us begin by
4 synchronizing our watches. It is exactly 8:30 a.m.

5 (Laughter.)

6 REV. HARRIS: We do greet you this morning on
7 behalf of the members of the Advisory Committee and the
8 staff from the Mid-Atlantic Regional Office, as we come
9 to participate in the statewide conference on complaints
10 and compliance.

11 Last evening we began our meeting with a great
12 amount of enthusiasm. The presenters last night were
13 all on the case, and we are happy to see those who re-
14 turned from last night and others who joined us this
15 morning.

16 We've tried for some time to put this confer-
17 ence together, and we've had some problems in trying to
18 do that. Originally we scheduled the conference for
19 Fredericksburg in September, to discover a week before
20 the conference that the hotel or the motel we had arrang-
21 ed to have the conference in was out of compliance
22 because it could not provide facilities for handicapped
23 persons, especially those in wheelchairs..

24 Upon moving the conference to Richmond for
25 the 13th and 14th and agreeing with this facility to

1 hold the conference here, this facility made a commitment
2 that they would renovate a number of rooms in time for
3 the conference so that they could accommodate handicapped
4 persons, especially those in wheelchairs.

5 Just last week they completed the renovation
6 of eight rooms to make them available, accessible to
7 the handicapped, those persons especially who were in
8 wheelchairs.

9 So that had been one of the problems that
10 we encountered, and we got a real scare as we viewed
11 the papers and met in different meetings that the U.S.
12 Commission on Civil Rights might not be in business
13 while we were waiting to hold a conference, and so we
14 were not sure whether we were going to have a birthday
15 party as we came together or a funeral.

16 So we engaged a minister for our guest speaker
17 last night so that if we had to deliver a eulogy we
18 would have the right person in the right place, but
19 because Congress acted with dispatch and the White House
20 was able to work with the Congress and work out a com-
21 promise, we are very much alive as the State Advisory
22 Committee and as the U.S. Commission on Civil Rights.

23 The paper has not been signed, but all of
24 the details have been worked out, and it is just a matter
25 of time before everything will be all right, including,

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1 we think, that Mary Berry will still be a member of
2 the U.S. Commission on Civil Rights.

3 Now, I think that in the past few months two
4 major areas of civil rights have come to pass. A few
5 days ago I witnessed in the Rose Garden the signing
6 of the Martin Luther King bill. To me, that was a major
7 piece of civil rights after the struggle over so many
8 years.

9 Then to witness again the Congress taking
10 action in response to Presidential action, I consider
11 the compromise to be an excellent one and another major
12 piece of civil rights.

13 So then the whole issue of civil rights is
14 before us in this nation and all of us of concern will
15 have to find ways and means within the limits of our
16 responsibilities to work out the kind of human and civil
17 rights legislation and change the minds of persons in
18 that regard to the extent of opening up our country
19 to a variety of people who live here, that they might
20 be full and first class citizens.

21 Having made those opening remarks, it is my
22 pleasure to present to you at this time Carlyle C. Ring,
23 Jr., who is a member of the Advisory Committee in
24 Virginia, and is also Chairman of the Subcommittee on
25 Legal and Legislative Developments.

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1 We present upto you at this time Mr. Ring.

2 MR. RING: Thank you, Mr. Chairman.

3 I have the pleasure this morning of introducing
4 our keynote speaker of the day. He's responsible for
5 my being here.

6 A number of years ago he called me on the
7 phone and said, "Would you be willing to serve on the
8 Virginia Advisory Committee to the U.S. Civil Rights
9 Commission?" And I said I would be willing to do that.

10 I didn't know then, Marshall, how much work
11 it was going to be, but it's good work, and it's ful-
12 filling work, and it's worthwhile work.

13 It's very important in the task that we are
14 about to be sure that what we undertake is all-inclusive;
15 that we get the whole community, the whole Commonwealth
16 of Virginia, on a bipartisan basis behind the effort
17 to secure by statutory means a real model act that will
18 provide meaningful rights and responsibilities for our
19 citizens.

20 Therefore, it's a real pleasure for me to
21 introduce to you a man that I think most of you know.
22 He's a native Virginian. He's a lawyer who practiced
23 for many years in the Valley. Marshall Coleman served
24 in the General Assembly, both in the House and as a
25 State Senator. He was then elected as the Attorney

1 Generla of Virginia, and while he was Attorney General,
2 he took the lead in many important areas.

3 One area that I was particularly interested
4 in and where he tried very hard and some day his efforts
5 are going to come to fruition was an effort on the part
6 of his office at that time to bring about equality and
7 equity in sentencing because of the great disparity
8 of sentencing that occurs around the state. Sometimes
9 it's inequitable, and sometimes it has motivations that
10 ought not be there.

11 He wasn't successful in selling that to the
12 General Assembly, but that's an idea whose time will
13 come.

14 Marshall Coleman is now a practicing attorney
15 in Northern Virginia, and has come down to speak to
16 us today, having looked over our work product, and I
17 know will have some meaningful and important comments
18 to make for all of us to consider as we proceed with
19 this converence.

20 Marshall.

21 (Applause.)

22 MR. COLEMAN: Thank you very much, Connie,
23 and Reverend Harris.

24 I am delighted to be here this morning. Some-
25 one asked me as I approached that now that I was not

1 still in public life, what were my speaking fees, and
2 I said, "well, normally they'd be \$50, but for a crowd
3 of this size at nine o'clock in the morning, I'll pay
4 \$100, Reverend Harris.

5 I know that you all are wide awake, and I've
6 been told that I can say whatever I want to as long
7 as I keep within the time frame. So you notice I've
8 got my watch off here, and I've got it synchronized,
9 Curtis.

10 That reminds me, Reverend, a little bit of
11 the two young boys in my home town of Waynesboro, Virginia
12 who went to the Sunday morning service one morning.
13 One was Catholic and one was Protestant, and the little
14 Catholic boy had never been to a Protestant service
15 before. So his Protestant friend told him exactly what
16 to do as they went through the service: "Now you stand
17 up. Now you sit down. Now you sing. Now you give
18 in the collection plate."

19 And then finally the minister stood up and
20 took off his watch, and the little Catholic boy punched
21 his friend and said, "Now, what does that mean?"

22 And the little Protestant friend said, "That
23 doesn't mean a damned thing."

24 (Laughter.)

25 MR. COLEMAN: So it will in my case.

1 I must say before I begin that I guess I first
2 met Curtis Harris when I was campaigning for Attorney
3 General in 1977, and I met him in his church, and one
4 of his members of the congregation was with him, and
5 I think he got to be very much for me, Curtis, and I
6 was glad to have him in '77. I think he died by 1981,
7 and I wish I had had him then with me, too, but I'm
8 delighted to be here with all of you this morning, and
9 with Connie and Curtis and the rest of you to just make
10 a few observations about what it is that you're up to
11 and where we've been and where I think we're going.

12 Certainly I don't need to tell this audience
13 that racial prejudice is not just a problem in the South.
14 It's not just a problem and a difficulty for America.
15 It's not just simply a failure now. It has existed
16 everywhere in all the world, east and west, north and
17 south. It's plagued all of God's children in Europe,
18 in Asian, in North and South America.

19 But it is to be expected, I think, that we,
20 of all nations, resolve it here because to tolerate
21 it is not to live up to the Constitution, to the Bill
22 of Rights, and to all of the things that this country
23 stands for in the world and in our hearts and minds.

24 But racial prejudice has been and is a fact,
25 a constant threat in our history. It has been a wrong

1 not supportable in our philosophy or our government,
2 and while we can't escape the past, we can, I think,
3 repair the present and make the future fit for our ideals
4 and our aspirations.

5 We can, in a word, live up to the Constitution,
6 to the Bill of Rights and to the Declaration of Inde-
7 pendence.

8 But it ought to be noted this morning that
9 no people have made more racial progress than we have.
10 Nothing in the world history has been quite like it.
11 Never has so much been accomplished in so short a space
12 of time.

13 True it is that we haven't reached all of
14 our goals. We remain unfinished, but the aim is assurance
15 that the day will arrive when all of us know that as
16 citizens we won't be judged on the color of our skin,
17 but on the content of our character.

18 We haven't gotten to the place yet, I suggest
19 this morning, where suspicion and hatred have evaporated
20 away, but I think we can achieve the day when racial
21 motives aren't behind any public act or any public deci-
22 sion, and when they aren't seen as being behind any
23 public act or any public decision because they aren't
24 there.

25 That will be the day when the heavy burdens

1 of distrust are lifted from our backs. Yours is still
2 ultimately a battle for hearts and minds. The law can't
3 make men and women love each other, but it can forge
4 the basis of a decent society that achieves harmony
5 and progress.

6 Equal justice before the law, in public
7 accommodations, in the marketplace and in the courts,
8 these are your commitments, and you have lived to see
9 most of them come true.

10 The American dream points to a higher mission:
11 to build a society of opportunity that is knitted together
12 by laws, imbued with the spirit of faith and equity
13 and compassion. With Lincoln, I'm sure all of us believe
14 in opportunity, in equal chance, equal access to the
15 resources of life, liberty and the pursuit of happiness.

16 To give men and women this equal chance was
17 the aim, the hope, the plan of glory spoken by the
18 Declaration of Independence.

19 Now, the commitment to the rule of law, the
20 right to vote, to hold office, to be secure, these are
21 not just rights good to be talked about, but they're
22 good politics. Anyone who reads the newspapers or
23 watches television and listens to the radio knows that
24 the vote is the life blood of politicians, and the black
25 faces increasingly are showing up on the television

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1 because blacks are securing their rightful place in
2 American-politics as elected officials and those who
3 help elect those officials.

4 Now, Connie mentioned the issue that I have
5 been interested in for several years, that's an issue
6 that I know all of you are interested in because I've
7 talked to many of you about it, and that's the question
8 of crime and punishment.

9 Crime is plainly an issue of social justice.
10 Its elimination is essential to full freedom and the
11 opportunity for all Americans. In 1980, blacks were
12 victims of violent crimes at a rate 25 percent higher
13 than among whites. Fifty percent of violent crimes
14 remain unreported. This is a problem that laws can
15 affect.

16 There is no greater civil wrong than criminal
17 violence, and I hope that civil rights organizations
18 like this one will take reform of our criminal justice
19 system on as a project and pursue it as seriously as
20 you are pursuing the other important items on your
21 agenda.

22 A word on uniform sentencing and why I think
23 it's important to the Commonwealth and to the nation:
24 because it comports with our idea of equal justice under
25 the law. If two people commit the same crime in Hopewell

1 or Richmond or in Fairfax County, those two people ought
2 to get the same punishment for that crime. The only
3 difference ought to be whether one or the other has
4 a previous record, not what side of the neighborhood
5 he lives on or where he comes from or who he knows.
6 It ought to be on the basis of the severity of the crime
7 that he commits.

8 And I don't think that there's anyone in this
9 room who disagrees with me when I say that people who
10 commit violent crimes in Virginia ought to go to jail
11 and prison, and they ought to stay there and serve their
12 full terms with no early release. The idea behind
13 presumptive uniform sentencing, which I commend to you,
14 is that people will be treated equally under the law
15 not just before conviction, not just during the trial,
16 but once convicted that they be treated to the same
17 punishment as equally as we can possibly have it.

18 I don't think it gives anyone confidence in
19 our legal justice system when they see the disparities
20 that are constant, that have been reported and chronicled,
21 and that exist. And they exist for a very simple reason:
22 We have not bound down our judges and our jurors by
23 the chains of law.

24 When it comes to sentencing, unlike any other
25 aspect of a criminal trial, unlike any other part of

1 the civil system, we have no guidelines to speak of.
2 It's really up to that juror or to that judge, and that
3 needs to be changed. It needs to be changed so that
4 equality under the law is a reality, and it needs to
5 be changed because we have to send signals to the people
6 who believe they can profit from violating the law that
7 they will be punished upon conviction, and that the
8 punishment will be in accordance with the severity of
9 the crime and by no other standard.

10 This is an important issue, as are many others.
11 The opportunity for economic growth, Franklin Roosevelt
12 said that the freedom is not a half and half affair.
13 If the average citizen is guaranteed equal opportunity
14 in the polling place, he must have equal opportunity
15 in the marketplace.

16 It's recently been estimated that the decline
17 in productivity growth in the 1970s cost the average
18 household nearly \$3,000 in income. Now we have something
19 to talk about in the 1980s. The misery index is the
20 lowest in 20 years. More people are at work than ever
21 were before. During the 1970s, let's face it, America
22 wasn't going forward. We were going backward.

23 Poverty is far from solved, but there's some
24 good news. Eighty-five percent of the people who left
25 the welfare rolls don't come back because they become

1 independent. Tax rates have been reduced. Incentives
2 for growth has been restored, and we've come to terms
3 with the fact that we don't need to spend so much time
4 in how we divide up that pie if we can make the pie
5 larger, and that can only come if we unburden and un-
6 bridle the free enterprise system which, after all,
7 pays for all of our goods and services, creates the
8 capital that makes America the promised land.

9 The United States of America is leading the
10 world into an economic recovery with strong growth and
11 low inflation, and that's important. Who gains the
12 most from low inflation and high growth? Those with
13 the lowest income because inflation hurts them most.

14 Now, what can we do for our part here in
15 Virginia? I think to support and encourage and do every-
16 thing we can to improve our public education system
17 so that we give the young boys and girls of Virginia
18 the capacity to manage the fundamentals, to be useful,
19 productive, learned citizens; to restore dignity to
20 the teaching profession; and to have classrooms that
21 don't accommodate themselves to disorder, because if
22 the teacher can't be heard above the den of the noise
23 in the classroom, it's plain that the children of Virginia
24 are not going to learn what they need to learn in the
25 complicated and difficult society they are growing up

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1 in.

2 In 1977, the NAACP came out against the current
3 administration's energy plan, and it endorsed growth,
4 growth in the private sector. It said inflation is
5 not caused by too many people working, and I think it
6 is the realization that growth is essential for all
7 of our prosperity, and that while government has a role
8 to help the least of us and to assure equality and equal
9 justice under the law, all of us must turn our resources
10 to trying to make the country and the state as productive
11 as it can be.

12 Let me commend each of you for your efforts
13 today and in the past to do what I've always thought
14 is important: to turn your attention to Richmond, to
15 the laws that are made here; to recognize that it's
16 not always necessary to go to Washington for justice,
17 but that the State of Virginia can have the kind of
18 laws and the kind of institutions that provide for the
19 justice all of you have been seeking.

20 I think the American viewpoint is best
21 characterized by the phrase "a rising tide lifts all
22 boats." That is what our goal must be, all of us, to
23 recognize that as our economy moves forward, as our
24 society becomes more just, as equality of opportunity
25 is secured in every nook and cranny of the country,

1 that that benefits each and all of us.

2 And I want to also compliment so many of you
3 who are in this room today for trying to make the
4 communities in which you live better, more reasonable,
5 more civilized places to be because there can't be any
6 constellation in our star of values that shines brighter
7 than that one of doing good toward one's neighbors,
8 making one's community a better place in which to live.

9 And I read just yesterday the words of Lewis
10 Thomas talking about being discouraged, and he said
11 every once in a while the reasons for discouragement
12 about the human prospect pile up so high that it becomes
13 difficult to see the way ahead, and it then is a great
14 blessing to have one conspicuous and irrefutable thing
15 to think about ourselves, something solid enough to
16 step onto and look beyond the pale, and plainly that
17 something ought to be for everyone in this room the
18 idea that in America if you don't like the way things
19 are going, you can make it better. You can work hard.
20 We may disagree. We may vote from time to time in differ-
21 ent ways, but when we gather in a room like this or
22 in countless rooms across the state, we're doing so
23 because we believe the system works. We believe we
24 can make it better, and we know that laws have an impact
25 and guide our conduct.

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1 That's what you're working for.

2 I appreciate the opportunity to be here this
3 morning to share these thoughts with you. Thank you
4 very much.

5 (Applause.)

6 REV. HARRIS: I thank Marshall for his provoca-
7 tive presentation this morning. It has started the
8 adrenalin running in us, and we are now prepared for
9 a full day of deliberation where we might share together
10 our thoughts and where this Advisory Committee might
11 do its job of finding facts, facts that you will, as
12 an audience, present to us.

13 As we continue our conference, at this time
14 we'll enter into a panel discussion on state government,
15 moderated by a member of our Advisory Committee, Maya
16 Hasegawa.

17 Maya, come forward now and call for the
18 panelists so that we might enter into the panel discussion.

19 MS. HASEGAWA: The panel members will come
20 forward, and we need to get some extra chairs up front.

21 (Discussion was held off the record.)

22 MS. HASEGAWA: This is the largest panel we
23 have. The purpose of this first panel this morning
24 is to learn a little bit about some of the state agencies
25 that handle civil rights compliance. We have some

1 people that deal with housing, minority business, the
2 state Equal Employment Opportunity Committee, and I
3 think that we'll just, since we have an hour and a half
4 and we have a large panel, I think that we'll just get
5 started.

6 What I'm going to do is call them off in the
7 order in which they appear on the program and give them
8 a chance to give us a brief overview --I told them before
9 not more than five minutes -- about what their office
10 does, what their role in complaint handling is.

11 Then, depending on what they have covered,
12 I have a few questions that I want to ask for the
13 Commission so that we have them on the record.

14 After everybody has had a chance to do their
15 presentations, which I figured is going to take about
16 45 minutes, I think, we'll have a chance for questions
17 from other Commissioners and from the audience.

18 I'd like to call first on George E. Gardner,
19 Jr., who is the Director of the Office of Employment
20 Services and Program Evaluations for the Department
21 of Personnel and Training in the Commonwealth of Virginia.
22 This office includes what used to be called the State
23 Equal Employment Opportunity Program.

24 George.

25 MR. GARDNER: Thank you, Maya.

1 The Office of Employment Services and Program
2 Evaluations essentially is responsible for investigations
3 of unlawful discrimination. Our authority is vested
4 primarily in two documents.--

5 FROM THE FLOOR: We can't hear you. Could
6 you move the mike up closer?

7 MR. GARDNER: Can you hear me now?

8 Our authority is vested primarily in two docu-
9 ments, Governor Robb's Executive Order No. 1, which
10 states that it's the policy of the commonwealth that
11 any unlawful discrimination is prohibited. This dis-
12 crimination covers race, sex, religion, handicap and
13 age.

14 Secondly, in the Secretary of Administration
15 of Finance Directive No. 3, our office is further
16 authorized to investigate and resolve any allegations
17 of unlawful employment discrimination by either employees
18 of state government or applicants for employment in
19 state government.

20 To this end, we investigate any complaints
21 of unlawful discrimination. We work in close contact
22 with the Attorney General's Office in our case investiga-
23 tions. We also work in close contact with other agencies.

24 As a general overview, our investigative pro-
25 cedures mirror very closely those of your federal

1 investigative agencies. We require, similar to EEOC,
2 that a complaint be filed within 180 days of the last
3 act of the alleged unlawful discrimination. We try,
4 we attempt to the best of our abilities to resolve our
5 cases within a 150-day period, which is close to the
6 time period that EEOC as well as the Office for Civil
7 Rights Education, as well as OFCCP and your other federal
8 investigative agencies use for a time frame.

9 The office at this point in time or the last
10 six months that I've been there, we've seen an emerging
11 pattern in the types of complaints that we're receiving.
12 I think previously race discrimination complaints were
13 far ahead of any other type of allegations of unlawful
14 discrimination. We are seeing now the emergency of
15 complaints alleging sexual harassment.

16 We are also seeing more and more of complaints
17 alleging simply just a violation of the Governor's
18 Executive Order No. 1, which covers primarily all of
19 your state personnel policies and practices. I would
20 dare say at this point in time 50 percent of our complaints
21 are those simply alleging that in some state agency
22 there has been a violation of state personnel policies
23 and procedures.

24 We are involved in training. It is one of
25 the postures of the office, of course, is one way to

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1 eradicate unlawful discrimination is, of course, trained
2 and necessary personnel officers, EEO officers, through-
3 out the state agencies as to how they should be proceed-
4 ing with their personnel operations in their particular
5 agency.

6 We also are in a planning mode to bring more
7 exposure with respect to employee rights within the
8 state, as well as we're moving to target more special
9 interest groups, particularly in the area of sex
10 harassment, with programs for women.

11 I think that covers my five minutes.

12 MS. HASEGAWA: Just a few questions. To
13 clarify, the services that your office provides are
14 only for state employees and state agencies, or prospec-
15 tive state employees?

16 MR. GARDNER: And applicants, right.

17 MS. HASEGAWA: What is the current size of
18 your staff?

19 MR. GARDNER: Full staff, 15.

20 MS. HASEGAWA: That's your allocated number,
21 right?

22 MR. GARDNER: Right.

23 MS. HASEGAWA: How many persons do you current-
24 ly have on board?

25 MR. GARDNER: With the new hires in the EEO

1 area, six.

2 MS. HASEGAWA: Okay. I assume that there
3 are written procedures in terms of how you process
4 complaints; is that true?

5 MR. GARDNER: Yes.

6 MS. HASEGAWA: Are they available to the gen-
7 eral public, and how would they go about getting those?

8 MR. GARDNER: Well, by simply contacting the
9 office. We have a prepared brochure that summarizes
10 our investigative procedures, our time frames, et cetera.

11 MS. HASEGAWA: Do you get any federal funding?

12 MR. GARDNER: Not to my knowledge, no more
13 than your traditional state agencies and the executive
14 branch would get, but no, not targeted for the office.

15 MS. HASEGAWA: Is there any connection between
16 how your agency functions and a similar federal agency?
17 In other words, is there cooperation on complaint inves-
18 tigation; is there exchange of information? Is there
19 any state-federal connection?

20 MR. GARDNER: I have not had the occasion since
21 I've been on board to work in a cooperative posture
22 with any of the federal agencies. Of course, when fed-
23 eral agencies, such as the Office of Civil Rights,
24 Department of Education are doing compliance reviews,
25 we are contacted. With EEOC, I have found them very

1 cooperative in discussing various cases, but in terms
2 of a joint investigation, per se, if that's what you
3 mean, I have not had the occasion to experience that.

4 MS. HASEGAWA: Okay. About how many complaints
5 a year do you handle?

6 MR. GARDNER: Historically I think it's been --
7 it's hard to discern a trend. It's somewhat erratic.
8 I think that in previous years it was 40 to 60 complaints
9 per year. I think that's the number that sticks in
10 my mind.

11 Last year or two years ago, for whatever reason,
12 I think it was a low of around 36 to 40 complaints.
13 I've been surprised in my six months because if the
14 trend continues, if the numbers of complaints we're
15 receiving continues, I would expect that by the end
16 of the fiscal year we would be back up to 60 to 70 com-
17 plaints this year.

18 MS. HASEGAWA: Okay. We know there's a parallel
19 federal structure to deal with employment discrimination.
20 Do you have any idea how many complaints go directly
21 to the federal government rather than coming to the
22 state, from state employees?

23 MR. GARDNER: The preponderance of your com-
24 plaints going directly to a federal agency, of course,
25 would be going to EEOC. I believe last year state

1 employees filed 90-some odd complaints. It's in the
2 90s. I can't give you the precise number.

3 MS. HASEGAWA: With the federal government?

4 MR. GARDNER: Right.

5 MS. HASEGAWA: Did most of those people also
6 file with you, or they just filed --

7 MR. GARDNER: I would say a third file also
8 with our office.

9 MS. HASEGAWA: Thank you, Mr. Gardner. I'm
10 sure the audience is going to have questions later.

11 The next panel member is Antonia Venega
12 Holloman, who is Chairperson of the Virginia Equal
13 Employment Opportunity Committee for the Commonwealth
14 of Virginia.

15 MS. HOLLOMAN: Good morning.

16 I am the chair of the Virginia Equal Employ-
17 ment Opportunity Committee, a committee composed of
18 16 members appointed by the Governor from all parts
19 of the state. Our main purpose is to monitor the EEO
20 posture of the commonwealth as it relates to state
21 employees only.

22 We do this by investigating reports coming
23 out of the George's office, Employment Services, through
24 the Department of Personnel and Training.

25 We serve at the pleasure of the Governor. We

1 are not paid for our services, and right now on the
2 committee there is one classified state employee.

3 We are advisory to the Governor in that when
4 we look at the posture of the commonwealth and the pro-
5 gress that's made in EEO, we report to him and give
6 him recommendations as to how to improve that posture.

7 We are now in the process of getting together
8 our annual report, which will be released probably in
9 the beginning of December.

10 That's basically what the committee does.
11 It meets once a month, and we also act as a conduit
12 for groups who want their views on state government
13 heard as far as EEO is concerned.

14 MS. HASEGAWA: Toni, the meetings that you
15 spoke of, are they open to the public?

16 MS. HOLLOMAN: Yes, they're open.

17 MS. HASEGAWA: And how would the people find
18 out about them?

19 MS. HOLLOMAN: There usually are notices placed
20 in the newspaper, and notices are regularly sent to
21 the media about open meetings. All of the meetings
22 are open.

23 MS. HASEGAWA: Okay. What about getting copies
24 of the annual report? How would people go about doing
25 that?

1 MS. HOLLOMAN: Oh, that is done again through
2 the Office of Employment Services, George Gardner's
3 office. We work very closely with that office.

4 MS. HASEGAWA: What connection do you have
5 with the complaint process for state employees?

6 MS. HOLLOMAN: None whatsoever except to recom-
7 mend changes or improvements in the system, which we
8 do with regularity.

9 Ask George. We make a lot of recommendations.

10 MS. HASEGAWA: I should explain, and maybe
11 I should have said this before Toni started talking.
12 One of the reasons that Toni is on the panel is because
13 her committee has come up with the same idea that the
14 Civil Rights Commission Advisory Committee had, which
15 has resulted in the model legislation that we're here
16 to discuss, and that is one of their recommendations
17 to the Governor also. It has been for the last two
18 years?

19 MS. HOLLOMAN: Two years, yes.

20 MS. HASEGAWA: And I understand it will be
21 again.

22 Toni, you're advisory to the Governor only
23 as far as state government is concerned, the posture
24 of state government.

25 MS. HOLLOMAN: On, yes.

1 MS. HASEGAWA: And so you have nothing to
2 do with--the private sector?

3 MS. HOLLOMAN: No, unfortunately.

4 MS. HASEGAWA: Okay. Our next speaker is
5 Carolyn Jefferson-Moss, who is the Director of the State
6 Office of Minority Business Enterprises, Commonwealth
7 of Virginia.

8 MS. JEFFERSON-MOSS: Thank you, Maya.
9 Can you all hear me?

10 FROM THE FLOOR: No.

11 MS. JEFFERSON-MOSS: Can you hear me now?

12 FROM THE FLOOR: Yes.

13 MS. JEFFERSON-MOSS: Okay. Although our agency
14 is not a compliance or enforcement agency, we do operate
15 a number of programs that are designed to provide greater
16 access for minority businesses to the marketplace. Our
17 agency has been in effect for ten years now, and I'm
18 going to briefly discuss two of the programs that are
19 being implemented now and are probably of the greatest
20 interest to you.

21 The first one is a contract which our office
22 has operated for the last five years. It's a federally
23 mandated contract with the Highway Department. The
24 program is the Highway Supportive Services Program.

25 Prior to January of this year, we had a federal

1 goal for minority participation in construction-related
2 contracts for three percent and a one percent goal for
3 women-owned businesses. The enactment of the Surface
4 Transportation Assistance Act of 1982 raised the goal
5 for minority businesses to ten percent, and as of October
6 31st, we have a ten percent goal for minority businesses
7 and a one percent goal for women-owned firms.

8 Our office provides a number of supportive
9 services to minority and women-owned firms seeking to
10 do business in the highway construction area. We assist
11 firms in becoming certified and pre-qualified with the
12 state. We assist firms in interpreting and analyzing
13 bids and specifications, road and bridge specs, highway
14 proposals. We assist firms in obtaining bonding and
15 preparing financial statements.

16 We monitor project showings. We maintain
17 a data bank on all of the certified minority and women-
18 owned firms that are in the construction industry.

19 The second program that will probably be of
20 great interest to you is the Market Development Program,
21 also implemented by our office. It is designed to in-
22 crease the number of dollars that the state purchases
23 directly from minority and women-owned firms, and this
24 is non-construction related contracts.

25 You probably heard the Governor announce in

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1 the last month that state agencies are now implementing
2 voluntary goals for purchases from minority and women-
3 owned firms. The goal for this fiscal year ranges any-
4 where from one to three percent, and it varies agency
5 to agency.

6 We expect this goal to generate anywhere
7 between 33 and \$99 million in procurement opportunities
8 for minority firms.

9 In the highway construction area, I forgot
10 to mention between now and 1986, the federally mandated
11 goals should generate about \$126 million for minority-
12 owned firms.

13 So we are talking about a significant increase
14 in both state purchases from minority firms, as well
15 as purchases that are made with federal highway construc-
16 tion dollars.

17 Those are the primary programs that would
18 fall into this area. I would like to mention that we
19 have been able to convince the state officials to make
20 several changes in the Highway Construction Program
21 since early 1982, which are designed to remove some
22 of the restrictive barriers or practices that have
23 impeded minority firms' abilities to participate in
24 the construction industry.

25 One, we have been successful in getting the

1 Highway Department to remove the requirements that sub-
2 contractors be bonded.

3 Two, we have been able to remove the require-
4 ments for pre-qualification of subcontractors on jobs
5 up to \$1 million.

6 We are also breaking some of the large con-
7 struction contracts into smaller increments of work,
8 here again to provide more opportunities for minority
9 firms to service prime contractors.

10 There are a number of other changes that are
11 in progress, but this sort of represents the summary
12 of some of the programs operated by our office that
13 I think would be of primary interest here.

14 MS. HASEGAWA: Thank you, Carolyn.

15 We just had some consultation and want to
16 change the format. I apologize to George and Toni for
17 asking them questions, but I'm sure they would have
18 been asked before.

19 We're just going to go on, and you're off
20 the hook for now, Carolyn.

21 MS. JEFFERSON-MOSS: Great.

22 MS. HASEGAWA: But we'll come back to questions.

23 The next panel member who is going to speak
24 is Jack Yeager, who is the Equal Employment Opportunity
25 Officer for the Virginia Employment Commission of the

1 Commonwealth of Virginia.

2 --MR. YAEGER: Excuse me. I have a bad cold,
3 and it's very cold up here also, freezing up here.

4 A brief background of the Virginia Employment
5 Commission, and excuse my cold, please. We have two
6 major divisions. One is our Job Service Division, and
7 the other is the Unemployment Insurance Division.

8 The Job Service Division was created by the
9 Wagoner-Peyser Act on June 6th, 1933, and our Unemploy-
10 ment Insurance Division was created by the Social Secur-
11 ity Act of 1935. So you can see we are totally a feder-
12 ally funded agency, and we receive no state or local
13 funds at all. And this makes it a little more difficult,
14 I would imagine, than most state agencies.

15 Being totally federally funded, I report
16 directly to our regional office of the U.S. Department
17 of Labor, the Office of Civil Rights within the Department
18 of Labor out of Philadelphia. Even though we are a
19 state agency, I also report EEO-wise to our state EEO
20 office.

21 We have a complaint structure within the U.S.
22 Department of Labor, Office of Civil Rights Division
23 that I'll get into in a couple of moments.

24 We also have within our agency an individual
25 that's designated as our Monitor Advocate. I don't

1 know if you're familiar with that or not, but the Monitor
2 Advocate handles complaints that deal primarily with
3 MSFW.

4 Now, the reason why that came about, I think
5 the NAACP, the Western Region of the NAACP, filed suit
6 against the U.S. Department of Labor. At that time
7 I think the Secretary of Labor was Brennan, and it went
8 from Brennan to Marshall, to now it's Donovan. Is that
9 right? And it hasn't been settled as of yet, but we
10 call it within our agency "Judge Richie's court order."
11 That's the way we describe this.

12 And what's happened with that, that's how
13 our Monitor Advocate was set up, to deal primarily with
14 complaints on the MSFW or the migrant seasonal farm
15 workers situation, and we needed something to deal
16 directly with that because when the suit was filed,
17 Judge Richie indicated that the complaints were not
18 being funneled properly through the U.S. Department
19 of Labor and being resolved as they should have been,
20 among a lot of other things.

21 But our Monitor Advocate handles all MSFWs,
22 as a matter of fact, primarily handles our entire com-
23 plaint system. Now, our Monitor Advocate does not deal
24 with discrimination as far as Title VII and Title VI
25 is concerned, which I take care of that myself, and

1 the Monitor Advocate normally would receive about 95
2 complaints during the course of a year.

3 These complaints would vary from many, many
4 different things: certification for aliens, primarily
5 I think most of them are dealing with wages.

6 We have three significant areas as far as
7 our MSFW areas are concerned. That's Bristol, Virginia,
8 Winchester, and Exmore. We also have significant areas
9 like Galax, which deals with cabbage in the Danville
10 area, and deals with tobacco. But the other three areas,
11 we have a significant amount of MSFW action that's taken
12 care of there.

13 Now, as far as my responsibility within EEO
14 in handling the complaints, our complaints stem primarily
15 from applicants for employment and agency employees,
16 which can be rather confusing to a certain degree because
17 I'm handling complaints from outside of the agency that
18 are filtered through our complaint system, and also
19 complaints within the agency that are state employees.

20 We can also have problems from people that
21 are applying for jobs within the state agency, complaints
22 that may go through the state EEO office.

23 The complaints are filed in any local office
24 or can be filed in any of our local offices in accordance
25 to 20 C.F.R., Part 658, Subpart E.

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1 MS. HASEGAWA: One minute.

2 --MR. YEAGER: I've got a lot of things to say
3 mainly because what had happened, our agency is a little
4 different than most state agencies, and I wanted to
5 explain the entire procedure because a lot of people
6 really don't understand how the agency is set up. Most
7 people thought it was just a total state agency.

8 But we have a separate complaint procedure
9 that has nothing to do with the state itself. This
10 is primarily from the U.S. Department of Labor, the
11 Office of Civil Rights, and we have JS or job service
12 related complaints and non-job service related complaints,
13 and most of these non-job service related complaints
14 would be people coming into the local offices asking
15 for information about how to get to EEOC or how could
16 they file a complaint or whatever, and we are bound
17 by law to give people this information.

18 I'm going to have to cut this short, right?

19 Okay. Also within the agency, I conduct
20 compliance reviews in each local office, which each
21 local office we have a sign, what we call the local
22 office EEO representative. That's an individual that
23 has a minimum amount of training, a small amount of
24 training, that we can rely on to handle the complaints
25 in that particular local office. There's no way that

1 I as an EEO officer could be in every area and deal
2 with them. But the complaints would be filtered through
3 that individual and/or the local office manager to try
4 and resolve the issues at that level.

5 In conducting the compliance reviews, we try
6 and look for many, many different areas, mainly accessib-
7 ility to the handicapped, to make sure of that -- Betty
8 Matthews, she checks us out quite often -- we check
9 for posters, to make sure that we have the proper posters
10 located in these local office; that people that are
11 crying for jobs or if they have a problem, they would
12 know where to file a complaint, if necessary; safety
13 precautions --

14 MS. HASEGAWA: Finish your sentence.

15 MR. YEAGER: She wants to cut me off, so I'll
16 just have to cut it off here. Thank you very much.

17 MS. HASEGAWA: We have to give Betty a chance
18 to talk.

19 MR. YEAGER: Okay.

20 MS. HASEGAWA: I think we'll probably have
21 a chance to get back to Jack, but I wanted to have a
22 chance to let the other panel members speak. I'm sure
23 some of those folks are going to ask you questions for
24 clarification.

25 MR. YEAGER: That's what I'm trying to avoid.

1 MS. HASEGAWA: Our next speaker is Frank
2 Feibelman, who is the staff attorney for the State Advo-
3 cacy Office for the Developmentally Disabled for the
4 Commonwealth of Virginia.

5 MR. FEIBELMAN: Thank you.

6 Our office is not a compliance office at all.
7 It's one of the few state agencies that acts as an
8 advocacy office for the rights of the developmentally
9 disabled in Virginia. It's a totally federally funded
10 office. The present level is five and a half employees.
11 We don't have half a body at a desk. We have a person
12 who works half-time.

13 Our purpose is to protect and advocate for
14 the rights of the developmentally disabled within the
15 Commonwealth of Virginia. We are authorized by federal
16 statute and by a gubernatorial order to pursue
17 administrative, legal and other appropriate remedies
18 to resolve and protect the rights of the developmentally
19 disabled in Virginia.

20 We also function as an agency to mobilize
21 the developmentally disabled within Virginia, to advocate
22 for their own rights.

23 Thank you. I'll give Betty plenty of time
24 to talk.

25 MS. HASEGAWA: I don't think all of us mean

1 to imply that you're going to talk a long time, Betty.

2 MS. MATTHEWS: I hope not.

3 MS. HASEGAWA: Betty Matthews is the Title
4 V and Community Education Coordinator for the Virginia
5 Department of Rehabilitative Services.

6 MS. MATTHEWS: Thank you, Maya.

7 Jack's got the clock on me.

8 So I'd like to start by saying how many of
9 you in the room know what TAB means?

10 You'd better raise your hand.

11 For those of you who don't know what TAB
12 means, it's simply a way of saying all of you who are
13 not now disabled are only temporarily able bodied. That's
14 heavy.

15 I have a dual purpose in being here this
16 morning. I am the Title V and Community Education Coor-
17 dinator for the Department of Rehabilitative Services.
18 Very briefly, my responsibility is to see to it that
19 all public and private agencies are provided with the
20 kind of technical assistance and consultation through
21 the Department of Rehabilitative Services that they
22 ask for.

23 We have staff in the field, because we are
24 a community-based agency, who will respond to churches,
25 civic groups, state agencies, publics of any kind and

1 private employers.

2 Our concern, because my Title is Title V,
3 is Title V of the Rehabilitation Act of 1973. Title
4 V says there shall be no discrimination on the basis
5 of handicap, and each of those sections of that Title
6 I work with.

7 Section 501 is the federal. So I work with,
8 in coordination and in cooperation with, the federal
9 people in compliance of 501, only in a consultive manner,
10 however. Our agency is not an enforcement agency, by
11 any means.

12 Five, oh, two, of course, is the Architectural
13 Transportation of Areas Compliance Board, and we work
14 with them in terms of the kinds of physical accessibility
15 that I'm sure all of you are becoming more and more
16 and more aware of.

17 Five, oh, three, of course, is with the con-
18 tractors, private employers, with federal contracts,
19 and we work very closely with them because, after all,
20 the mission of our agency is to provide employment to
21 rehabilitate individuals with disabilities for employ-
22 ment. So we are working with them very often in a
23 technical assistance and consultation manner.

24 Section 504 is probably the biggest piece
25 of the responsibility, and that is what we call our

1 civil rights. We don't have civil rights in legislation,
2 as many other protected groups do. We have Section
3 504, and that is our civil rights.

4 As I said, I have a dual purpose. Within
5 the Department of Rehabilitative Services, we can pro-
6 vide any kind of consultation, technical assistance
7 and training that has to do with persons with disabilities.
8 We train people like Jack Yeager. We work with George
9 Gardner. We work with state agencies. We work with
10 private employers, and so forth.

11 The training that takes place is terribly
12 important because we're the last group, if you will,
13 but the one group that each and every single one of
14 you can join at any time. It's the only group that
15 all of you can join at any time.

16 The second piece of my dual purpose is as
17 the Executive Director of the Governor's Overall Advisory
18 Council on the Needs of Handicapped Persons, and as
19 a professional staff to that advisory council, we are
20 extremely interested in the work that the U.S. Commission
21 on Civil Rights and the Virginia Committee is doing -
22 because we have been working very hard to see to it
23 that we advise Secretary Fisher and advise the Governor
24 in terms of the needs of program improvement and program
25 needs for persons with disabilities.

1 To that end, we have a proposed piece of
2 legislation that we have called "The Virginians with
3 Disabilities Act." I would be glad to respond to any
4 questions that you might have about that. However,
5 it is in the proposed stage at the present time, and
6 I may have to defer them.

7 But the Virginia Governor's Overall Advisory
8 Council on the Needs of Handicapped Persons is a very
9 viable group, and we would support and encourage and
10 help in any way that we possibly can with a Virginia
11 human rights or civil rights model act.

12 Thank you.

13 MS. HASEGAWA: Thank you, Betty.

14 The State Office on Aging was asked to have
15 a panelist. Unfortunately they were not able to have
16 anybody here today.

17 So our last panel member is Ron Claiborne,
18 the Assistant Director of Fair Housing for the Virginia
19 Real Estate Commission, which is a state agency as part
20 of the Department of Commerce.

21 MR. CLAIBORNE: Good morning.

22 For purposes of clarity and brevity, let me
23 first and foremost say that the Virginia Real Estate
24 Commission is a part of the Virginia Department of
25 Commerce, which is a state regulatory agency that,

1 regulates a number of professions and occupations.

2 --However, since 1975, the Commission has been
3 responsible for the enforcement and administration of
4 the Virginia Fair Housing Act, which is found in Section
5 3686 through Section 3896 of the Code of Virginia.
6 It is a comprehensive open housing and lending law that
7 prohibits discrimination in housing on the basis of
8 race, color, religion, sex and national origin.

9 The Commission is responsible for administra-
10 tion, investigations and enforcement and compliance
11 of the Act. It has a cooperative agreement or relation-
12 ship with the U.S. Department of Housing and Urban
13 Development, which is responsible for the enforcement
14 of the Federal Fair Housing Act.

15 In the course of investigating complaints
16 alleging violation of the Act, the Department of Housing
17 and Urban Development will automatically refer any
18 complaint filed with the Department to the Commission
19 for subsequent investigation and enforcement. That
20 results in, let's say, a comprehensive investigative
21 process.

22 At the present time, the Department has taken
23 upon a new initiative, which some of you may or may
24 not know about. It held November 4th and 5th the first
25 of a series of 22 fair housing and lending workshops

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1 throughout the commonwealth. At some time in the future
2 you will be advised in terms of the exact locations
3 of those workshops. The first one took place in Surrey,
4 Sussex County, Virginia, and which was very well
5 attended in terms of the inquiries that were posed to
6 us on the fact that many Virginians do not know that
7 there is a Virginia Fair Housing Act in existence.

8 However, it has been in existence since 1972,
9 and since '75, it has been administered and enforced
10 by the Virginia Real Estate Commission. It's compre-
11 hensive in scope. It prohibits a range of discrimina-
12 tory conduct. Complaints must be filed with the Commis-
13 sion and with HUD within 180 days of the last discrimina-
14 tory act. There is a process for attempting to resolve
15 these matters outside of the judicial arena. However,
16 if it proceeds to the judicial arena, the Commission
17 is expressly authorized to refer such matters to the
18 Office of the Attorney General.

19 However, there is a caveat that's appropriate
20 in terms of referring matters to the Attorney General's
21 office. The Attorney General's office is only expressly
22 authorized by statute to enjoin the discriminatory con-
23 duct in question, and they are not expressly authorized
24 to seek and secure punitive damages and other sorts
25 of relief.

1 I take it that from some of the questions
2 that were proffered last evening that there is a lot
3 of questions around the issue of housing, and I would
4 welcome any comments, questions and anything you may
5 have about the Act itself.

6 Thank you.

7 MS. HASEGAWA: Before we start the period
8 where we get to go back to asking people questions,
9 I want to ask Bobby Owens -- is he here, Robert Owens --
10 who is with the Civil Rights Commission, he's our
11 staff attorney, right, who is going to set down some
12 ground rules for us.

13 MR. OWENS: Thank you, Maya.

14 If I might ask for just a moment or two, we
15 probably should have done this at the beginning of the
16 session. However, we neglected to do so. For those
17 of you who were not here last night, I'd like to state
18 at this time the basis upon which the U.S. Commission
19 on Civil Rights undertakes to conduct today's fact-
20 finding meeting.

21 The authority for this meeting and any
22 activity of any of the state advisory committees is
23 found at 42 United States Code, Section 1975(d).

24 The panelists who are appearing today and
25 those who made presentations last night are doing so

1 voluntarily. While the Commission does have power to
2 issue subpoenas, we have not sought to compel the
3 attendance of anyone today or last evening pursuant
4 to that authority.

5 I'd like also to point out that inasmuch as
6 each of the presenters is doing so voluntarily, we want
7 to be very cautious not to defame and to degrade any
8 individual or agency which they may represent. We at
9 the Commission are very particular when we're making
10 public statements, when we're being recorded, when we're
11 being video taped, to take cautions to avoid embarrass-
12 ing anyone unnecessarily.

13 Our interest here is in getting the facts,
14 and not in pinning anyone or any agency to the wall.

15 Now, because of the substance of the areas
16 that we are going to cover, I suspect that there is
17 a possibility that some of your questions may become
18 somewhat heated based upon personal experiences, and
19 again, I would forewarn those of you who have questions
20 to ask, as well as members of the various panels who
21 will be responding, to avoid if at all possible attempt-
22 ing to cast someone or an agency in an embarrassing
23 light.

24 If I in my capacity as the regional attorney
25 feel that someone or agency is being embarrassed

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1 unnecessarily, I will call that to the attention of
2 the speaker and ask that he or she refrain from making
3 comments of that nature, in which case the question
4 can either be withdrawn or rephrased.

5 I think that pretty much covers what I had
6 to say about that, but one other thing: having sat
7 in the back of the room for about an hour now, I note
8 that at times, members of the panel, it's somewhat diffi-
9 cult to hear you. I will ask you to speak directly
10 into the microphone. That would be of great help for
11 those of us seated in the rear of the room.

12 One final thing: for those of you in the
13 audience who do have questions to put to the panelists,
14 we ask that you proceed to either of the mikes located
15 in the aisles and at that point communicate your
16 questions.

17 Thank you, Maya.

18 MS. HASEGAWA: While you are all formulating
19 your questions, most of the people talked about the
20 questions or answered the questions that I asked George.
21 I guess they figured out that I was going to ask or
22 somebody was going to ask those questions.

23 The one thing that I wanted to make sure that
24 we have on the record before you all start asking ques-
25 tions is the number of staff they have currently

1 involved in compliance activities.

2 George answered that question. Toni?

3 MS. HOLLOMON: I beg your pardon?

4 MS. HASEGAWA: You have no staff, right?

5 MS. HOLLOMON: No, we don't have any staff.

6 We rely on the Office of Employee Programs.

7 MS. HASEGAWA: Talk into the mike.

8 MS. HOLLOMON: We rely on the employees at
9 the Office of Employment Services to supply us with
10 whatever staff is necessary.

11 REV. HARRIS: Okay. Carolyn?

12 MS. JEFFERSON-MOSS: We have a total of 13
13 persons on board right now. We have no authorized per-
14 sonnel that are just in the area of compliance. Our
15 agency is primarily an advocacy one.

16 MS. HASEGAWA: Okay. Ron.

17 MR. CLAIBORNE: The Commission relies upon
18 the enforcement division of the Department of Commerce,
19 which consists of approximately 22 field investigators.

20 MS. HASEGAWA: Okay. Jack, do you have any
21 staff now?

22 MR. YEAGER: No staff still.

23 MS. HASEGAWA: It's just you?

24 MR. YEAGER: Almost just me.

25 MS. HASEGAWA: Betty?

1 MS. MATTHEWS: As I said, the Department of
2 Rehabilitative Services is not a compliance agency.
3 However, we have approximately 11 field people throughout
4 the state who can respond to and fill needs in terms
5 of persons with disabilities, technical assistance and
6 consultation. So there are 12 of us that are working
7 in the field, Title V.

8 MS. HASEGAWA: Okay, and Frank already answered
9 that question with his half a person.

10 Okay. Does anybody want to start with ques-
11 tions?

12 Kika, you were at the mike. Nobody has any
13 questions?

14 If you will go the mike then, what I will
15 do is I will alternate between the mikes.

16 MR. WILCOX: My name is Doug Wilcox, and I'd
17 like to address a question to Frank.

18 You said it three times, developmentally dis-
19 abled. Would you define what you mean by "developmen-
20 tally," please?

21 MR. FEIBELMAN: The U.S. Government, the Con-
22 gress, has already defined what "developmentally disabled"
23 means, and that's in the Bill of Rights Act for the
24 Developmentally Disabled, which is 42 U.S.C. 6001.

25 Can you hear me?

1 FROM THE FLOOR: No, no.

2 MR. FEIBELMAN: No?

3 A person is developmentally disabled if they
4 have a disability that occurs before the age of 22 and
5 affect three or more major life activities and is a
6 chronic and longstanding disability. A common example
7 of a developmental disability is mental retardation,
8 cerebral palsy, epilepsy, a specific learning disability,
9 et cetera.

10 MS. BARLOW: My name is Alma Barlow and --

11 MS. HASEGAWA: Ms. Barlow, can you wait just
12 a second?

13 Does that answer your question, Doug?

14 MR. WILCOX: Yes.

15 MS. HASEGAWA: Okay, Ms. Barlow.

16 MS. BARLOW: I would like to direct my ques-
17 tion to Jack Yeager.

18 Jack, I would like to ask you: is the unemploy-
19 ment rate in the State of Virginia today higher or lower
20 than it was in 1976? That's one of my questions.

21 The other one is I would like to know if ABC
22 people are counted in that unemployment rate.

23 The other one is I would like to ask why do
24 we be discriminated against when we are sent out on
25 jobs from the employment agency and say we live in public

1 housing or we are on welfare or we are trying to improve
2 our living conditions and trying to become independent,
3 and if you don't have the answer to that, I would like
4 to say to the Commissioners, could you change the law
5 a little bit so that we could become independent and
6 get out of that safety net that's hanging up there in
7 the sky?

8 Thank you.

9 MS. HASEGAWA: Jack, I don't know if you have
10 the figures, but you might want to answer the third
11 question if you don't have the exact figures she asked
12 for.

13 MR. YEAGER: Well, when she said the unemploy-
14 ment rate, I didn't really understand that totally.
15 I thought maybe you meant -- are you speaking about
16 the amount of money you receive for unemployment insur-
17 ance or are you talking about the unemployment --

18 MS. HASEGAWA: I think she's talking about
19 the number of people who are unemployed.

20 MS. BARLOW: I'm talking about unemployed
21 people in the Commonwealth of Virginia. Is it higher
22 and is it --

23 MS. HASEGAWA: Ms. Barlow, I think one of
24 the problems is that's really not Jack's area in terms
25 of statistics and handling unemployment. His area is

1 the civil rights compliance, and that's why I asked
2 whether he could focus on your third question, and maybe
3 find somewhat to get you the answer to the first two
4 questions.

5 Jack.

6 MS. BARLOW: Well, he said he didn't understand
7 so I was going to restate it.

8 MR. YEAGER: I understand now, yeah.

9 And you're speaking about getting out from
10 under the safety net. People that are applying for
11 jobs -- and I want to make sure I got this proper --
12 you said people that are on ADC, they're applying for
13 jobs, will go out and they're being discriminated
14 against because people will say or the employers are
15 saying that they have worked for public housing or
16 whatever.

17 MS. BARLOW: They live in public housing or
18 are welfare recipients, and immediately the doors are
19 closed in their faces. "We don't have time to talk
20 to you," or "we don't have this" or "we don't have that."
21 I'm sure you're aware of the welfare program that is
22 now being entered in here and the job search program,
23 and that's one of them.

24 MR. YEAGER: Okay, but these programs are
25 not administered by the Virginia Employment Commission.

1 Now, at one point we had the WIN Program,
2 which was administered by the Employment Service, and
3 during the course of the Employment Service administer-
4 ing that program, I have investigated complaints rela-
5 tive to the WIN Program, and I'm not knowledgeable of
6 any situations where -- I'm sure that employers will
7 discriminate against an individual from that area, but
8 it's much more difficult to pin them down than you would
9 think.

10 What the employers are saying, the most quali-
11 fied applicant, unless there's a special program that
12 is enjoined with the Virginia Employment Commission
13 and people from the WIN Program were sent with an under-
14 standing or within a contract with that employer, then
15 we could deal with it. But an individual applying for
16 a job, we would have -- just a person on ADC applying
17 for a job without being registered with us, we'd have
18 no jurisdiction over them at all.

19 MS. BARLOW: Well, I can give you some data
20 that it is happening.

21 MS. HASEGAWA: Okay, Jack. What you're saying
22 is that unless it's a program that's administered by
23 the Virginia Employment Commission, you have no author-
24 ity to investigate the complaint?

25 MR. YEAGER: None whatsoever. We are not

1 an enforcement agency in that respect. If the program
2 is administered by this agency, we have some jurisdic-
3 tion, but an individual going out and applying for a
4 particular job, we have no jurisdiction at all.

5 Unless that individual is registered within
6 our office and we've sent that individual to that par-
7 ticular employer, that's when it's considered a job
8 service related complaint. Other than that, we have
9 no jurisdiction at all to go into the private sector
10 to seek out individuals that have been discriminated
11 against in that respect. That would come directly under
12 Equal Employment Opportunity Commission, not the Virginia
13 Employment Commission.

14 MS. HASEGAWA: Okay. So if somebody comes
15 to the VEC and wants a referral for employment and they
16 happen to be a person receiving ADC, and they are refused
17 an interview or they feel they've been discriminated
18 against in some way because of that factor, then they
19 can come to you?

20 MR. YEAGER: That's correct. If we initially
21 referred that individual to a job, to a job or series
22 of jobs, and that individual comes back and indicates
23 to us that they've been discriminated against because
24 of where they lived or whatever, we have the authority
25 to investigate that, but only then, because we have

1 that particular job order.

2 You see, when we have a job order that we've
3 referred an individual to, the employers are obligated
4 by law not to discriminate. But if an individual is
5 just out applying for jobs, well, we have no jurisdic-
6 tion at all in that particular situation.

7 MS. HASEGAWA: Does that answer your question,
8 Ms. Barlow? You should go see Mr. Yeager.

9 MS. BARLOW: It's not a very good answer because
10 we're being discriminated against.

11 MR. YEAGER: See, that's the only answer I
12 have. I understand your --

13 MS. BARLOW: I thank you. I thank you.

14 MR. YEAGER: Okay.

15 MS. HASEGAWA: Yes.

16 MS. PEARSON: Good morning. I'm Ellen Pearson.
17 My question is directed to Ms. Carolyn Jefferson-Moss,
18 and it has reference to your market development contracts.

19 Initially I did have -- I'll say this -- I
20 did have some reservations when you mentioned that in
21 the highway construction contract, you said you had
22 three percent under the male contracts and one percent
23 female, and I got to thinking that I guess we don't
24 have too many female contractors on highways..

25 But my real question to you, Ms. Moss, is

1 in your market development contracts, you indicated
2 that you spent so much money on contracts, male and
3 female businesses, and I'd like to know whether they're
4 male or female, if these contracts would include such
5 contracts as involve businesses like travel agencies,
6 florists, caterers, those kinds of small business
7 contracts, meaning if there is a minority business owner
8 who has a travel agency. Would that include maybe the
9 contract for the year for your agency or for the state
10 government, or if there is a florist, a minority florist,
11 in town who is trying to get your contract or a contract
12 from the state government, would that include these
13 kinds of small businesses?

14 MS. JEFFERSON-MOSS: Okay. Let me see if
15 I can respond to that. Our office simply monitors the
16 goals that we set for other state agencies, and these
17 are voluntary goals representing the amount of dollars
18 they should attempt to procure from minority-owned firms,
19 and this is across the board.

20 Virginia has no set-aside programs. We have
21 no preference programs. We are mandated with a federal
22 goal in the Highway Construction Program. Goals for
23 contracts state-wide that are not related to highway
24 construction are totally voluntary.

25 You mentioned contractors for florists,

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1 contracts for travel services. Let me just comment
2 on the travel service portion. For instance, when I
3 first came here, I was approached by a minority travel
4 agency and made contacts with a number of state agencies
5 and have started those state agencies to do business
6 with the minority travel agency.

7 Later on, I learned that the state was going
8 to let a single contract to have all of the state's
9 travel services come under one umbrella contract, and
10 of course, this, in my opinion, has precluded other
11 state agencies or the state agencies that were already
12 doing business with the minority; it has precluded them
13 from continuing to do business with that minority travel
14 agency.

15 Of course, we are looking at some options
16 for correcting that situation, and I assume that's what
17 you were alluding to.

18 MS. PEARSON: Yes. I thank you very much
19 for that answer. Especially I would hope that in your
20 recommendations to the various state agencies, in view
21 of the fact that this is a civil rights conference,
22 that included in the Act that you would recommend the
23 separation of that one contract for the State of Virginia.
24 The perception that you have that you explained, that
25 that would be incorporated in this Act.

1 Thank you very much.

2 --MS. HASEGAWA: Thank you.

3 MR. AZORES: My name is Anthony Azores from
4 Vienna Virginia.

5 MS. HASEGAWA: He's a Commissioner, or you're
6 a member of the Advisory Committee. You should identify.

7 MR. AZORES: Yes.

8 I'd like to direct my question, if I may,
9 to the first speaker. If I mistake not, you mentioned
10 that your office investigates local discrimination,
11 and you also mentioned the basis of discrimination,
12 such as race, color, national origin, sex, handicap,
13 and there are others which you mentioned.

14 My question is simply this: is this enumera-
15 tion of the basis for discrimination inclusive, such
16 that if I come in and file a claim based on a complaint
17 for discrimination based on a factor not included in
18 that enumeration, would that automatically take out
19 my complaint and you do not prosper (phonetic) consistent
20 with the maximum -- (speaks in foreign language).

21 MR. GARDNER: Could you give me an example?

22 MR. AZORES: All right. I have in mind, for
23 instance, a case which could possibly be debated on
24 discrimination, but not included in this enumeration.
25 Let us say, for instance -- I'll give you an example.

1 The first case is this. We have two employees, govern-
2 ment employees. Their qualifications and credentials
3 are the same or practically the same, except for one
4 thing, which I will mention later. The first one gets
5 his promotion quite frequently in rank and in pay, while
6 the other remains dormant.

7 The only different between the two is the
8 one who gets frequent promotions in rank and in pay
9 belongs to the ruling political party, and the other
10 is a well known and strong financial supporter of the
11 party not in power.

12 Another case, we have a foreign country --
13 I will not mention the country -- well known to be
14 repressive and not complying with the basic human rights
15 and all of these things. However, the United States
16 is sympathetic with this country for reasons I do not
17 know or maybe you know, because, as a matter of fact,
18 the United States gives economic and military assistance
19 to this repressive country, which is actually a
20 dictatorial.

21 Now, a person comes to the United States to
22 speak political asylum, and he is given political asylum,
23 and then he applies for a job. Except for the fact
24 that he's sympathetic with a political party is which,
25 you know, against the party from where he came, which

1 happens to be in good terms with the United States,
2 he is discriminated. He doesn't get a job because he
3 says, "Well, your political persuasion is not in accord-
4 ance with the ruling party," and that's what I have
5 in mind, political beliefs or persuasion.

6 MR. GARDNER. In answer to your question --
7 can you hear me?

8 In answer to your question, obviously I made
9 an omission when I spoke of the authorities of my office.
10 Under the Administrative and Finance Directive Revised
11 No. 3, we do have authority to investigate complaints
12 of a political affiliation, harassment or discrimination
13 for state employees.

14 MR. AZORES: That is a grant. You can investi-
15 gate, but would that be a valid ground for discrimina-
16 tion once you find that the basis for discrimination
17 is simply political beliefs or persuasion?

18 MR. GARDNER: Yes, we do have authority to
19 investigate.

20 MR. AZORES: Yeah, that's right, to investigate
21 but after finding, you know, completing the investiga-
22 tion, are you authorized to declare that that is, in
23 effect, discriminatory based not on those mentioned,
24 you know, like I said, race, color, origin and all these
25 things, but based on political beliefs or persuasion?

1 MR. GARDNER: Yes, we're authorized. In fact,
2 it's mandated that we investigate and resolve unlawful
3 allegations of discrimination and other violations
4 of Executive Order No. 1.

5 MR. AZORES: I brought up that subject because
6 I noticed that in the model basic human rights for
7 Virginia that is not also included, and I would like
8 to strongly suggest that it be included as one of the
9 bases for discrimination.

10 Thank you.

11 MS. HASEGAWA: Thank you.

12 I didn't know you were waiting. Okay.

13 MR. TATE: I'm John Tate, and I'm with the
14 Woodrow Wilson Center and also Vice President of the
15 Central Virginia Handicapped Advocacy Group in
16 Charlottesville and past Chairman of the Independent
17 Living Committee of Handicapped Unlimited of Virginia.

18 I'd like to direct a question to Frank and
19 Betty.

20 I have worked with Frank's State Advocacy
21 Office, and I want to thank him for the training that
22 they have provided and the civil rights that they have
23 protected.

24 I also want to thank Betty's Overall Advisory
25 Committee to the Governor on the needs of handicapped

1 persons for the hearings that they had.

2 My question to both of them, and I'm not sure
3 if they're going to be here this afternoon, is have
4 you had a chance to look at the model act?

5 MR. FEIBELMAN: Yes.

6 MR. TATE: Okay.

7 MS. MATTHEWS: No.

8 MR. TATE: What I would like to recommend,
9 if it's possible, that the Committee consider perhaps
10 Betty's Overall Advisory Committee to the Governor to
11 review this on behalf of disabled persons, and also
12 maybe even consult with the Governmental Affairs Commit-
13 tee of Handicapped Unlimited of Virginia.

14 And my question is if the Committee takes
15 this model Act and adopts it, what impact is it going
16 to have on the Virginia Act that we have already that
17 you mentioned, and what role would the State Advocacy
18 Office have to work with those if you do not have any
19 enforcement role? Those are the two aspects.

20 MS. MATTHEWS: Well, Frank has deferred to
21 me, John.

22 Number one, thank you for the compliment.
23 I'd like to return the compliment and say one of the
24 things you said last night was perhaps the most import-
25 ant in terms of persons with disabilities, and that

1 was to recommend that the Virginia Advisory Committee
2 to the U.S. Commission on Civil Rights have a person
3 with a disability on that Advisory Committee that would
4 have a broad base of knowledge about all disabilities.

5 I appreciate what you're saying, and I think
6 it would be extremely appropriate for the Governor's
7 Overall Advisory Council to review the model Act and
8 to make recommendations and suggestions to the Virginia
9 Advisory Committee.

10 I should have gotten to the microphone last
11 night and asked how much time do we have to respond
12 because I think it would be extremely important to have
13 that input from the Governor's Council and certainly
14 from our coalition of disability groups we have to look
15 at the model Act.

16 MS. HASEGAWA: I think Mr. Ring is going to
17 talk a little bit this afternoon about the role of
18 community organizations and what happens now because
19 the Advisory Committee can't lobby, and what we're really
20 done is just put this out there for everybody else to
21 do whatever they will with it.

22 Frank.

23 MR. FEIBELMAN: Let me briefly respond to
24 your question about what role my office, the State
25 Advocacy Office has, if this model Act was passed.

1 The answer is I don't know, but I think it's important
2 than whether or not a particular agency has a very active
3 role in the enforcement of one act or if it still assumes
4 its old role that the substantive law, in terms of
5 discrimination against persons with disability, be passed.

6 The present Virginia law in that area leaves
7 a lot to be desired, and especially in terms of public
8 accommodation discrimination and employment discrimina-
9 tion. Not only the substantive law, but the compliance
10 piece in the proposed model Act goes a long, long way
11 in remedying the problems currently in state law.

12 MR. TATE: Thank you.

13 MS. HASEGAWA: Thank you.

14 Jessie.

15 MS. RATLEY: Jessie Ratley, a member of the
16 Commission.

17 My question is to Ms. Jefferson-Moss. You
18 have stated the goals of your office. Could you give
19 me some insight as to the successes you've had, especial-
20 ly with reference to work with the Highway Department,
21 but some numbers please?

22 And also, services that are needed by the
23 Highway Department?

24 MS. JEFFERSON-MOSS: Okay. Let me first address
25 services that are needed. That's the easiest one.

1 Most of the money included in the \$126 million that
2 will be targeted for minority contracts between now
3 and 1986 will be in the construction area. However,
4 there are also needs for pre-construction types of firms.
5 Engineering and architectural firms are needed to bid
6 on contracts in the pre-construction area.

7 There is a very small amount of research re-
8 quired under the pre-construction area, and we are probably
9 talking about, oh, maybe I would guess \$5 million for
10 this year in the pre-construction area, but of course,
11 that's not all targeted for minority firms. A percentage
12 of it will be targeted for minority firms.

13 So the needs are largely in construction,
14 but also research related to pre-construction planning
15 and primarily in the engineering and architectural area.

16 In terms of our past performance in meeting
17 goals, we have been able to meet a three percent goal
18 for, I think, every year that we've had a three percent
19 goal, which has represented about -- it has varied between
20 \$10 and 12 million. It really depends upon the federal
21 allocation to the state.

22 Between January 1st and September 30th of
23 this year, we have committed \$14.1 million in the high-
24 way component to minority firms, and of course, some
25 of these contracts will be performed next year, some

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1 even late next year, but this represents the level of
2 commitment in terms of subcontract.

3 These commitments were reported by prime
4 contractors as having been negotiated subcontracts re-
5 presenting minority business participation.

6 MS. RATLEY: Thank you.

7 MR. SCOTT: Good morning. My name is W. B.
8 Scott. I'm with the Virginia chapter of the Paralyzed
9 Veterans of America.

10 I'd like to address a question just to the
11 panel in the area of housing and public accommodations,
12 and in particular where there are building code viola-
13 tions that are clearcut, and apartments in particular
14 and other places of public accommodations. Is there
15 a complaint procedure, and can the owners be made to
16 correct these violations?

17 MS. HASEGAWA: Ron, do you want to?

18 MR. CLAIBORNE: Currently under state statute,
19 handicapped persons are not a protected class. However,
20 there is a caveat there. If federal financial assistance
21 is involved in the subject property, then that property
22 as well as property owner is subject to 504 of the
23 Rehabilitation Act of 1973.

24 In terms of not meeting housing code viola-
25 tions, you're in a Catch-22. For all practical purposes,

1 that landlord can be cooperative or that landlord can
2 be recalcitrant. If that landlord chooses to be recal-
3 citrant and will not correct the housing code violations
4 there, that occupant of that property faces the pro-
5 spects of not having a place to live by virtue of, let's
6 say, the building code officer deeming that house not
7 fit for human habitation.

8 So what you find most aggrieved parties doing
9 is attempting to deal with that landlord on a coopera-
10 tive basis, and if they are not successful there, they
11 resort to other means, and there's an array of means
12 they resort to. But when it comes down to the point
13 of that person having no alternative housing, most per-
14 sons reside in that housing under those kind of circum-
15 stances.

16 There is some initiative or move afoot to
17 include handicapped persons as a protected class under
18 the Federal Fair Housing Act, and it will depend upon
19 persons like yourself as to whether or not a similar
20 move will be initiated for amendment of the Virginia
21 Fair Housing Act.

22 MR. SCOTT: You say that we are not a protected
23 class under the Act, and I'm speaking in particular
24 in the housing area of new construction that's taken
25 place that doesn't comply with the current Virginia

1 state building codes. Within the code, the disabled
2 are guaranteed the right to public accommodations, as
3 well as housing and employment, and that is in the code.

4 I'd like for you to expand on not being a
5 protected class and deal with the new construction for
6 the apartments, apartments in particular.

7 MR. CLAIBORNE: Someone else on the panel
8 will have to help me, but the section of the code --
9 I do believe it's 54.7 -- that makes it a Class 1 mis-
10 demeanor to discriminate against handicapped persons
11 in terms of housing. However, there is no agency to
12 enforce that Act. That is left to the individual initia-
13 tive of that aggrieved party.

14 In terms of what the Commission is responsible
15 for, it would require an amendment to the Act to include
16 handicapped persons as a protected class to expressly
17 authorize the Commission to investigate and attempt
18 to remedy such situation.

19 MS. HASEGAWA: Okay. The difference may be
20 between the state law and the federal law.

21 MR. FEIBELMAN: I'd like to correct one mis-
22 statement, if I could. Mr. Claiborne is correct. The
23 Virginia Fair Housing Act does not have as one of its
24 protected classes handicapped individuals, but there
25 is another state statute, 63.1-171.7, which section

1 states that all physically disabled persons have the
2 right to full and equal access to all housing accommoda-
3 tions. This section of the code does not have a state
4 agency that enforces the section. The only remedy
5 for someone who has been discriminated against on the
6 basis of physical disability is to ask a court to enjoin
7 the discrimination or to file a misdemeanor warrant.
8 Violation of the section is a Class 1 misdemeanor.

9 The other deficit in this statute, besides
10 having no enforcement mechanism, no public agency that
11 enforces this like the Virginia Real Estate Commission
12 enforces the Fair Housing Act, is that it only protects
13 those persons with physical disabilities, and not those
14 persons with mental disabilities.

15 Thank you.

16 MR. SCOTT: Thank you.

17 MR. VAUGHN: I'm James Vaughn with the
18 Advisory Committee and President of Tidewater Television
19 Advisory Council.

20 Our concern is with information dissemination,
21 and I'd like to address the question to Ms. Moss and
22 perhaps the Office of Advocacy. In provisions for the
23 pre-construction, has there been a budget item set aside
24 to produce spot announcements or any other form of getting
25 information on what is available specifically to

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1 minorities and handicapped persons under this Act so
2 that spots can be produced specifically for the most
3 effective form of communications, which is broadcasting?

4 And if you do have funds set aside, how can
5 a minority firm, especially, take advantage of these
6 funds? That is for you, Ms. Moss.

7 And for the Office of Advocacy, in the event
8 no attention has been placed on this because the informa-
9 tion to be disseminated is so important, would the Office
10 of Advocacy undertake special attention to develop some
11 means of accomplishing this?

12 MS. JEFFERSON-MOSS: Should I go ahead?

13 MS. HASEGAWA: Why don't you?

14 MS. JEFFERSON-MOSS: In response, Mr. Vaughn,
15 to your first question, there are no funds that I'm
16 aware of that have been set aside. However, at the
17 state level, one of the things that we have repeatedly
18 requested HUD to do is to advertise their procurement
19 opportunity in the minority press or with minority press.

20 We feel that that has, indeed, been one of
21 the shortcomings of state agencies in seeking minority
22 firms to participate. That is also true of the Highway
23 Department.

24 One of the problems in getting an advertising
25 contract from the Highway Department is that the prime

1 contractors in many cases are looking for minority subs,
2 and we cannot require them to advertise, you know, through
3 a contract.

4 We encourage them not only to come into our
5 office and use our data bank, but we encourage them
6 to use minority media and minority press. But I guess
7 in response to your overall question, there are not
8 funds that have been set aside just for this purpose.

9 I would like for you again to pursue the
10 Highway Department. I think that we have to keep going
11 after them, and I've sent a number of people over to
12 talk about contract opportunities just for advertising.
13 So I would like to encourage you to stop by again. If
14 you would give me a call, I would certainly be happy
15 to arrange that appointment.

16 MR. VAUGHN: Thank you, and on that issue,
17 also is there any way that we can pursue contracting
18 directly with your office concerning the things your
19 office is doing, a description of it to the people of
20 what your office is there for? Who would we go to if
21 you don't have the budget to insist that there be a
22 budget because it is important that the Office of Minor-
23 ity Business Enterprise also disseminate information
24 on itself?

25 MS. JEFFERSON-MOSS: We have a very small

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1 overall budget. However, I should mention that we pub-
2 lished a very comprehensive directory of minority-owned
3 firms back in June of this year. It consists of more
4 than almost 1,000 minority-owned firms in the common-
5 wealth. It's a directory that's organized by specialty
6 area.

7 We performed that or prepared that director
8 in-house because our funds were very limited, and simply
9 had it printed by an outside agency.

10 We will also be publishing a brochure. We
11 had a very small amount, again, to hire a consultant
12 to assist us in pulling together data for publication.

13 Our agency simply does not have a large con-
14 sulting budget. In fact, we have a very -- I mean a
15 very, very tiny budget for consulting service. So it's
16 rare that we let any contract. At most, we bring people
17 in on a personal services basis, and it's usually for
18 a week or maybe two weeks.

19 But I would be happy to talk to you about,
20 you know, what we're doing and how you might support
21 us, but again, the hopes of having a contract to pull
22 together the publicity, data and documentation is very
23 slim.

24 MR. VAUGHN: For the Office of Advocacy, as
25 I mentioned earlier, can you or will you address this

1 matter? We've taken it before the Governor for some
2 time now, explaining that there needs to be targeted
3 broadcast information that can reach the people who
4 really need it, and there needed to be some attention
5 placed on doing just that, because information is so
6 important.

7 Is there something we can do through your
8 office to facilitate perhaps even getting a budget for
9 Ms. Moss?

10 MR. FEIBELMAN: My office has engaged in both
11 the sending out of public service announcements to radio
12 and TV stations in minority outreach programs. A few
13 years ago we had a contract with a community organization
14 in Sussex and Surrey County to inform them and develop
15 interest in serving minorities and developmentally dis-
16 abled. We don't have a budget at this time for any
17 public service announcements or for consultant services
18 in this area.

19 But I would be more than happy to talk with
20 you later to develop something.

21 MR. VAGHN: Thank you.

22 MS. ANDERSON: My name is Lonnie Anderson.
23 The first question I'd like to address to Mr. Gardner,
24 and I'd like to know if you are listed in the phone
25 book according to your descriptive title. I want to

1 find you. Is that the way I would look for you?

2 MR. GARDNER: Yes, in the state directory,
3 Department of Personnel and Training, and the Office
4 of Employment Services, Program Evaluation, yes.

5 MS. ANDERSON: Thank you.

6 My question question I'd like to address to
7 Ms. Hollomon. I was interested in how the membership
8 is obtained for the Committee. You say you were appoint-
9 ed by the Governor. I was wondering how the recommenda-
10 tions were made to the Governor.

11 MS. HOLLOWON: I understand some members
12 directly wrote to the Governor and asked to be members
13 of that committee. It was that simple.

14 MS. ANDERSON: And what are your terms of
15 office?

16 MS. HOLLOWON: Four years, at the pleasure
17 of the Governor.

18 MS. ANDERSON: Thank you.

19 MR. HARRELL: Folks, my name is Lyden Harrell.
20 I service of President of Mobility on Wheels for two
21 and a half years, and at the present time I'm Chairman
22 of the Legislation Advocacy Committee of Mobility on
23 Wheels and also the Virginia Association of the Blind.

24 My purpose of appearing here today is to try.
25 to make you aware of the needs of a branch of people

1 who apparently don't have any civil rights, that is,
2 the handicapped.

3 Now, you may say, "Oh, they do." Well, let
4 me ask you a question. Suppose you came to this hotel,
5 you checked in, and they said, "You can stay here, but
6 you can't use the bathroom." You'd think I was crazy,
7 but that's what they tell my wife. She's in a wheelchair.
8 She can't get the wheelchair into the bathroom. If
9 she wants to come here, she has to go through the indig-
10 nity of my dragging a commode chair through the lobby,
11 up to the bedroom, or else when she's traveling around
12 the State of Virginia with me and she has to use the
13 bathroom, I have to go in the ladies' bathroom with
14 her and put a bedpan under here because they don't make
15 the toilets accessible to handicapped people.

16 MS. HASEGAWA: Sir, do you have a question?

17 MR. HARRELL: My question is this. Is this
18 panel going to recognize the fact that the handicapped
19 people have civil rights, as well as other people?

20 MS. HASEGAWA: Maybe I could answer that on
21 behalf of the Virginia Advisory Committee. I don't
22 know whether Mr. Rutledge would like to say more, and
23 I don't know whether you were here when Reverend Harris,
24 who is our Chairperson, stated that we had already
25 canceled one planned session of this conference because

1 of the inaccessibility of the particular facility with
2 which we had contracted.

3 So I think that it's a learning process for
4 all of us, and we are beginning to be aware of the prob-
5 lems.

6 Does anybody else on the panel want to respond?

7 (No response.)

8 MS. BENDRICH: Good morning. Peggy Bendrich.
9 I'm speaking for myself, but I'm also with Betty. I'm
10 Betty's counsel. She has to put up with me.

11 I would like to ask when this human relations
12 document that you have come out because I didn't know
13 of it until I came here yesterday.

14 MS. HASEGAWA: Yesterday. It was released
15 to the public yesterday. When you got it in your package
16 you have the first copies of anybody other than the
17 Advisory Committee members, ourselves, and some of the
18 attorneys and people that we had asked to review it.

19 MS. BENDRICH: I want to continue very much
20 more briefly. I would strongly hope that we as the
21 Governor's Advisory Council would be able to look at
22 this, time permitting.

23 Secondly, it sort of struck me rather blatantly
24 when Mr. Marshall Coleman was speaking this morning.
25 Now, granted he was addressing the civil rights of the

1 minority races, and I let him know that we, too, are
2 a minority, those of us with disabilities.

3 Marshall has been putting up with me off and
4 on for a few years, but here again, all of us minorities,
5 if we get together, could make quite a majority. I
6 hope we can work together.

7 Thank you.

8 MS. HASEGAWA: Thank you. As I said in answer
9 to a question before, I think Mr. Ring will talk about
10 this again, but the Advisory Committee itself is not
11 going to be introducing the legislation or lobbying
12 for it. We are not allowed to under federal law. All
13 we did as an advisory committee was to try to follow
14 up on a recommendation we had made three or four years
15 ago that Virginia have such a law and consider its
16 adoption.

17 We took it upon ourselves as a project to
18 have such a law drafted, and as I said, we called you
19 all together not only to talk about general compliance,
20 but also to let you know that there was such an Act,
21 and I think it's up to groups like yours and the State
22 EEO Committee and some other groups to take it from
23 there.

24 Okay, Ed.

25 MR. PEEPLES. All right. My name is Ed

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1 Peeples. I'm Chairperson of Richmond City Commission
2 on Human Relations currently, and I'd like to ask the
3 panel about the practice of what I call the secret trades.
4 By the secret trades I mean to refer to those suppliers
5 and contractors who provide services and materiel for
6 state government, in which there's millions and millions
7 of dollars involved, but they are generally monopolies,
8 and there's very little light shown on the bidding pro-
9 cess.

10 And what we've discovered in some of the local
11 areas, and I wonder if you can enlighten us about the
12 state procurement process, in which monopolies are run
13 by "good ol' boy" networks and there is very little
14 competition. In fact, blacks and other minorities don't
15 even have an opportunity to fix in their mind the
16 possibility of careers in these trades.

17 Let me give you an example. One is the supply
18 of pharmaceuticals and hospital supplies and materiel
19 to the dozens and dozens of state hospitals. Now, there
20 is gobs of money involved in this, and I wonder -- we
21 know that in some localities the pharmaceuticals are
22 supplied to city hospitals and nursing homes by only
23 one individual. It's not an open bidding.

24 Can you tell me of other opportunities for
25 minorities in the secret trades?

1 MS. HASEGAWA: I think Carolyn is the one
2 who has the answer.

3 MS. JEFFERSON-MOSS: Yeah, let me address
4 your question in three parts.

5 First, we have at the state level consolidated
6 the purchase of goods and supplies across the board.
7 It is done centrally through the Division of Purchasing
8 and Supplies for the state. It is done through a compe-
9 titive bid process, and it's a sealed bid process.

10 One of the things that we found when I first
11 came here was that there was a very small number of
12 minorities and women that were even registered on the
13 bidder's list.

14 Two, we found that the state used a rotational
15 process for soliciting from vendors. So your name might
16 come up once or twice or maybe five times during the
17 year, but you would not receive solicitations every
18 time the state went out to make a purchase.

19 Well, even though we haven't talked about
20 it a lot, we have been able to change that process.
21 Every time the state makes a purchase for goods and
22 supplies, they include minorities in the list. Minorities
23 are included every time the state goes out to make a
24 purchase because we feel that this will increase the
25 changes of having a minority vendor as the lowest bidder,

1 and here again it's not really giving preference. It's
2 a way in which we hope the state can correct some of
3 the previous practices that have adversely affected
4 minority firms.

5 In terms of pharmaceutical supplies, here
6 again, we at the state level use a sealed bid process
7 for soliciting. If you're talking about an area where
8 the supply is very limited in terms of the vendors that
9 can perform the service, some of the universities have
10 fairly autonomous purchasing authority. That is the
11 only case in which I could even conceive of someone
12 going directly to a vendor to supply the good or service.
13 It would be simply because we only have one person that
14 is in the business.

15 MR. PEEPLES: Well, then the model law needs
16 to protect the localities because that's not what's
17 happening at some of the local levels. There is
18 monopolies in some of the cities and counties.

19 MS. JEFFERSON-MOSS: Well, the same procure-
20 ment act that we operate under at the state level is
21 supposed to apply to the localities. So I would like
22 to talk with you about the specific problem, so that
23 we can see what the real problem is.

24 MR. PEEPLES: Thank you very much.

25 MS. HASEGAWA: Thank youj.

1 MR. EVERHARD: My name is Everett Everhard.
2 I'm with the Richmond Human Relations Commission, and
3 I'd also like to address my question to Ms. Jefferson-
4 Moss.

5 As I understand your agency, you said, is
6 not a compliance agency; rather, that you assist minority
7 contractors, et cetera, in obtaining -- well, you assist
8 them with respect to state government contracts. I
9 have several questions.

10 First of all, since you're not an enforcement
11 agency, assuming that a particular contractor does not
12 meet his three percent, which is now ten percent, goal,
13 who does the enforcement for that? Is there a state
14 office of contract compliance or something like that?

15 MS. JEFFERSON-MOSS: Okay. If the complaint
16 comes into our office initially and in most cases they
17 do surface in our office, even though we don't have
18 any investigative authority, we spend time trying to
19 gather facts about what has happened. We turn those
20 facts over to the Highway Department.

21 The Highway Department is responsible for
22 monitoring and enforcing the law as it requires to having
23 to meet specific federally mandated goals. So the
24 enforcement is with the Highway Department.

25 But we sort of serve as an enforcement agency

1 even over the Highway Department because we want to
2 stay on them and make sure they are following up.

3 MR. EVERHARD: Do you find that the Highway
4 Department is responsive to your agency? For example,
5 when you come to them and you say, "This contractor
6 has five percent, not ten percent of his goals and we
7 feel" --

8 MS. JEFFERSON-MOSS: Oh, they're absolutely
9 responsive, yes.

10 MR. EVERHARD: My next question is you also
11 assist firms in obtaining loans, minority contractor
12 firms.

13 MS. JEFFERSON-MOSS: We do not have any cap-
14 ability in-house to assist general firms in packaging
15 of loans. We usually refer those clients to the Small
16 Business Administration or to one of the local business
17 development organizations funded by the federal govern-
18 ment, and there are about five operating in the state.

19 In the highway construction area, we do pro-
20 vide assistance to firms in obtaining bonding and pre-
21 paring financial statements, which are often used as
22 part of a loan package.

23 MR. EVERHARD: What is the dollar amount of
24 contracts at which point your office would get involved
25 in? If the contract were under \$10,000 if it's --

1 MS. JEFFERSON-MOSS: We are involved across
2 the board. Even we have agencies -- most of the agencies
3 in the state have the authority to solicit by telephone
4 for purchases below \$700. They do not have to do a
5 competitive bid process. So many of those agencies
6 call us and say, "Can you give us the names of minority
7 firms that we can call to get bids from for \$400 or
8 \$700 worth of supplies?"

9 These are called spot purchases or emergency
10 purchases. We are involved, you know, across the board,
11 all size contracts.

12 MR. EVERHARD: I guess my question is more
13 do contractors have to have a ten percent minority
14 commitment above a certain amount?

15 MS. JEFFERSON-MOSS: Oh, no. See, the federal
16 requirement is only for highway construction contracts,
17 and the requirement is on all contracts, all federally
18 funded contracts regardless of size.

19 MR. EVERHARD: My last question is with respect
20 to the 15 people on your staff, I was wondering if you
21 could give us an idea of what the breakdown is between
22 the clerical and professionals and what type of pro-
23 fessionals you have and what they do.

24 MS. JEFFERSON-MOSS: Okay. We have -- I have
25 to think for a minute -- we have clerical persons out

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1 of 15. The others are either in the highway component
2 or in the market deveopment component of our agency.
3 Our skills vary from being sort of purchasing specialists
4 to being highly technical individuals that have back-
5 grounds as highway inspectors. We have people that
6 are skilled in building bridges, in paving roads. So
7 it really represents a very wide range of skills.

8 MS. PINKSTON: My name is Shela Pinkston,
9 and I'd like to address my question to Mr. Yeager.

10 I'm from Big Stone Gap, Virginia, and I'm
11 here representing the NAACP Wise County Chapter, as
12 well as Women's Work World, Incorporated.

13 I heard you mention that you have worked in
14 Bristol, Virginia. My question is this: are your
15 representatives primarily who work in Bristol, because
16 we're isolated in that area with access to transporta-
17 tion, period; so if you don't have a car, do you have
18 representatives that are sent out to come out to differ-
19 ent areas if we were the contractor, let's say, who
20 the agency -- I'm on the Board of Directors of Women's
21 Work World. Could a representative perhaps make an
22 arrangement to come there to handle like complaints?

23 We have a lot of times a lot of discriminatory
24 practices, but then the job services are given up because
25 people do not have access to transportation. They

1 cannot afford to get to the Bristol office, which is
2 like 70 miles away.

3 MR. YEAGER: Okay, and you're where? Where
4 are you located?

5 MS. PINKSTON: Southwest Virginia, Big Stone
6 Gap.

7 MR. YEAGER: Big Stone Gap. We don't have
8 an office in Big Stone.

9 MS. PINKSTON: No, you have one in Bristol
10 which --

11 MR. YEAGER: We have one in Marion. How close
12 are you to Marion?

13 MS. PINKSTON: We're equally far to Marion.
14 We're isolated. The bus stops and if you don't have
15 anybody to pick you up at the bus station in Bristol,
16 which is 70 miles away, you're lost. We're like Lee
17 County, Virginia. We're close to Kentucky.

18 MS. YEAGER: Let me first -- and I'm not making
19 any excuses, but I want to explain something to you
20 before I even get into trying to answer that. As you
21 know, 1980 we had a federal cutback and most of our
22 offices were closed down. We have had a tremendous
23 amount of offices closed down.

24 As a matter of fact, we went from 1,700 employees
25 to 1,026 today, and in 1980 we had 1,700, and it's like

1 a Catch-22 situation. You know, we realize that there
2 are many areas that we'd like to serve people, but we're
3 cut with the sword that tells us that we don't have
4 the money to put offices in every particular locality.

5 Now, as far as having an outreach program,
6 it's very difficult. We have an office in Bristol,
7 and we have one in Marion. We have one in Richlands.
8 How far are you from Richlands?

9 MS. PINKSTON: About 75 to 80 miles.

10 (Laughter.)

11 MR. YEAGER: I'll tell you what. I'll tell
12 you what I'd like to do. What I'd like to do is talk
13 to you after this is over and maybe we can have an
14 audience with the Commissioner and just explain what
15 your problems are. That's the only thing that I could
16 say that we could do, is try and discuss this with our
17 Commissioner to let him understand that we do have some
18 areas or some pockets out there that people aren't being
19 served.

20 I don't have an answer for that because, you
21 know, we're cut by budget, and we can't have an office
22 everywhere. But if you say that there's a need there,
23 maybe we could set up some itinerary point or maybe
24 to serve some people in that particular locality, maybe
25 a couple of days a week. That's a possibility that

1 we could go into that area a couple of days a week.

2 --MS. PINKSTON: Thank you.

3 MS. HASEGAWA: Jack, if somebody from her
4 group were to file a complaint, let's say they went
5 into Bristol and they got referred to jobs and they
6 had a discrimination complaint and they wanted to have
7 it investigated; would you or somebody -- I guess it
8 would have to be you since you don't have any staff --
9 would you go out to Big Stone Gap?

10 MR. YEAGER: I'd have to.

11 MS. HASEGAWA: Does that answer your question?

12 MR. YEAGER: I'm the only one. I'd have to
13 go to Big Stone.

14 MS. HASEGAWA: Okay. I think you're going
15 to be going there soon.

16 MR. YEAGER: Probably.

17 MS. HASEGAWA: Okay.

18 MR. OWENS: Yes. Robert Owens, Civil Rights
19 Commission.

20 Having listened to the responses from the
21 panel, it occurred to me that there are at least some
22 rights that are protected by state code here in Virginia
23 for which there is no concomitant state agency to afford
24 redress.

25 MS. HASEGAWA: That's right.

1 MR. OWENS: Now, I'd like to know -- and I'm
2 addressing this to the collective expertise of the panel
3 -- at the state level, what agency, if any exists, to
4 enforce or impose sanctions against unlawful discrimina-
5 tion based on race, creed, sex, origin, handicap, et
6 cetera, at the state level? Among any of you, what
7 agency exists to enforce that?

8 MS. HASEGAWA: Do you mean for the general
9 public or state employees or some kind --

10 MR. OWENS: I mean with respect to any --
11 here's what I'm talking about -- any citizen who is
12 a resident of the State of Virginia. I'm not limiting
13 this to public employees, but public and private as
14 well. If there is an employment discrimination case,
15 housing discrimination case, any kind of public
16 accommodations discrimination complaint, is there a
17 state agency through which one might seek redress?

18 MS. HASEGAWA: Toni, I think wants to answer
19 that.

20 MS. HOLLOMON: No.

21 MR. OWENS: That's it. I just wanted to have
22 the record reflect that. I think it's very important
23 that we not fail to include that in the record while
24 we have this panel assembled.

25 MR. CLAIBORNE: Mr. Owens, the Commission

1 and the Virginia Fair Housing Act cover both public
2 and private discrimination in housing.

3 MR. OWENS: Okay. So housing -- I'm told
4 by our resident expert that it's limited solely to hous-
5 ing, but it doesn't encompass the number of classes
6 of action.

7 MR. CLAIBORNE: All persons in the commonwealth
8 are subject to the Act and its prohibitions.

9 MR. OWENS: All right. Thank you.

10 MS. HASEGAWA: If there aren't any other ques-
11 tions, I'd like to thank the members of the panel, and
12 I think most of them will probably plan to stick around
13 a little bit so that if you want to corner them and
14 follow up or ask some additional questions, feel free
15 to.

16 I've been told that we will take a five-minute
17 break and then reconvene for the next panel.

18 Thank you.

19 (Whereupon, a short recess was taken.)

20 REV. HARRIS: We're ready to begin our second
21 session. Would you take your seats please? Would some-
22 one inform those on the outside that we are preparing
23 to start again?

24 Thank you very kindly. We have engaged in
25 a full discussion through the panel on state government.

1 We are now to engage in a panel discussion on local
2 government. Our moderator for that panel is Ms. Jessie
3 M. Rattley, member of this Committee, and also a member
4 of the City Council of the City of Newport News.

5 Ms. Rattley will come now and call the panel
6 to the podium or to the stage while they prepare for
7 the next panel.

8 MS. RATTLEY: Thank you very much, Reverend
9 Harris.

10 At this time we should like to ask the panelists
11 to come forward. We have Mr. Fred Allen, Executive
12 Director of the Fairfax County Human Rights Commission;
13 Mr. Stephen M. Levinson, Human Rights Administrator,
14 Alexandria Human Rights Commission; and Mr. Alfred Smith,
15 Executive Director, City of Richmond Human Rights
16 Commission.

17 As you will see by your program, the topic
18 for this panel is local laws, programs and procedures
19 available to handle civil rights complaints and
20 compliance in the State of Virginia.

21 I am very pleased to be the moderator of this
22 particular panel because as a locally elected official,
23 I'm very interested in hearing what these panelists
24 have to say in reference to this topic because I have
25 some things I could say also. But since I was asked

1 to moderate and not to be a panelist, I will first call
2 on Mr. Alfred Smith, since this is home for you, Mr.
3 Smith, to be our first speaker.

4 MR. SMITH: Thank you, Ms. Rattley. Good
5 morning, ladies and gentlemen.

6 The City of Richmond under its charter
7 authorizes the existence of the Human Relations Commis-
8 sion. The broad base responsibility is human rights,
9 civil rights. The priority of that responsibility is
10 quality of life. So we carry ourselves or we go into
11 many other areas in terms of resolving complaints and
12 the community kinds of involvement.

13 I thought for a brief beginning I'd break
14 down the Human Relations Commission for you and then
15 give my response, I'm assuming, in terms of what we
16 feel about the proposed legislation.

17 Can everybody hear me? I've got a scratchy
18 throat, and I'm struggling.

19 Our Commission is divided into five key areas.
20 I should first mention that we are 15 Commissioners
21 appointed by members of the City Council, which is a
22 broad-based commission representing all communities
23 and sections of our city.

24 These Commissioners are divided into four
25 committees. The standing committees are the executive

1 committee, public affairs in government committee,
2 cultural affairs, employment and training.

3 So each Commissioner, in terms of being involved
4 in the overall body activity, has a committee responsi-
5 bility, and that fits in very nicely to our staff involve-
6 ment as I'll discuss now.

7 We have five key areas of staff involvement
8 or five areas of total responsibility. Logically the
9 largest -- not the largest -- the most active is com-
10 plaint structure. To give you a typical idea, our
11 complaint area last year, '82, handled about 1,100
12 complaints, and that's complaints and inquiries. There
13 is a thin line between a complaint and an inquiry, except
14 we do not follow through or investigate inquiries. We
15 simply refer them.

16 Seventy-three percent of those complaints
17 were in the private sector employment area. Fifty
18 complaints came through or from or against city agencies.
19 Strangely enough only two were involved in sexual
20 harassment. Now, to many people that would reflect
21 the fact that there are no sexual harassment problems
22 in the City of Richmond. My response to that is poppy-
23 cock.

24 As we talk about the area or get into the
25 area, we discover that the inability perhaps of the

1 city agency to deal effectively with resolving many
2 of those cases has forced the people who would be victims
3 or who are victims to pull away from involvement, and
4 I have to talk to my compatriots here to see how they
5 handle that area of sexual harassment.

6 The second area is training and education.
7 This is what we call our relief and prevention kind
8 of section. It deals across the board with all of the
9 other areas, but primarily we rely on training and educa-
10 tion to develop orientation training programs in many
11 departmental areas, especially city government, to deal
12 with problems that reveal the fact that employees may
13 be suppressed under a kind of a natural working environ-
14 ment. We go out into the community to talk about the
15 Human Relations Commission and to network with other
16 agencies in the community to resolve certain kinds of
17 problems.

18 Our community relations sector is what we
19 call the pro-active sector. Here we try to combine
20 all of the resources nationally, state and city into
21 one comprehensive kind of information exchange area
22 to be sure that we can become as preventive in our
23 natural activities as we are reactive. I need not say
24 that the majority of human rights and civil rights and
25 civil relations programs today are reactive rather than

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1 pro-active, which talks about some of the enforcement
2 problems I've heard this morning.

3 We have a research component that is newly
4 added that may become perhaps one of the primary compon-
5 ents in our whole division in terms of allowing us to
6 become pro-active. We need to know some of the dynamics
7 of our city, some of the dynamics of the area around
8 us that has an impact on the quality of life in that
9 city, and our research development area is going to
10 handle that.

11 Last, but not least, is our contract compliance
12 area. Some of you may realize that the City of Richmond
13 has perhaps the most aggressive, progressive MBE legis-
14 lation in this country. There are two key pieces of
15 legislation that we monitor that are as follows: We
16 have a CDBG MBE requirement that requires any monies
17 expended in that area to be allocated in the form of
18 ten percent of minority involvement, whether it is con-
19 struction, purchasing, procurement, et cetera. Regardless
20 of that face value of that contract, ten percent must
21 be allocated to a minority business enterprise.

22 The second piece is a construction contract
23 over \$10,000 require that 20 percent is subcontracted --
24 I'm sorry -- 30 percent is subcontracted to a minority
25 firm, female or handicapped.

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1 These two pieces of legislation is not only
2 key in the city, but key nationally. The compliance
3 enforcement area is our division of contract compliance.

4 There is a companion piece of legislation
5 some of you may have read about that I should not men-
6 tion, but I'm going to, and that is a 20 percent total
7 aggregate face value requirement. This is a key piece
8 of legislation because in many, many cases, the actual
9 implementation of a set-aside program or what we call
10 a limited set-aside program is very difficult to pin
11 down because no one actually knows the total aggregate
12 amount spent to comply with the contract area. We have
13 legislation that forces us to not only monitor it, but
14 to guarantee that whatever contracts are spent in that
15 city over \$10,000, that the total aggregate value or
16 20 percent of it is allocated for minority, female or
17 handicapped firms.

18 I could go on talking about inside development,
19 but I don't want to deprive my co-workers of just time.
20 Let me spend a few minutes to reflect what I have read
21 in the proposed legislation.

22 And I should hasten to warn you that I'm not
23 by nature a negative kind of person. I'm not from
24 Missouri. I'm from Virginia. So my use of the term
25 "show me" is more or less a challenge, and I'm using

1 it as a challenge today because I will believe that
2 Virginia will approve or adopt a human rights act in
3 this state when I see it.

4 Proof of the fact is that of all the years
5 we've been dealing with it, we're still sitting in a
6 state that does not have primary enforcement of many
7 of its own existing laws. For example, -- one minute?
8 I've never done anything in my life in one minute, Ms.
9 Rattley, but I'll wrap it up -- an example is the fact
10 that you hear our Chairman last night talk about the
11 fact that our Commission was created by some very broad
12 styled legislation.

13 It is interesting that each time we have gone
14 to the legislature to resolve disputes of authority,
15 as Dr. Peeples tell you, the legislation seems to
16 evaporate in thin air. The whole posture is the intent.

17 There is a difference in intending to create
18 legislation that has an impact on the quality of life
19 of citizens in this state and the intent to develop
20 legislation for the pure act of placating the proper
21 concerns, and I want to warn each of you about that
22 because as we go into the area where federal government
23 no longer now becomes the prime area for relief, we
24 must think about the fact that a state the size of
25 Virginia, as aggressive as we are, must have legislation

1 and enforcement powers to guarantee equal rights for
2 all citizens in this state regardless of race, creed,
3 color, handicap or religion.

4 MS. RATTLEY: Thank you very much.

5 Our second speaker will be Mr. Stephen M.
6 Levinson, Human Rights Administrator from the City of
7 Alexandria.

8 MR. LEVINSON: Thank you very much. Good
9 morning.

10 As the Human Rights Administrator in Alexandria,
11 I am a representative of one of the two 706 agencies
12 in the Commonwealth of Virginia. That means that the
13 Alexandria Human Rights ordinance, which was initially
14 passed in the end of 1974, has been judged to be
15 substantially equivalent to Title VII of the Civil Rights
16 Act, and we have a contract with EEOC to process
17 allegations of discrimination that occur within the
18 city limits of Alexandria.

19 That contract provides us with some dollars
20 to have additional staff and to have the resources to
21 process the cases that are deferred to us.

22 The Alexandria Human Rights ordinance estab-
23 lishes a commission composed of 13 people appointed
24 by City Council. We have a staff of five, myself, two
25 investigators and two clerical support staff. We cover

1 employment, housing, education, credit, health and social
2 services, and city contracts, and the bases that we
3 are given jurisdiction over are race, color, religion,
4 sex, age, ancestry, national origin, marital status
5 and handicap, both physical and mental.

6 Statistics have changed over the last -- I've
7 been in Alexandria three years, and was in Massachusetts
8 before that in a similar capacity -- statistics in
9 Alexandria over the last three years have changed
10 dramatically. Eighty to 90 percent of the complaints
11 filed when I came inere, 80 to 90 percent of the com-
12 plaints filed at EEOC on a national basis were race
13 related, up until about 1981. Since 1981 those race
14 related complaints as a percentage of the total have
15 dropped, and right now on a national basis almost 60
16 percent of the cases are race, and about 40 percent
17 are based on sex. In Alexandria, it's almost 50-50.

18 Somewhat differently than Al, about 20 percent
19 of our cases involve allegations of sexual harassment.

20 The office and staff are responsible for that
21 case processing. Clearly one of the advantages of having
22 a local commission is the time involved in processing
23 those charges. EEOC, as we all know, while it has done
24 significant things in clearing up its backlog, still
25 receives 350,000 charges per year, and has an average

1 processing time that can run between eight months to
2 ten to 12 months at a minimum.

3 We process cases in Alexandria, our average
4 processing time is 126 days, and we average somewhere
5 between 120 and 140 days from the date of filing to
6 the date of determination.

7 We are an agency that has what I believe to
8 be a very strong ordinance. As mentioned last night
9 in some of the comments, we do have subpoena power,
10 although we have found that having the power is somewhat
11 as important as having to use it. We've only had to
12 use it minimally over the years. I have a feeling we're
13 going to have to use it more if the current administra-
14 tion and the current philosophy remains the same and
15 the kinds of resistance we're seeing from respondents
16 continues to increase. It is a very important tool.

17 Most of our cases where there are cause
18 findings are conciliated, on a pre-determination basis
19 mostly, although sometimes after I have to issue a cause
20 finding.

21 Our office is structured such and the ordinance
22 is structured such that it is my responsibility under
23 the law to make the determination of cause or no cause.
24 The Commission is not involved in that process. My
25 decision can be appealed, either no cause by the

1 complainant to the Commission. I think there's been
2 one of those in the nine years that the Commission has
3 been in existence. Before we close a case, obviously
4 we spend a great deal of time with the respondent, and
5 while he or she may not agree with that closure, they'll
6 understand it.

7 In the case of a cause finding that either
8 is unable to be conciliated or the respondent opposes
9 the finding, the respondent certainly has a right to
10 appeal to the full Commission.

11 Matters from the Commission will go to court.
12 We have never had a situation where a finding and a
13 ruling of the Commission has been challenged in a court
14 of competent jurisdiction.

15 We have had many cases where I will issue
16 a no cause finding. That case will go back to EEOC.
17 They will issue a right to sue letter, and the people
18 will take the case to court. We have never had a case
19 where a no cause finding by our office and ultimately
20 by our Commission has been overturned in a court.

21 That's case processing. That's the public's
22 perception of why we're there.

23 Let me say one other thing for I think three
24 local Commissions here. We're not -- and I spend a
25 lot of time with chambers of commerce and boards of

1 realtors, various groups in the community -- we're not
2 anybody's adversary. I represent no one. I am no one's
3 advocate in a complaint processing capacity. We are
4 an independent, impartial, third party that is respon-
5 sible for making a determination as to whether there
6 is cause or no cause on an allegation of discrimination.

7 In the event of a cause finding or a recommenda-
8 tion from my staff that I find cause, should I agree
9 with that recommendation and sign off on that recommen-
10 dation, then I become an advocate for the charging party.
11 Then it is my responsibility to make that party whole
12 under the law. But up until that point, I'm not
13 adversary, and we provide technical assistance and
14 training programs to small business, to schools. We'll
15 develop and help and assist to develop affirmative
16 action programs, personnel policies. We have one of
17 the strongest sexual harassment guidelines in the
18 country. We've developed a RIF policy for the city
19 that takes into account adverse impact and prior to
20 a RIF being held in the City of Alexandria, an impact
21 statement must be done, and if there is adverse impact
22 on minorities or women, then those individuals will
23 not be RIFed under city policy.

24 We monitor -- I should say not we -- the
25 Commission on a regular basis monitors appointments

1 made by City Council. We have 44 boards and commissions
2 in the City of Alexandria, and there is some concern
3 as to the levels of participation of minorities and
4 women on those board and their levels of appointment.
5 We monitor those appointments on a bi-weekly basis.
6 We have applicant flow data forms that are submitted
7 to me, not the City Council, with all applications,
8 and we report to Council semi-annually on the number
9 of applicants from each of the protected classes, their
10 percentage of appointment by Council, where they were
11 appointed and what needs to be done and what those fig-
12 ures show.

13 Every six months we monitor the city's
14 Affirmative Action Program. The City Manager is re-
15 quired by ordinance to submit the City Council a pro-
16 gress report of all affirmative action and all
17 employment activities in the City of Alexandria. That
18 report is then submitted to the Human Rights Commission
19 and the Commission on the Status of Women, and a detail-
20 ed evaluation is submitted to the City Council, and
21 that occurs every six months.

22 I think that I will stop and let Fred make
23 a few comments, and I'm more concerned here not to tell
24 you the specifics of Alexandria because all localities
25 may differ. I am concerned to listen to some of the

1 questions and concerns that you have.

2 MS. RATTLEY: Thank you very much.

3 Our third and final speaker is Mr. Fred Allen,
4 who is the Executive Director of the Fairfax County
5 Human Rights Commission.

6 MR. ALLEN: I want to thank you.

7 One of the fortunate things of speaking after
8 Steve is that our ordinances and our procedures are
9 almost identical, and it saves me from having to really
10 say anything. Steve has done a very eloquent job.

11 I think what I'll do is just make a couple
12 of comments and from there afford you the opportunity
13 to ask questions, especially in terms of how this pro-
14 posed draft bill will impact on your various jurisdic-
15 tions.

16 Presently there are two avenues especially
17 in Alexandria and Fairfax in which a person may file
18 a complaint of discrimination. The person may either
19 go directly to the Equal Employment Opportunity Commis-
20 sion and allege an issue of employment discrimination
21 or they can come directly to either Alexandria or to
22 Fairfax.

23 Steve alluded to or used the term 706 agency.
24 That basically means that any cases that are filed with
25 the federal government the EEOC is required to defer

1 those cases to the local jurisdiction for a period of
2 60 days.

3 The language in the proposed draft would also
4 allow for a similar type of work relationship between
5 the state agency and any new, as well as existing, local
6 jurisdictions.

7 Cases are investigated. The process entails
8 various forms. Basically my agency had subpoena power
9 at one time. Because of the Dillon's Rule, we were
10 challenged in the court, and we lost. That is a type
11 of thing that will face Steve perhaps one day -- I hope
12 no time soon -- and it's one of the really crucial fac-
13 tors of this state law in that it will give us a very
14 sound statutory authority to do what we're doing.

15 My agency has enabling legislation. However,
16 that also is subject to challenge in terms of interpre-
17 tation of the language in that enabling legislation.
18 It is very important to have this issue resolved once
19 and for all.

20 My agency has been very, very successful in
21 the past few years in light of our court cases that
22 we lost. Of the 800 to 1,000 cases that I receive each
23 year, both formal and informal, approximately 25 to
24 30 percent of those cases become formal cases wherein
25 a person actually files a written charge.

1 Of those, there is 25 to 30 percent, and of
2 the cases where we find that there has been a violation,
3 we have been able to resolve 100 percent of those cases.
4 Regardless of the subpoena issue, I think power is
5 relative. I think if I imply or let respondents or
6 let companies know whether you comply or not the case
7 is still going to go forward, and the case will even-
8 tually end up in court one way or the other. So you
9 can either cooperate with me now, or we'll see each
10 other later on.

11 The results of our cases in terms of EEOC
12 and the relationship has been a very amicable relation-
13 ship. I would hope that a lot of the local jurisdic-
14 tions and various counties will enact their own local
15 human rights ordinances, and I think that there are
16 at least a couple of good reasons for doing that.

17 Firstly, it's like part of the family. You
18 actually know the county. You begin to know the
19 businesses. You have one-on-one contact.

20 A lot of the cases I receive I'm able to re-
21 solve with a telephone call or two because I have a
22 working relationship with respondents. As Steve indi-
23 cated, we're not advocates for either side, and if,
24 in fact, we find a violation or we are able to identify
25 patterns or practices that may be illegal at the

1 conclusion of an investigation, we convey that informa-
2 tion to a company and based on our prior experiences
3 and conversations with those companies are able to re-
4 solve them fairly amicably to both the complainant and
5 to the respondent.

6 I know we are kind of running out of time,
7 and I think that the purpose of this panel is to afford
8 you the opportunity to ask questions and how the state
9 bill or state law, once passed, will enable you to address
10 various types of discrimination problems, and I'd just
11 as soon open the floor to those kinds of questions at
12 this point.

13 MS. RATTLEY: Thank you very much.

14 I should like to just take a few minutes to
15 speak from my background and then I'll question, if
16 I may, and then open questions to members of the
17 Commission and people in the audience.

18 In the City of Newport News, we do not have
19 a Human Rights Commission or any organization by any
20 other name to deal with discrimination. On many occa-
21 sions I have tried, and many others, to get our City
22 Council to pass such an ordinance establishing such
23 a commission, and I am always told that "what more do
24 you want? You have federal civil rights laws. So you
25 really don't need this at the local level." I think

1 you heard me.

2 Then we hear a lot about fair housing, open
3 housing, and you have to do certain things to qualify
4 for federal money, et cetera, et cetera. And there
5 again it always comes back to me that this is taken
6 care of at the federal level, and of course, in reference
7 recently to fair housing, it has been taken care of
8 at the state level. So there is no need for such an
9 organization or commission locally.

10 Now, my question: did you experience similar
11 feedback when you first got started, if you know? And
12 could you tell me how many commissions do we have in
13 the Commonwealth of Virginia, local commissions, cities,
14 towns, counties, et cetera? Are there only three of
15 you or are there some more?

16 And when you think in terms of our common-
17 wealth -- and I think this, to me, is very significant
18 -- what is your answer? Please don't tell me there's
19 just three.

20 MR. ALLEN: There are two agencies that have
21 federal sanction, and that is Steve Levinson and myself
22 for Alexandria and Fairfax.

23 MS. RATTLEY: Now, I made a note of that.
24 There's only two of its kind.

25 MR. LEVINSON: With 706 status.

1 MR. ALLEN: With 706 status.

2 MS. RATTLEY: With 706 status.

3 Now, sir, from Richmond, could you tell me
4 how does yours differ and are there others like you
5 in the State of Virginia?

6 MR. SMITH: Yes. Ours differs because we
7 do not have 706 status, and basically what that means
8 is the fact that the relief to a complainant may often
9 go to EEOC because we do not have the power to transfer,
10 as we call it, that Fairfax and Alexandria would have.

11 The danger in that, of course, is, number
12 one, an outside body comes into your local jurisdiction
13 to resolve a problem that you're more familiar with;
14 the exorbitant cost; and the time span. EEOC can take
15 anywhere, as Steve told you, from eight to 18 months
16 to resolve an issue. In many cases on the local basis,
17 because of prior contacts, it can be done within 30
18 to 160 days.

19 There are a number, Ms. Rattley, of commissions
20 statewide. Not many outside of Petersburg that I know
21 of has legislation by locality to authorize it. Now,
22 the difference here is that you have three authorized
23 by legislation, two with federal 706 status, one without,
24 and Petersburg has an off-and-on kind of arrangement.

25 MS. RATTLEY: All right. Thank you.

1 MR. LEVINSON: Those are, I think, the only
2 four that I know of, but I'd like to hit another point
3 that Ms. Rattley made. I can't speak for Alexandria
4 because I didn't come to Alexandria until the beginning
5 of '81, but I spent about nine years in Massachusetts
6 in various capacities, both practicing law and directing
7 human rights commissions, where I did a lot of traveling
8 throughout New England in terms of setting up those
9 commissions and forming those commissions.

10 Clearly, one of the first arguments was either
11 why do you need this; you have EEOC and you have federal
12 law; or in New England, why do you need this; you have
13 a state commission, because all six states in New England
14 had a state commission. Therefore, why do we need cities
15 and towns and counties to have local commissions?

16 And again, one of the strongest arguments
17 that we made was the fact that (a) on a local basis
18 we are much better able to deal with the local problems
19 in the community. We also have had, I think, three
20 or four hearings in nine years. That's because hopefully
21 we're good, but also because of the nature of the
22 commission and the fact that resolving it locally puts
23 different kinds of pressures on a respondent.

24 Also, one of the biggest supporters we had
25 in Massachusetts was the Chamber of Commerce. They

1 would come to a city council; they would come to boards
2 of selectment; and they would say, sure, Levinson and
3 I have our days when we don't see quite eye to eye,
4 but the fact remains that from a quality of life per-
5 spective to have a local municipal elected body say
6 that it is a matter of policy that discrimination on
7 these bases is not something that will be condoned in
8 a particular city and we are going to pay money to
9 enforce, that, is something that is good business, or
10 reverse it and say discrimination is bad business.

11 We've had tremendous support from chambers.
12 The arguments of a state commission and the arguments
13 of federal law out there somewhere had some weight when
14 we had a different administration. But when you have
15 an administration like we now have that has retrenched
16 in terms of civil rights law enforcement, forgetting
17 various issues we all have, simply law enforcement;
18 it falls on the local commission.

19 We keep using the term 706 agency. You should
20 be aware that there are only 70 of us in the United
21 States. There are 46 state commission, and there are
22 24 local commissions that have 706 status. Those 70
23 agencies process 68 percent of all discrimination cases
24 filed nationwide.

25 EEOC processes the other 32. We process 68

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1 percent of all cases in this country, with a little
2 money and a little staff.

3 So the arguments of the feds being there,
4 when you look at numbers, when you look at figures,
5 when you look at cases, doesn't wash.

6 MS. RATTLEY: Thank you.

7 Yes?

8 MR. ALLEN: I think the time frame issue is
9 very crucial in terms of convincing your local juris-
10 dictions that the local commission is the way to go.

11 I had a similar experience to Steve in that
12 our Chamber of Commerce supported us in the enactment
13 of our legislation. I think they find a lot of comfort
14 in being able to know that Fred Allen is only a few
15 blocks away, that he has a vested interest in Fairfax
16 County, and that his door is open. I think that is
17 the kind of relationship that you can establish if,
18 in fact, you are present, as opposed to being assigned
19 to being in Maryland one week and you're in Virginia
20 the next week, and you have no vested interest in a
21 particular jurisdiction.

22 So I think that it's a very viable argument
23 in terms of convincing your local governments that a
24 local agency is the way to proceed.

25 MS. RATTLEY: Thank you very much.

1 All right. Questions. Please speak into
2 the mike.

3 MS. ROBERTS: Yes. I'm Elaine Roberts. I'm
4 from the City of Petersburg. I am a staff person for
5 the Commission of Community Relations Affairs, as well
6 as the Office of Fair Housing.

7 I definitely agree with everything that's
8 been said. Ms. Rattley, I say that even after you have
9 that commission, you still get the argument because
10 we still get the argument. Our commission has virtually
11 only the power of mediation and conciliation, and they
12 would like more.

13 And the question remains: you've got state
14 agencies; you've got the federal regulations. Why do
15 you need it locally?

16 To date, as it relates to fair housing, we
17 find that because there are monies available for those
18 localities that have a local ordinance, that that could
19 be of some weight. Basically you have to sell it because
20 I think the people who have the power are always
21 reluctant to give it up, and you have to look at the
22 marketing values, how you would market it, as Steve
23 was saying, that discrimination is bad policy, and you
24 have to show why that is bad policy.

25 Specifically, as it relates to getting back

1 to powers, I don't know exactly what that model ordinance
2 will do for localities. I understand that in July of
3 '82, if I'm not mistaken, that the General Assembly
4 did allow for cease and desist powers to go to localities,
5 especially in the areas of fair housing.

6 Again, in our area, we're still fumbling our
7 way along, and we see that they don't want to give us
8 subpoena power. So exactly how do you use a cease and
9 desist kind of mechanism? Who would that power rest
10 with?

11 If our commission is empowered to seek out
12 discrimination in housing, as we've come to believe,
13 then it seems to me incumbent that somewhere in there
14 there's the ability to have some sort of subpoena power
15 or, at least the threat of being able to get that infor-
16 mation.

17 MS. RATTLEY: Thank you. Do you have a ques-
18 tion?

19 MS. ROBERTS: The question is really how is
20 the cease and desist powers that were supposedly given
21 in 1982 in the area of fair housing at this point, how
22 is that used or has anyone used it at this point?

23 MS. RATTLEY: Who would like to answer?

24 MR. LEVINSON: Well, we may have different
25 answers among the three of us based on our different

1 ordinances.

2 --I can tell you that in Alexandria our ordinance
3 itself -- and I know of the legislation you're talking
4 about in terms of the authority to issue cease and de-
5 sist orders -- the Alexandria ordinance has always had
6 a provision, and it is tied to housing, that in a case
7 where it is my judgment that irreparable harm will occur
8 if a certain practice is allowed to continue pending
9 investigation, it is incumbent upon me to go to the
10 Commission, explain the position to the Commission,
11 and if they so agree, then we would apply to the Circuit
12 Court in the City of Alexandria for an injunction to
13 prohibit the practice in question, pending an investiga-
14 tions.

15 The process starts with me, goes through the
16 Commission, goes through City Attorney, through Circuit
17 Court.

18 There may be different processes.

19 MR. ALLEN: I have the same process.

20 MR. SMITH: We don't have in Richmond that
21 authority. There is a separate organization in Richmond
22 that deals with housing very effectively, and in most
23 cases those blatant housing cases will go to the agency
24 that has the clout, and that agency in Richmond is called
25 HOME.

1 MS. ROBERTS: Yes, I know about HOME. I'm
2 just again wondering if you're giving that power to
3 a locality, say, in our instance the City of Petersburg
4 has that ability, then --

5 MR. LEVINSON: Excuse me, Elaine. It's not
6 that that power was given, as I understand it, and maybe
7 Connie can correct me. My understanding was not that
8 the power was given. My understanding was that Richmond
9 authorized cities and towns to do it if they so desired.
10 It was a grant of authority. It was not saying that
11 every town and county or board and city had this power.

12 What it say was if you want through your local
13 ordinance mechanism to adopt cease and desist orders
14 or the ability to use cease and desist orders, we in
15 Richmond say you can do it.

16 MS. ROBERTS: Okay.

17 MR. LEVINSON: But each town and city has
18 to adopt it individually.

19 MS. ROBERTS: Okay. I think I understand.
20 So therefore, you could issue cease and desist as a
21 part of a local ordinance. In our case, that's where
22 we are, trying to get local ordinance for housing or
23 whatever.

24 MR. LEVINSON: That's right.

25 MS. ROBERTS: But you could not use subpoena

1 power. I know that the two of you have subpoena power
2 written in, okay. That right now is a sticky issue
3 for us. We can't do that, we've been told.

4 MR. LEVINSON: Well, it's a sticky issue for
5 us, too.

6 MS. ROBERTS: The General Assembly has to
7 allow you to do that, okay. Well, then I just really
8 want to know how it ties in. If you cannot have the
9 subpoena power technically, how do you issue a cease
10 and desist order? Are you going to say basically, "Come
11 in and talk to me, and if you don't come in we're going
12 to do our investigation?"

13 MR. LEVINSON: No, it's two separate questions.
14 We have subpoena power in our ordinance. Fred has had
15 it tested in court. As an attorney, I was trained never
16 to question my own jurisdiction, and I guess should
17 the need arise, I would issue the subpoena, and we'll
18 let a court decide whether it's a valid subpoena or
19 not. I have some issues of whether the Dillon Rule
20 applies or doesn't.

21 But the point is Richmond has never said,
22 Richmond has never authorized the political subdivisions
23 of the commonwealth to issue subpoenas. Therefore,
24 the question remains whether the City of Alexandria
25 under its police power could give us the right to issue

1 subpoenas.

2 The same is not true with cease and desist
3 orders. Richmond has said that the political subdivisions
4 of the commonwealth can issue cease and desist orders.
5 Therefore, Petersburg, in the creation of your ordinance
6 and in the structuring of your ordinance or mandate,
7 could allow the Petersburg commission the authority
8 to consider the issuance of cease and desist orders
9 in appropriate cases, and then would lay out a process
10 locally for how you would do that.

11 MR. ALLEN: I think just another point also,
12 in that our ordinance has been tested with respect to
13 the issue of issuing subpoenas, we have gone back to
14 the General Assembly, and we have gotten enabling legis-
15 lation which also reads somewhat broad in that it gives
16 us the authority to enforce or to go through the appro-
17 priate enforcement mechanisms in order to achieve our
18 goal, which we have interpreted to mean subpoenas.

19 We've never had to do this, and as Steve
20 indicated, I'm not going to give up anything, and if
21 the court tells me I can't do it, then I'll say okay.
22 Otherwise, I really don't listen to anybody else because
23 everybody tells me no. And I think in this field, you'll
24 find that our local governments have a tendence, and
25 especially our County Attorneys, have a tendency to

1 be very, very conservative, and you have to make your
2 own judgment and push in the direction that you feel
3 is appropriate.

4 I mean it's one of the limbs that we in this
5 field go out on, and you'll find out.

6 MS. ROBERTS: Thank you.

7 MR. LEVINSON: Let me just, if I can, make
8 one comment in reference to Elaine's question. I was
9 fortunate enough to meet Elaine and Art and some other
10 people from Petersburg over the last few years in some
11 national work that I do, and they're still hanging in
12 there, continually trying not only to survive, but to
13 strengthen their situation.

14 One of the things I think that's important,
15 with or without this state bill in the next year to
16 year and a half: Alexandria has had ten years of exper-
17 ience. Richmond has had at least that, if not more.
18 Fairfax has had ten or so years in the county. And
19 it seems to me that one of the things we have to do
20 is utilize that experience and utilize the expertise
21 and utilize the political situations that we have had
22 to deal with in our three jurisdictions to your benefit.

23 It is incumbent, I think, in terms of coordin-
24 ating and establishing ordinances and dealing with
25 councils and mayors and managers and various political

1 structures to use us, not that we're so great and
2 certainly not that we're so intelligent, but we have
3 the experience. We have the technical experience. Hope-
4 fully we have some political sensitivities, and hopefully
5 we can give some input and advice to you, as well as
6 to your political counterparts in terms of why it is
7 to their benefit, why it's to Alexandria's benefit to
8 have a Human Rights Commission. Why is it to Fairfax's
9 benefit? Why does my city spend \$150,000 of taxpayers'
10 money to support a Human Rights Commission? There has
11 to be a benefit there or they wouldn't do it.

12 And I think that we all need to begin to con-
13 sider that and use that in Virginia, pending the passage
14 of this state bill.

15 MS. RATTLEY: All right. Yes.

16 MS. BENDRICH: Thank you.

17 Ms. Rattley, I'm very glad to see you. I've
18 heard a lot of favorable things about you.

19 MS. RATTLEY: Thank you.

20 MS. BENDRICH: I want to compliment you on
21 being able to handle three men.

22 I have two quick questions of Mr. Levinson.
23 Would you please clarify something? When you say that
24 Richmond gives the authority, are you not referring
25 to the General Assembly?

1 MR. LEVINSON: Yes.

2 MS. BENDRICH: Please don't blame our poor
3 city. We have enough problems.

4 I have a question --

5 MR. SMITH: I was going to raise that at the
6 proper time.

7 MS. BENDRICH: Thank you.

8 Since I have three obvious gentlemen lined
9 up, I would like to address this question to the three
10 of you. Number one, how many people with disabilities
11 do you have on your Commission; and number two, how
12 many problems have you helped people with disabilities?

13 And Mr. Smith, before you answer that, I do
14 live in Richmond. So you'll be hearing from me.

15 But seriously, how many people with disabilities,
16 and I mean not only wheelchair but of any kind, do you
17 have on your commissions and have you handled any cases
18 or have you had any referrals or what have you particular-
19 ly referring to people with disabilities?

20 MR. SMITH: To my knowledge, there are none --
21 none of our Commissioners have handicaps, and I say
22 that in a very careful kind of language. There may
23 be handicaps, legitimate, that may not be publicized,
24 that we may not know.

25 In Virginia, Richmond, since coming on September

1 I, I have had no experience, to my knowledge, of handi-
2 cap, but I was fortunate enough in New Jersey, where
3 I came from, to have helped New Jersey develop their
4 legislation or amendments to their legislation, and
5 we did invoke into their charter handicapped persons
6 as a part of the protected class.

7 MR. LEVINSON: In Alexandria, we have one
8 member of our Commission who is handicapped, and a seat
9 designated in our ordinance that one of our 13
10 Commissioners must be a representative of the City's
11 Commission on Disabled, so that we do have one -- in
12 the past we've had two; now we have one -- disabled
13 Commissioner.

14 In terms of cases, we have had cases, all
15 employment, which have involved settlements in terms
16 of reasonable accommodation for work sites, for struc-
17 tures, for accessibility. The city has just finished --
18 I was talking to the signers last night -- the city
19 offers a program to all city staff in sign language.
20 I just finished a training course, and am trying to
21 follow them. All city staff are encouraged on city
22 time to take the case. It's offered free on the part
23 of the city.

24 We have other kinds of awareness programs.
25 We just finished running a breakthrough program,

1 mandatory for all department heads and first line super-
2 visors in city government.

3 All of my cases -- I shouldn't say all --
4 except for one, which was in the private sector, all
5 of the handicap complaints, complaints from the disabled,
6 have involved employment, and it involved questions
7 of reasonable accommodation, accessibility, work site
8 accessibility, and in all cases we have been able in
9 the city, without any problem at all, to accommodate
10 those individuals.

11 MR. ALLEN: I presently have two Commissioners
12 who are handicapped. I have on staff an individual
13 who is a specialist in handicap issues. She addresses
14 only or investigates only handicapped cases. We present-
15 ly have a case load of approximately 38 cases of handi-
16 capped discrimination, both in employment and in the
17 areas of public accommodations.

18 MS. RATTLEY: All right. Yes.

19 MR. EVERHARD: Yes. My name is Everett
20 Everhard, and I'm with the Richmond Human Relations
21 Commission.

22 With respect to the question which was raised
23 earlier regarding the 706 agencies and EEOC and how
24 much work each of them are doing and how valuable 706
25 agencies are, I'd like to address this question also

1 specifically to Mr. Levinson, but any of the other panel
2 members might answer, if they so choose.

3 You mentioned that 68 percent of all the cases
4 filed in the country were processed by 706 agencies,
5 and that EEOC processes 32 percent. As a former attorney
6 at EEOC, I'm aware of the fact that a number of the
7 cases which 706 agencies do process, when they come
8 to EEOC, EEOC has the option of accepting their findings
9 or not accepting their findings, and sometimes, of course,
10 when they don't accept those findings, there's extra
11 work which is required on the part of EEOC with respect
12 to those cases.

13 I'm kind of curious as to whether or not any
14 type of cost benefit analysis was ever done vis-a-vis
15 the EEOC and 706 agencies: the number of employees
16 which EEOC has and the number which are employed by
17 these various 70 706 agencies around the country,
18 especially in the enforcement area.

19 I realize, of course, EEOC has a number of
20 people who do things other than what 706 agencies do,
21 but just with respect to those individuals who are
22 involved in that type of work, has any type of cost
23 benefit analysis ever been done; and if so, what are
24 the results of that? Does it come out showing that
25 we need more 706 agencies which can handle matters at

1 a local level more efficiently; and if not, you know,
2 why not?

3 MR. LEVINSON: Excellent question. The answer
4 is yes, a cost analysis has been done. In fact, it's
5 just been updated.

6 Let me explain that we have been lobbying
7 EEOC for many years. Up until this year, up until
8 October 1st, we were paid at the rate of \$375 per charge
9 for every charge we process which is accepted by EEOC.
10 That has not changed, but our costs have changed. My
11 rent's doubled. The staff salaries go up. So that
12 \$375 continually goes a shorter and shorter distance.

13 In order for us to lobby the Congress, in
14 order for us to lobby the government to increase that,
15 we had to do that cost analysis, cost benefit study.

16 Please don't hold me. I don't have the figures
17 here. I certainly can provide them to you, but there
18 is no question. As I said, we are processing 68 percent
19 of the cases in the country, and we get about 38 percent
20 of the money.

21 EEOC has a staff -- and again, with the RIFs,
22 I'm not sure of exactly -- but somewhere around 3,200
23 people nationwide. There are 70 of us. / Per charge
24 cost, 706 agency versus EEOC is about one-third. We
25 do process cases. Time is obviously much shorter, and

1 on a per charge basis, our cost is about one-third of
2 the cost of processing the same charge through EEOC,
3 and I can give you dollar figures. I don't have them
4 here.

5 MR. EVERHARD: Just one quick follow-up. You
6 said EEOC had roughly about 3,200 employees. I was
7 curious. Do you know how many are in the total 706
8 agencies in the country, and also how many of those
9 3,200 in EEOC are involved in processing or enforcement
10 or investigative activities?

11 MR. LEVINSON: The majority -- again, I can
12 give you specifics later -- the majority of the federal
13 employees, EEOC employees, are involved in some aspect
14 of case processing or investigation. It's not adminis-
15 tratively top-heavy.

16 I don't have a figure for you on the 70
17 agencies because I can't even estimate. Some state
18 agencies have several. Michigan has 300 employees.
19 I have five. So I can't give you a figure, but certainly
20 it is percentage-wise probably less than 1,000 nation-
21 wide.

22 MR. EVERHARD: Thank you.

23 MR. SMITH: I think, if I may, there are two
24 other points attached to that question and answer. Number
25 one, EEOC has found that it is far more economical

1 as Steve indicated to have local jurisdictions handle
2 cases that are in local areas. The \$375 they pay Steve
3 is only one-third of perhaps the cost of simply investi-
4 gating, not the follow-up on the case.

5 Number two, the key issue is that if this
6 proposed legislation is passed, any local jurisdiction,
7 county, city, town, in this state that develops a
8 commission under this charge will automatically have
9 the same powers, 706, as EEOC, which means that you
10 will be dealing in local issues and being reimbursed
11 rather than have EEOC tie you up for 18 months trying
12 to find a follow-up.

13 So I think the two issues here must be
14 balanced: economics and practicality. You put them
15 both together, and there's no question the legislation
16 must pass because this is the most effective way for
17 Virginians to address the problem of quality of life
18 through human rights and human relations.

19 MS. RATTLEY: Barbara.

20 MS. WURTZEL: I'm Barbara Wurtzel. I'm a
21 member of the Virginia Advisory Council.

22 I have two questions to ask. One is a politi-
23 cal question. If the model Act or a version of it were
24 to pass, to what extent do you think it would be an
25 effective sales tool for converting Richmond's ordinance

1 into ones that are parallel to the Alexandria and Fair-
2 fax, and to what extent do you think it would stimulate
3 other localities to enact comparable ordinances?

4 And, Steve, in New England when you had that
5 experience, how did that work where there were state
6 statutes? Were they good sales tools for getting those
7 local ordinances?

8 MR. LEVINSON: Again, Barbara, it will clearly
9 depend on the individual localities in the sense of
10 the local politics, but what it does is it removes the
11 crutch that we are continually given: well, we can't
12 do that; the state doesn't authorize it. We can't do
13 that; we don't have the jurisdiction, the mandate from
14 Richmond, the state legislature in Richmond, to have
15 these kind of provisions on a local level.

16 (A) The passage of the bill would remove
17 that crutch, and would remove that you can't do it;
18 here's why you can't do it; delay and stall.

19 Depending on, clearly, how this state looks
20 at its own mandate -- and that involves staffing and
21 that involves who we get to direct and staff the state
22 commission -- but I can tell you that in New England
23 it was the state commission, the commissioners appointed
24 by the various Governors, the Executive Director and
25 the paid staff, who would come to the various city

1 council meetings and work sessions and localities and
2 explain and help us, and explain from their perspective
3 as a state agency now, why it was in their interest
4 to have us in Alexandria or Fairfax or Richmond to be
5 able to defer their cases to allow them to get rid of --
6 obvious they're going to have a big case load, and to
7 spread that case load out to the localities and the
8 benefits that are involved in that.

9 So personal experience, in my own experience,
10 is the creation and the existence of the state agency
11 can only help in the creation of local human rights
12 ordinances and laws.

13 MR. ALLEN: I agree with Steve on that. I
14 think that one of the greatest, most controversial argu-
15 ments that I get in terms of my local government is
16 the Dillon's Rule argument, and by creating this state
17 agency, this will alleviate and clearly delineate certain
18 responsibilities and authorities to the local jurisdic-
19 tions, and I'm looking forward to it very much.

20 I'm tired of every time we do something, we're
21 being challenged with that, our authority to exist kind
22 of situation. I think that once we get the state law
23 and the way it's presently drafted, it will take a lot
24 of the burdens off of us.

25 MR. SMITH: Barbara, let me respond to you

1 philosophically, quickly, because I think it's the key
2 to the whole issue.

3 The problem in Virginia is the fact that we
4 must develop a viable base to prevent the increasing
5 cost of the running government to be passed on to our
6 citizens. The only way to do that is to develop an
7 environment in which industry and businesses will come
8 into the city.

9 We found out that the greatest publicity in
10 terms of attracting industry is the promise of a stabil-
11 ized community. Without this kind of legislation,
12 Virginia doesn't have it.

13 You can have all of your slogans. We have
14 them made in Virginia. But if you want to get industry
15 into Virginia, show them a stabilized community, which
16 means an ability of a community to resolve its own
17 problems.

18 MS. WURTZEL: I assume that you would feel
19 then that if there were a state statute passed, it would
20 be easier to reconcile Richmond's ordinance with that?

21 MR. SMITH: Absolutely.

22 MS. WURTZEL: My second question is very brief.
23 In the phase of processing of complaints that deals
24 just with conciliation, would Mr. Levinson and Mr. Allen
25 tell us the extent to which complainants typically

1 are represented by attorneys, the extent to which re-
2 spondents-typically are represented by attorneys, and
3 the difference, and if there is a difference in that
4 extent, how does that impact on the remedies that ulti-
5 mately come out of those conciliation efforts?

6 MR. LEVINSON: Once we get to the stage or
7 any stage -- you mentioned at the stage of conciliation.
8 In Alexandria almost all respondents are represented
9 by counsel. It may be their corporate counsel; it may
10 be their tax lawyer who has never had a Title VII case
11 in his or her life, but it's time to have a lawyer.

12 In my opinion, too many complainants are
13 represented by attorneys. One of the purposes of having
14 a local agency is to obviate the need to go out and
15 pay counsel to represent you. I am their counsel
16 technically at the point at which cause is found. It
17 is my legal obligation to make that person whole but
18 for the discrimination.

19 There is no impact -- and I can only speak
20 for myself personally -- the impact of a respondent's
21 counsel obviously is it lengthens the process and there
22 is more detailed negotiations, and there's a different
23 kind of bargaining if there were no counsel. But on
24 the complainant's side, I don't particularly care what
25 that complainant's counsel wants or doesn't want. There's

1 no impact.

2 MR. WURTZEL: Does that depend exclusively,
3 however, that balancing, on your assumptions that once
4 reasonable cause has been found, you are no longer neutral
5 but become an advocate? If you did not take that posi-
6 tion --

7 MR. LEVINSON: That's not a personal opinion.
8 I'm required to do that by law. Once that cause finding
9 is issued, I am by law required to be, quote, the advo-
10 cate for that complainant. It is my job to reach a
11 settlement for that complainant that makes that complain-
12 ant whole. That's not my personal opinion.

13 So once I make that cause finding, I am that
14 person's attorney. Now, that complainant's attorney
15 can come in and say, "We want A, B and C." I will listen.
16 I will take it into account, but in many cases, in most
17 cases, they want things that we're not allowed to give.
18 They want punitive damages; they want compensatory
19 damages. We're not allowed by law to do that. We're
20 allowed to make a person whole, and with or without
21 an attorney, most complainants are not at the higher
22 ends of the economic scale, and I can't stop them from
23 having an attorney, and if they have a friend or if
24 they have an attorney that they can somehow afford to
25 have represent them, fine. But there's no impact.

1 MR. ALLEN: I agree with Steve on that from
2 the standpoint, and particularly, I guess, the efficiency
3 of the counsel involved. I have a lot of problems with
4 attorneys who come in with a lack of subject knowledge
5 in terms of Title VII, in terms of what's allowable,
6 what's not allowable under the various laws, and you
7 find in a lot of cases counsel advocating settlements
8 that are totally outlandish, and sometimes I question
9 their motives in terms of the advice, you know, that
10 they're giving.

11 MS. WURTZEL: Do the sections of the law that
12 indicate to you that you are required to act as advocate
13 after reasonable cause findings, are they paralleled
14 in the model Act?

15 MR. ALLEN: I think that it's kind of a
16 matter of semantics. When I say that I'm an advocate,
17 I'm an advocate for my ordinance. My ordinance dictates
18 that I do certain things. I will advocate that, and
19 I will pursue that to the fullest extent that I possibly
20 can.

21 To say that I'm an advocate of the complainant
22 somewhat pushes that aside a little bit. If, in fact,
23 we find the cause case and my law dictates that I get
24 full settlement, then that's what I'll do. If my law
25 says that I cannot advocate or cannot get punitive

1 damages and the complainant wants it, then I will pursue
2 it from that angle.

3 So it really doesn't matter which side is
4 the prevailing side. It's more what the law dictates
5 with respect to the particular set of facts that you're
6 dealing with, and that's where the advocacy comes about.

7 MR. LEVINSON: And, Barbara, let me add to
8 your final point, the law you have in front of you,
9 the model Act that was distributed does parallel what
10 we're saying.

11 I am an advocate for the City of Alexandria
12 for the policy that the City Council adopted in creating
13 a human rights ordinance. I am an advocate for
14 the contract with EEOC to process and investigate and
15 to conciliate Title VII charges. It is my responsibility
16 to carry out that legislative mandate and that public
17 policy of the people that I work for.

18 It's implicit in the bill that you have in
19 front of you and in our ordinances that should we find
20 substance to an allegation of discrimination, that is
21 against public policy. It is then my job to insure
22 that that is corrected, and that that individual is
23 made whole. I don't represent the person. I represent
24 my city. I represent the public policy adopted by my
25 city in representing that individual and in correcting

1 the deficiencies and insuring that it doesn't occur
2 within the city limits, and the bill you have parallels
3 that.

4 MS. RATTLEY: Yes, Maya.

5 MS. HASEGAWA: I'm Maya Hasegawa. I'm a member
6 of the Advisory Committee, and I'm also supposed to
7 be representing the Virginia Commission on the Status
8 of Women.

9 Before I ask my question of the panel, I would
10 like for the record to correct something that was stated
11 during the panel that I moderated, and that is the ques-
12 tion concerning the Virginia Employment Commission and
13 services available for the area Big Stone Gap.

14 We have found that there is an office which
15 is about 20 miles from Big Stone Gap in Norton, and
16 I just wanted the record to reflect that, that there
17 were services available much closer than 70 to 80 miles.

18 MS. RATTLEY: Thank you.

19 MS. HASEGAWA: My question has to do with --
20 I think somebody raised this earlier, and I just wanted
21 to follow up on it with you all -- and that is what
22 happens to offices like the Advocacy Office for
23 Developmental Disabilities, organizations like the
24 Commission on the Status of Women, for example, the
25 Overall Advisory Committee on the Handicapped, and

1 those kinds of things?

2 I know that your local governments have simi-
3 lar kinds of commissions. What is the relationship
4 between those, and how does state law affect advocacy
5 groups like that?

6 MR. ALLEN: I don't think the state law would
7 have an adverse effect at all. I think that I would
8 anticipate a continued positive relationship.

9 My office works very, very closely with the
10 Commission for Women, with Handicaps Unlimited. There's
11 several advocacy groups in the Fairfax County area.
12 I look to them for advice. I look to them for -- in
13 fact, the Independence Center in Northern Virginia is
14 presently working with me to design -- and if you've
15 been to some of the shopping centers there are these
16 little cart corals they keep the shopping carts in --
17 we are working very closely with them to design some
18 type of access for people who use wheelchairs. You know,
19 we utilize them as a resource on a regular basis, and
20 I would anticipate the state Director and the Commission
21 would also have that type of relationship with all of
22 the advocacy groups.

23 I think that a person would be somewhat
24 derelict in their duty to ignore or not be sensitive
25 to the opinions of those various groups.

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1 MS. HASEGAWA: I think one of the concerns
2 on the part of some of the -- this may be somewhat self-
3 serving -- but when I was talking about this with some
4 of the other Commissioners from the Commission on the
5 Status of Women, one of the questions was, since we
6 are another official governmental body, has there been
7 a tendency to do away with other government advocacy
8 offices? And I hear you say no.

9 MR. ALLEN: Well, I think the role is different,
10 Maya. The role of the state agencies is an enforcement
11 agency to basically carry out the mandates of a law,
12 as opposed to being an advocacy group to advocate any
13 particular issue. I see the roles as very different
14 in terms of responsibility.

15 MR. LEVINSON: Maya, let me just take it a
16 little further. There are some provisions in the bill --
17 and I don't have a full knowledge of all of the various
18 enforcement arms of the various areas in Virginia --
19 clearly the bill would consolidate enforcement efforts,
20 as it should.

21 But on the other side, there are questions
22 of turf, and there are questions of survival. You know,
23 if we'd stop fighting each other, we could all do much
24 more, but the fact is that those questions have to be
25 answered, and it seems to me that the creation of a

1 state commission is to the benefit of the advisory kinds
2 of groups you're talking about, Commission on the Status
3 of Women, the handicapped, disabled concerns, refugee
4 concerns, whatever, because if the director does his
5 or her job, most state commissions in this country
6 develop a coalition -- my word -- but a group of state
7 advisory people, Women's Commission, this commission,
8 that commission, to advise the state commission, and
9 it coordinates all of the groups you're talking about
10 and, in my opinion, strengthens them.

11 MR. ALLEN: In fact, I'm so concerned about
12 that that I have a staff assigned to attend the meetings
13 of the various advocacy groups on a regular basis so
14 that, you know, we're assured that we are getting the
15 feedback and the input in terms of the concerns, you
16 know, of the various groups.

17 MR. SMITH: My response to that is I have
18 reviewed the proposed legislation, and without hesitat-
19 ing, I'll tell you that there are some gray areas,
20 especially in the area of housing where it talks about
21 the fact that this legislation will amend. It does
22 not say specifically how.

23 I would, indeed, believe that there are some
24 questions, as Steve and Fred talk about, in terms of
25 turfdom. But if I look at the trends in this country,

1 there are advocate groups who have decided that the
2 state and federal government do not fairly represent
3 their cause on a local level. I think that what this
4 bill will do will enable us to network with those
5 advocate groups to have a stronger lobby when we go
6 to the state for enforcement of the rights or dealing
7 with complaints that we have^t cited.

8 MS. HASEGAWA: I just want you to clarify
9 for the record that advocacy is different from compli-
10 ance.

11 MR. SMITH: Absolutely, yes.

12 MS. RATTLEY: All right. Thank you very much.
13 It's 12:30 and time for lunch, but I would like to find
14 out if you would like to extend this so that everybody
15 will be able to have his or her questions answered,
16 but remind you that we must be back by two o'clock to
17 continue our discussion.

18 How many of you would like to extend our dis-
19 cussion here a bit long?

20 (Show of hands.)

21 MS. RATTLEY: We don't have a majority. Since
22 we had one person standing, may we receive his question,
23 please, and then we'll go to lunch.

24 MR. TATE: I just wanted to make a brief
25 comment. I appreciate the work that you are doing

1 with the disabled. In my work at Woodrow Wilson Rehab
2 Center, we work with rural Virginia. Therefore, we
3 do not have the access that you do in the metropolitan
4 areas.

5 Would you be willing to come down and talk
6 to the rural Virginia communities and perhaps even pro-
7 vide a training or technical assistance topic once this
8 bill is passed?

9 MR. ALLEN: Sure.

10 MR. LEVINSON: Absolutely, absolutely, and
11 I think I speak for all of us. I personally, and I
12 know Fred, and I'm sure Al, although he's been here
13 a short time, we will go anywhere, you know. You know,
14 it's the argument used on me, "I'm free" kind of an
15 argument.

16 We have whatever minimal levels of expertise
17 we all have, and if we can help cities, towns and counties
18 develop laws or technical assistance or training pro-
19 grams or whatever, please don't hesitate to call us.

20 MS. RATTLEY: I thank you.

21 We want to say thank you to Mr. Smith, Mr.
22 Levinson and Mr. Allen, and let's give them a round
23 of applause.

24 (Applause.)

25 MS. RATTLEY: We will reconvene at 2:00 p.m.

1 in this room.

2 (Whereupon, at 12:32 p.m., the proceedings
3 in the above-entitled matter was adjourned for lunch,
4 to reconvene at 2:00 p.m., the same day.)

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AFTERNOON SESSION

(2:14 p.m.)

1
2
3 MR. RING: Could we come to order? Would
4 those in the rear like to take seats, and we'll get
5 started with the afternoon panel?

6 This afternoon we're going to be talking a
7 little bit about the model Act, which all of you should
8 have as an enclosure in your packet. Let me say at
9 the outset that this is what sometimes lawyers describe
10 as an exposure draft.

11 As it was explained, this meeting is the first
12 time that this particular draft has had any public expo-
13 sure. We do not purport to say that it is a perfect
14 job. Many people have worked very hard and very long
15 in trying to present to you a product that has been
16 rather carefully thought through and researched, but
17 we are looking forward to your comments and your
18 criticism as a vehicle for improving upon what I think
19 is a very good start.

20 I know that many of you would like to have
21 more time to reflect upon this particular draft and
22 may at a later date be in a better position to give
23 informed comments and criticism, and if that should
24 be the case, I would urge you to send those comments
25 in writing to the Mid-Atlantic Regional Office of the

1 U.S. Civil Rights Commission at 2120 L Street, N.W.,
2 Washington, D.C., or if you wish, you can send them
3 directly to me, Carlyle C. Ring, 710 Ring Building --
4 don't own the building, but it is my name -- 710 Ring
5 Building, Washington, D.C., zip, 20036.

6 Several people have asked about the time frame
7 for making further comments. It's already been explained
8 to you that the Advisory Committee is exactly what its
9 name implies. It's an advisory group, and it will simply
10 prepare a report based upon the comments that have been
11 made here, and forward that report to the U.S. Civil
12 Rights Commission.

13 Whether there is any particular merit to the
14 model Act will depend upon those of you who have reviewed
15 it and are in a position to be advocates for legal change
16 within Virginia. If members of the General Assembly
17 or the Governor perceive this to be a good idea, they
18 may pick up on it. If those of you who are here and
19 are especially interested in civil rights issues believe
20 that it is a good idea, you may want to pick up on it
21 and run with it.

22 We, as such, are not carrying that role. We
23 are simply being a body that exposes something to you,
24 gives you an opportunity to comment on it, and it gives
25 you an opportunity to urge it if you feel that it's

1 meritorious.

2 --In context of time, I think that if you could
3 get your comments within 30 or 60 days, it would be
4 very helpful in terms of making the report to the U.S.
5 Civil Rights Commission.

6 Although it had been our original thought
7 that this conference would be held earlier and, therefore,
8 perhaps it would be possible for perhaps such an Act
9 to be introduced in the 1984 General Assembly, I suspect
10 because of the late date of this meeting that it's more
11 realistic to think in terms that perhaps in 1985 there
12 would be an opportunity to actually introduce into the
13 General Assembly such a bill, if there were groups that
14 wanted to urge to do that.

15 Virginia, as already mentioned, is a delinquent
16 state. We are one of four states, Steve Levinson has
17 told us, that does not have a human rights commission
18 or a human rights act. All the other 46 states do have
19 a state human rights commission.

20 In the morning panels, I think a fair inter-
21 pretation would indicate that there are substantial
22 gaps in the coverage in Virginia of various civil rights
23 issues. There are gaps in the coverage of the law.
24 Just as an illustration, and you can recall others,
25 Mr. Claiborne mentioned that the Virginia Fair Housing

1 Housing Act does not cover handicapped as one of the
2 protected groups.

3 There are also gaps in the sense that there
4 are many areas in which there is no enforcement agency
5 available to hear grievances, to investigate, and to
6 follow up to assure compliance.

7 There are also certain gaps that have been
8 identified this morning with respect to the availability
9 of suitable remedies, when there has been a failure
10 to comply with the law.

11 Another area that we focused on this morning
12 and there was some discussion, which is background,
13 is if there are federal protections for these rights,
14 do we really need any further coverage at a state and
15 local level. And you heard this morning that there
16 are many reasons, among them the time factor. Time
17 is justice in many instances. If you don't get quick
18 and prompt relief, you really have had no relief at
19 all, and state and local bodies are in a much better
20 position to respond quickly.

21 Steve indicated that in EEOC kinds of complaints,
22 locally they can be handled within 120 days, but you
23 must wait eight to 18 months to get relief at the
24 federal level.

25 There is also an important cost factor. It

1 simply is a lot easier and less costly to handle those
2 matters at a local level and a state level, and obviously
3 very clearly, availability. It's easy to get in touch
4 with local offices, local officials, and lastly, it's
5 more effective because you can bring local pressure
6 to bear to really resolve on an amicable basis these
7 kinds of complaints, and over the long run a friendly
8 resolution of disputes is going to go much further than
9 a letal confrontation.

10 There also might be the issue of whether or
11 not it isn't sufficient to have a parceling out of these
12 various responsibilities, and some might possibly urge
13 that it's advisable to have the housing in one agency
14 and employment in another agency. But one of the factors
15 to be considered there is that if you have one common
16 human rights commission, you have one contact point.

17 It's easy to advise people where to go and
18 how to proceed if they have one place to which they
19 can look for relief. It also means that you can mobilize
20 more resources in a common agency rather than splitting
21 those various obligations among a variety of agencies,
22 and that, in turn, means that it's less costly.

23 It is true that much of what is in this model
24 Act is already federal law, and therefore, there is
25 available federal relief for many of the matters that

1 are contained in this model law. But, on the other
2 hand, the factors that I have just pointed out may be
3 important enough -- and many of us believe that they
4 are -- to have Virginians have that relief available
5 locally, more effectively, more timely, and less costly.

6 Let me explain one other factor that guided
7 us in preparing this model Act, and that is we tried
8 to take into account what is doable. Mr. Smith mentioned
9 that although he generally likes to be an optimist,
10 he also has had some hopes dashed in terms of getting
11 specific legislation through the General Assembly, and
12 that's true of all legislatures.

13 Therefore, we have tried to frame this in
14 a way that we did not bite off too much the first time.
15 The Landlord-Tenant Act was a matter of some discussion
16 last evening. Virginia passed the Uniformed Landlord
17 and Tenat Act, and it has been amended several times
18 since them to extend the rights of tenants.

19 It's a lot easier once you have established
20 the precedent and the public policy to subsequently
21 amend it. But if you overburden a particular vehicle,
22 you may get so many separate elements of opposition
23 that from a political point of view it becomes impossible
24 to do it.

25 Therefore, we have tried to keep that in mind

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1 in this model Act, trying to focus it in a way that
2 we have a doable project, with the idea that refinements
3 and improvements can be made by the amendment process
4 in the future.

5 Let me tell you a little bit about the back-
6 ground before I turn it over to the panelists. I wear
7 a number of hats standing here before you. One is as
8 a member of the Virginia Advisory Committee. It's already
9 been mentioned that I also sit as one of the seven
10 members of City Council in Alexandria.

11 Well, probably one of the biggest thrills
12 that I have had in my life has been service as a Virginia
13 Commissioner to the National Conference of Commissioners
14 on Uniform State Laws. Now, that's a long name, and
15 probably most of you don't know what we do, but the
16 conference is as close as your driver's license. If
17 you look on the back of your driver's license, there's
18 a uniform donor's signature place. If you wish to donate
19 a part of your body in the event of an accident, in
20 order to help or save someone else, you can rely upon
21 a uniform act promulgated by the conference with which
22 I am associated so that no matter where that accident
23 occurs, your wish will be implemented.

24 It's also as close as your checkbook. The
25 Uniform Commercial Code, which is adopted by all of

1 the states in the United States governs the rules concern-
2 ing checks. If there is a fraudulent endorsement or
3 anything else, the rules are established by the
4 Uniform Commercial Code, also a product of the National
5 Conference.

6 One of our projects in 1966 was to draft a
7 model Civil Rights Act. That followed the 1964 U.S.
8 Civil Rights Act. It was to give guidance to the
9 various states in how they could implement the federal
10 acts in the various states.

11 That model act has been used as a guide in
12 the 46 states that have adopted human rights commissions.
13 However, that model act was out of date because much
14 has occurred since 1964. There have been additional
15 federal laws. There have been a great deal of case
16 law in the federal courts, and therefore, it was neces-
17 sary to update that model act of the National Conference.

18 In my role as a Virginia Commissioner and
19 as President of the National Conference, I inquired
20 of Washington and Lee Law School whether they would
21 be willing to undertake as a project updating the model
22 Act, and they agreed to do so. Also, Professor Rutherglen
23 of the University of Virginia Law School agreed that
24 he would be willing to provide input on the employment
25 sections of a model Act for Virginia.

1 So over this past summer for three or four
2 months a lot of people have been working very hard to
3 survey all of the 46 states that do have human rights
4 acts, to try to pick out the best provisions in each
5 of those 46 acts, and therefore, to come before you
6 with this exposure draft, which is a representation
7 of a lot of thoughtful consideration of what other states
8 have done, and in trying to blend it to the procedures
9 and the practice in the State of Virginia.

10 With that as an introduction, I would like
11 to turn the program now over to the panelists who will
12 describe very briefly each of the sections of the Act,
13 and then we would welcome comments and questions from
14 all of you.

15 First, Professor Hobbs, who is a member of
16 the faculty at Washington and Lee Law School, and he,
17 in turn, will introduce the other two participants in
18 the panel.

19 Professor Hobbs.

20 PROF. HOBBS: Thank you, Mr. Ring.

21 I'd first like to introduce my co-panelists:
22 Professor Martha Morgan and Mike Shaffer, who is a student
23 at Washington and Lee University School of Law.

24 It's a pleasure for us to be here today.

25 Our task this summer was to prepare a

1 comprehensive human rights act for the Commonwealth
2 of Virginia. We proceeded on three assumptions basically
3 One, we assumed, and even though this is not true, we
4 assumed that Virginia didn't have a legislative codifi-
5 cation of civil rights that we, in fact, do have, and
6 that all of us have, even whether they are, indeed,
7 enacted in the state.

8 We assumed that there are continuing incidents
9 of discrimination, and as a matter of public policy
10 it would behoove the state to demonstrate a commitment
11 to affirm the civil rights and human rights of indivi-
12 duals within the state and to actively protect indivi-
13 duals who have been discriminated against.

14 And, third, we wanted to design a mechanism
15 that would effectively, efficiently and equitably handle
16 complaints of discrimination, hopefully at the state
17 and local level, and we figured that if we could design
18 such a mechanism, it would have a number of benefits.

19 We've talked about some already today. Federal
20 money, for one. If you're a qualified human rights
21 commission, it's cheaper than federal litigation if
22 you go through an in-state process, and generally you
23 have the opportunity to handle the matter between the
24 parties involved hopefully in a more informal and less
25 contentious atmosphere.

1 From an academicians point of view, this
2 was great fun. We're always telling our students, what
3 if the law was changed and we had this law. Well, this
4 is an opportunity to put that into practice, and we
5 can just go off there and draft a law, put it out there
6 and see what would result.

7 The other interesting thing was that none
8 of us are up for re-election. So we don't have any
9 political considerations as to the contents of the law,
10 except a firm belief in civil rights.

11 But we were concerned about political feasibility,
12 as Mr. Ring pointed out. We drafted the bill.
13 It's for others to enact it, and hopefully by this process
14 that we're going through today and your comments
15 in the future, this draft will be substantially revised.
16 This is the third draft, and each draft went through
17 many minor revisions, and I suspect that it will go
18 through more revisions.

19 But what we wanted to do, and we sought counsel
20 throughout the state as to what might be politically
21 feasible within the state, we wanted to create something
22 that was, indeed, passable.

23 From the point of view that what we really
24 wanted to do was establish a mechanism for dealing with
25 human rights, a centralized mechanism, and from the

1 survey that we took from many states, I think the
2 important part is to first get that enforcement mechanism
3 in line. After that, if you want to expand the coverage,
4 if you wanted to amend the provisions, that's certainly
5 a little bit easier to do than to tie it down with minor
6 provisions that might kill the entire bill.

7 We sort of, in that regard, followed what
8 I call the Goldilocks Theory. Some will think this
9 is too strong; others will think that it's not strong
10 enough. Hopefully the majority of people will think
11 it's just right, and we can have it enacted.

12 Fortunately, we didn't have to engage in
13 a spontaneous creation of legislative ideas. As Mr.
14 Ring pointed out, there is the model Act provided by
15 the Uniform Law Commissioners. Many states have enacted
16 legislation, and we've had, as you remember this morn-
17 ing, local human rights commissions here in Virginia
18 that have extensive experience, and we drew heavily
19 on that experience.

20 What we'd like to do right now is briefly
21 outline, and this is in no way designed to be a compre-
22 hensive summation of the provisions of the Act, but
23 we thought that we might be more willing to take ques-
24 tions after we go over what's in the Act, and after
25 we do that, we'll be more than willing to take any

1 questions.

2 Primarily the goals of the Act are to, one,
3 create an independent agency within the state government
4 that has its own resources and authority and has its
5 own independent political autonomy. We wanted to
6 create a mechanism that would provide fast and informal
7 settlements, hopefully through conciliation. One of
8 the things we lawyers and law professors are learning,
9 that mediation and conciliation is an effective means
10 of dispute resolution, and it's certainly more efficient
11 than resorting to court.

12 Third, we wanted an enforcement mechanism
13 that had some muscle: the ability to go to court, the
14 ability to subpoena witnesses and documents, and the
15 ability to enforce its findings.

16 Fourth, we wanted to create a mechanism that
17 would grant the Commonwealth of Virginia a certain amount
18 of autonomy in reference to solving its civil rights
19 problems. The way it is now we sort of share the more --
20 they have it more than we do -- with the federal govern-
21 ment, and to the extent that the individuals within
22 the state can work out their own problems, we thought
23 that was a good goal.

24 Fifth, we wanted something that would be cost-
25 effective, and that the remedies or the process that

1 one would go through to get an act with remedy would
2 not be overly burdensome from a cost perspective.

3 Next we wanted to think in terms of public
4 and private discrimination, private employers as well
5 as state and local employers.

6 And finally, we wanted to promote interagency
7 cooperation. There are already present mechanisms within
8 various state agencies, as we learned today, which deal
9 with discrimination, and we wanted to at least get one
10 branch, one government agency that served as sort of
11 the focal point for an interagency relationship. Plus,
12 we figured that with a human rights commission, that
13 the types of things that Mr. Claiborne is doing in going
14 around the state informing people and advising people
15 of their rights and opportunities for finding remedies
16 for a violation of their rights would be better done
17 if there was a specific agency that had not only the
18 personnel, but also the funding to do that type of PR
19 work.

20 What I'd like to briefly do is just mention
21 two the sections, and then I'll let my co-panelists
22 discuss the others. First, the public accommodations
23 section, the 400 section, basically deals with dis-
24 crimination in what we generally classified as public
25 accommodations, restaurants, hotels, that type of thing,

1 and the provisions provide for protection from activities
2 that violate one's access to public accommodations.

3 There are a number of notable exceptions,
4 but these more or less track the federal provisions
5 on public accommodation.

6 The next section on real estate transactions
7 is basically a restatement of the Virginia Fair Housing
8 Act, and what it attempts to do is to provide the same
9 protection, but put it under the human rights commission
10 to give it the enforcement mechanism that is currently
11 lacking, as well as to take it out of the long depart-
12 mental chain of command that it's in now, and put it
13 in something that's more autonomous.

14 That's basically the only comments I wanted
15 to make on those two sections, and I'll leave it up
16 to you to ask any other questions you might have.

17 PROF. MORGAN: Just a few comments on the
18 proposed provisions on employment discrimination which
19 are in the 300 section of the proposed Human Rights
20 Act.

21 As was pointed out this morning, Virginia
22 has no comprehensive fair employment practices law at
23 present. There are, I guess, four present statutory
24 provisions that provide some protection. Virginia does
25 have an Equal Pay Act, dealing with sex discrimination

1 in pay differentials, at least to the extent not covered
2 by federal law, as well as an act prohibiting discrimina-
3 tion because of physical handicaps in instances not
4 covered by federal law, and then I think the provisions
5 that were mentioned this morning, a provision requiring
6 contractual provisions, agreeing not to discriminate
7 in public contracts of over \$10,000, and then the Virginia
8 Equal Employment Opportunity Committee, the statutory
9 provision creating that.

10 So the proposed Act would make substantial
11 changes in the state law governing employment discrimina-
12 tion.

13 The coverage of the Act, just very briefly,
14 it would apply to both private and public employers.
15 As to private employers, it would cover any employer of
16 four or more non-family member employees for 20 or more
17 calendar weeks during the year, as well as state con-
18 tractors and state and local government entities. It
19 would also cover employment agencies, labor organizations
20 and joint labor-management committees.

21 Employees, as well, would cover most all
22 employees within the state. The major exception in
23 the employee provision as now written excludes elected
24 officials and certain of their personal staff and policy
25 making appointees are excluded from the definition

1 of "employee."

2 The bases of discrimination that are covered
3 are generally those that apply throughout, being race,
4 color, religion, sex, national origin, marital status,
5 handicap and age, and in the employment section, you'll
6 note that the age limitations are age between 18 and
7 70.

8 Now, the federal age discrimination in employ-
9 ment act, the age limitations are 40 to 70 years. So
10 it does differ from the federal standard, although there
11 are states which have provisions which don't specify
12 age at all, so that any age would be covered under the
13 employment provisions as well, and then there's all
14 sorts of variations as to limits that other state and
15 local acts have. But the proposal right now for the
16 employment would be 18 to 70.

17 The prohibited practices pretty much track
18 the practices of Title VII. The area that I suspect
19 most of the questions on the employment section may
20 focus on, as well as some of the other sections, are
21 the exceptions that are recognized in the Act as propos-
22 ed.

23 It does have an exception for religious dis-
24 crimination by religious organizations, and has an excep-
25 tion recognizing BFOQs with different language, which

1 we can perhaps deal better with by individual questions,
2 but some type BFOQ provision for any bases other than
3 race or color.

4 As well, some seniority provisions, bona fide
5 seniority system exception; a veterans' preference
6 exception; and some of the final provisions being de-
7 signed to attempt to recognize efforts to promote
8 minority employment where there is under-employment
9 in particular areas.

10 I think that gives a broad overview of the
11 provisions of that chapter. As was mentioned this morn-
12 ing, under the proposed Act, both the Virginia Human
13 Rights Commission and the local agencies that could
14 qualify under the Act should satisfy the requirements
15 for deferral status as 706 agencies, and the relationship
16 then with EEOC, they should satisfy that aspect.

17 Again, I think probably our time is better
18 spent answering whatever questions that you may have.
19 So I'll turn it to Mike.

20 MR. SHAFFER: Thanks, Professor Morgan.

21 Real quickly I'm going to summarize the
22 Commission itself, what it is, the powers that it has
23 under this Act, and what limits are on its power.

24 It's main function is going to be to enforce
25 the law that Professor Hobbs and Professor Morgan

1 have described to you. It will be created in the
2 Governor's office, which gives it central authority
3 and somewhat of an advisory role.

4 Complaints under the Act can be initiated
5 by a person who is aggrieved by a discriminatory practice.
6 They can be initiated by the Commission or any of its
7 members, and by the staff of the Commission which is
8 headed by a Director, similar to the directors that
9 you saw up here earlier this morning, the role they
10 play in their communities.

11 The Commission would have these powers: it
12 can investigate complaints, which includes the power
13 to subpoena respondents that may be unwilling to talk
14 to the Commission. It can, through its Director or
15 its' staff, attempt to reach conciliation with parties
16 who have been accused of wrongful discrimination. There
17 can be informal or formal conciliation. It can include
18 getting a consent order in court, which would later
19 be enforceable if the employer or the landlord complain-
20 ed against breaches that consent order.

21 If no agreement can be reached under the
22 conciliation procedures, the staff Director and the
23 Commission is authorized to go ahead and begin a public
24 hearing on the factual issues of the discrimination
25 complaint.

1 In the meanwhile, it can apply for a temporary
2 restraining order in court which would allow it to enjo
3 any discriminatory practice for up to five days in order
4 to get a little breathing time. For instance, if a
5 house was going to be sold in a discriminatory situation
6 or a person was going to be fired in a discriminatory
7 situation, you'd have a little breathing time under
8 our Act.

9 It also provides for posting a notice on real
10 property when there's been a discrimination complaint
11 as to the landlord's practice or as to sale of the house,
12 for instance, where a party feels they have been dis-
13 criminated against as a buyer. It provides that a notice
14 can be posted on that property that there's a complaint
15 pending.

16 The hearing itself would be before the
17 Commission or hearings officers that the Commission
18 can appoint. We provided for local hearing officers
19 to be appointed as much as possible to get local in-
20 volvement where there is no local commission.

21 The Commission has the power for extensive
22 affirmative remedies if a case of discrimination is
23 found.

24 I'd be happy to answer questions. There is
25 a number of remedies, including compensatory damages,

1 affirmative relief, meaning reinstatement of employee.

2 The Act provides for a number of remedies.

3 If a party feels that the Commission erred
4 in their decision, it can go to the circuit court and
5 get a review of the Commission's decision. This is
6 not a "start from scratch" review though. The court
7 is bound by the factual evidence that was put before
8 the Commission, and it is part of the Commission's record
9 when it makes its decision.

10 If the Commission fails to act within 180
11 days in getting a hearing going, a complainant can go
12 into court to get an order to get the Commission to
13 act as quickly as possible on it.

14 Now, on the issue of local commissions, this
15 Act, would authorize local commission to have the same
16 powers that the state commission has. It provides for
17 cooperative agreements between city and state commissions,
18 and it provides the cities that may want to combine
19 and get together their own commission, a commission
20 for several cities or for two counties. They can go
21 ahead and do that.

22 It also provides that local commissions may
23 enact broader protection in their ordinances than the
24 state Act may provide, in the event that it's enacted.

25 Other than that, the local commissions are

1 under the same limits as far as their power. They're
2 also subject to judicial review on the same terms, and
3 they have the same powers, as I said, as the state
4 commissions.

5 I guess we'd be happy to take your questions.

6 MR. RING: Those of you that have questions
7 might want to get to the microphones. In the meantime,
8 let me mention one thing. We have attempted to make
9 some assessment of what the costs might be in having
10 such a human rights agency. Obviously we don't have
11 full access to information, and it makes it a little
12 difficult for us to do anything more than some compari-
13 sons.

14 Texas thought that maybe by federal reimburse-
15 ment they could cover somewhere between 80 and 90 percent
16 of their costs. We think that's somewhat unrealistic.
17 The states that are immediately surrounding Virginia
18 recover approximately 50 percent of their costs in terms
19 of reimbursements from the federal government. As explain-
20 ed this morning by the panelists, 706 deferral agency
21 gets paid so much for every case that they handle that
22 otherwise would be handled by the federal authorities,
23 and those funds have contributed about 50 percent of
24 the budget of states like Maryland and West Virginia
25 and Pennsylvania, Kentucky and other nearby states to

1 Virginia.

2 In addition, there are enforcement people
3 that are located in some of the existing agencies. For
4 example, the Virginia Real Estate Board, and if they
5 were consolidated into a common agency, some of those
6 employees are already included in the state budget,
7 but there would be an incremental cost of modest size
8 entailed in this proposal.

9 Shall we begin with you?

10 MS. PEARSON: Good afternoon. Again, I am
11 Ellen B. Pearson, and I'm President of Richmond Crusader
12 for Voters.

13 I would like first to preface my question
14 with a statement. All of us are aware that 40 years
15 plus one of the Presidents of the United States foresaw
16 the necessity to have some legislation that related
17 to civil rights. There were several Presidents in the
18 interim who also thought that legislation on civil rights
19 was necessary.

20 However, at no time was there any provision
21 made for enforcement of this type legislation.

22 We also can recall that in 1963 our former
23 President John F. Kennedy put forth legislation that
24 would enact civil rights laws with an enforcement
25 mechanism. Unfortunately, President Johnson was the

1 President who insured and saw that this legislation
2 was passed.

3 Now, Mr. Ring indicated in his opening state-
4 ment that time is justice. I perceive that to mean
5 that a long wait is injustice, right? It is also my
6 understanding that this particular conference was
7 scheduled some two months ago in another facility that
8 was not accessible, and once it was found that that
9 facility was not accessible, the conference was post-
10 poned.

11 Also, Mr. Ring indicated that there is not
12 a possibility for this particular legislation or a bill
13 to be brought forth in the 1984 General Assembly in
14 the Commonwealth of Virginia.

15 So my real question is: at the time that
16 it was found that the facility that was previously
17 arranged for was not accessible, why did it take two
18 months to bring this conference forth in Richmond,
19 Virginia on the 13th and 14th of November 1983, A.D.?
20 Why did it take two months to find an accessible
21 facility which would, had you found time, we would have
22 had more time for this bill to be presented in the
23 General Assembly?

24 And if there are representatives of the
25 General Assembly in this room this evening, I would

1 like to know if one or more would find that this would
2 be realistic to present this bill in January 1984.

3 MR. RING: I should immediately hasten to
4 say that certainly introducing it in 1984 is not beyond
5 the possibility. I was simply trying to say that to
6 mobilize the interest and to make sure that we had a
7 sound product, it might be a little more realistic to
8 think in terms of 1985.

9 But as I said at the beginning, it's up to
10 all of you.

11 In terms of rescheduling, I'll try to speak
12 for Wanda and the staff. It was a bitter disappointment
13 to them and all of us who participated to have the first
14 one canceled. At the same time, there was a crisis
15 going on as to whether or not the U.S. Civil Rights
16 Commission would continue, and with all of the chaos
17 that was going on and the need for reasonable notice
18 in the prerequisite approvals by the higher echelons
19 in the U.S. Civil Rights Commission, it just simply
20 did take two months to reschedule it.

21 We did the best we could, under the circum-
22 stances.

23 MS. PEARSON: Thank you. If we have members
24 of the General Assembly present, while I'm standing,
25 and because I have to leave, I wondered if I could

1 get an answer to that section question.

2 MR. RING: Well, they are here. They're going
3 to be on a panel that comes up in ten minutes. If
4 you're able to stay for ten minutes, you may be able
5 to ask them.

6 Yes.

7 MS. BLACKWELL: Good afternoon. I am Pat
8 Parris Blackwell, President of the Fairfax County NAACP,
9 and I'd like to thank the panelists for being here and
10 for some very honest assessments of the proposed model
11 Act, and the political considerations that went into
12 the construct of that Act, and that is, in fact, one
13 of my concerns.

14 I'd like to know quite simply whether or not
15 "must," m-u-s-t, is, in fact, a four-letter word in
16 terms of this model Act. Do you think that if we
17 change "may have local commissions" into "must have
18 local commissions," so that when this Act is passed,
19 if it is passed, that each local government will know
20 that it must, in fact, have a local commission.

21 The second thing that I was concerned with
22 is that I am cannot see a clear mandate that says that
23 the local commissions or the state commissions can,
24 in fact, investigate the local governing body or the
25 state government in terms of any discriminatory

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1 practices there. Is there a possibility of including
2 that impowerment in this particular piece of legisla-
3 tion, or do you think that either one would cripple
4 the chances for passage?

5 MR. RING: Who would like to handle that?

6 Professor Hobbs.

7 PROF. HOBBS: Well, in terms of your second
8 question, under definition of "person," -- let me find
9 it -- a "person" includes also the Commonwealth or any
10 of its political or civil subdivisions, any agency or
11 instrumentality thereof. So if you classify a person
12 who does a prohibited act, you could say that person
13 has violated someone's civil rights. It could include
14 a local municipal government or even a state agency
15 if they're engaged in a discriminatory practice.

16 MS. BLACKWELL: So it is possible to say then
17 that the local commission can, in fact, sue city hall?

18 PROF. HOBBS: Yes.

19 MS. BLACKWELL: Okay.

20 PROF. HOBBS: I would read it that way, yes.

21 MR. RING: I would hope in the spirit of the
22 Act they would conciliate first. A lot more is
23 accomplished with sugar than with vinegar, as the old
24 saying, and I think many local governments are going
25 to respond as the City Council of Alexandria does to

1 criticism that we get from our Human Rights Commission,
2 and I think Steve will say that sometimes we fuss and
3 fume with them a little bit, but the pressure of the
4 Commission does bring around the City Council to be
5 more responsive, and that kind of oversight and
6 conscience, if you will, is, I think, probably in the
7 long run much more productive.

8 PROF. HOBBS: As to the first question, I
9 don't know whether we thought about whether we should
10 require local governments to do that. Certainly that
11 would put a financial burden on local governments to
12 enact such a commission.

13 I would hope that perhaps the state commission
14 through its programs and lobbying efforts with not only
15 the legislature but also individuals and individual
16 employers might also deal with local governments who
17 are interested in doing that.

18 Now, as to whether this could incorporate
19 that, I'm not sure whether it's feasible or not. Even
20 if it is, whether we should require individual municipal-
21 ities to do it. Certainly maybe Big Stone Gap might
22 want to do that because they can't get to Bristol.

23 MR. RING: Could I comment on that just brief-
24 ly? The model Act has the "may," and I think it was
25 done by the National Conference with some consideration

1 of the fact that if a local body that does not want
2 a commission is forced to appoint one, they may not
3 appoint one that is really going to do the job, and
4 therefore, it is better for the responsibility to rest
5 with a state body in the event the local body really
6 doesn't want to have it. Therefore, to mandate it or
7 to require it may not really bring about the desirable
8 result.

9 Therefore, we made it permissive.

10 Now, with that comment in mind, if you still
11 feel that it ought to be mandatory, we'll certainly
12 take that into account, but I wanted you to know the
13 reasons why it wasn't made mandatory to appoint a local
14 commission.

15 MS. BLACKWELL: Okay. I'll simply follow
16 up by saying this. I asked that particular question
17 simply because Northern Virginia is just coming off
18 of some local elections, and at our particular Candi-
19 diate's Night, this model Act was, in fact, one of the
20 issues addressed, and several of the candidates who,
21 in fact, have been re-elected had indicated that they
22 thought it might be in the best interests of certain
23 sections of the state that the word was, in fact, "must."

24 So we have a very strong indication that all
25 of the Northern Virginia contingent will lobby very

1 hard for the passage.

2 Now, if you find that they don't keep that
3 campaign promise, give me a call. You can reach me
4 at my home number, and my office has an answering
5 device. Leave a message.

6 Thank you.

7 MR. RING: Okay. Yes, sir.

8 MR. DUHAD (Phonetic): Good afternoon. My
9 name is Oubad Duhad (phonetic), and I am librarian at
10 Center State Hospital in Petersburg. I don't have any
11 question. I have just one modification I would like
12 to submit, with respect.

13 As a librarian, my job is to find correct
14 information as quick as possible, and it concerned me,
15 that remarks by Mr. Ring about the Uniformed Commercial
16 Code. Since the proceedings are being recorded, I wanted
17 to make the correction here before it goes somewhere
18 else.

19 The UCC is not -- the "uniformed" is a predicy
20 (phonetic) word. The one mistake in the union which
21 it doesn't follow is Louisiana.

22 Thank you.

23 MR. RING: That's correct, but in check law,
24 they have adopted the same provisions with respect to
25 checks. But you're quite correct. There are 49 states

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1 that have adopted the Uniformed Commercial Code, one
2 that has not, but that has conformed its local code
3 and check law.

4 Yes, sir.

5 MR. FEIBELMAN: I'm Frank Feibelman, and I'm
6 staff attorney with the State Advocacy Office for the
7 Developmentally Disabled.

8 Before I offer a few constructive criticisms
9 of the model Act, let me say that I think overall pass-
10 age of this Act will go a long way in resolving a lot
11 of discrimination problems in Virginia. I commend you
12 for your efforts.

13 In your judicial review and enforcement provi-
14 sion, you made note of referral to the circuit court
15 of the county. As you are probably aware, Virginia
16 has independent cities where there are separate circuit
17 courts, and I think that needs correction.

18 In your employment discrimination section,
19 I think you do a commendable job in terms of race, re-
20 ligion, national origin, et cetera, in every area except
21 the area that I'm primarily interested in, and that
22 is handicapped.

23 I realize that you've tried to amend the fed-
24 eral law in a number of these areas. Some of the areas,
25 such as age discrimination, you've gone further than

1 the federal act, federal law has gone. I think you
2 have taken the worst part of the decisions and the
3 statutes and applied to handicapped discrimination,
4 especially in this state, because it's part of the 4th
5 Circuit Court of Appeals, where we have the
6 Travis-R (phonetic) v. Libby Rehabilitation Center
7 decision that effectively guts 504 employment litigation.
8 I think it is ultra important that any state act be
9 not only as good as the federal legislation, but better.

10 You've done a better job in some areas, but
11 you haven't done a better job in the handicapped
12 area.

13 On page 8 of the application procedures,
14 Paragraph 2(a) lists every area, every protected class,
15 except handicapped. I understand, I think, your
16 rationale of why you've done that, but I'd suggest that
17 if you want to be timid in that area, you allow
18 inquiry to be made during the interview process, but
19 certainly not during the application process. That
20 is an obvious loophole for employers to fall through.

21 On page 9, Paragraph C(2), I think the
22 inclusion of this exception in employment discrimination
23 section would effectively leave employers with the same
24 state of law that they have now. In other words, it
25 would leave the persons with disabilities who are

1 citizens of the Commonwealth of Virginia with no pro-
2 tection at all, and I think you've been -- regretably,
3 I think you have not done a good job in this area.

4 MR. RING: Mr. Feiberlman, let me suggest
5 that if you are willing and have the time to perhaps
6 put those comments in writing and maybe suggest specific
7 language that you think would be in line with decision-
8 al law and what you would like to see, and I think we
9 would welcome that kind of input.

10 MR. FEIBELMAN: I plan to.

11 MR. RING: I might say with respect to age
12 discrimination, I've run this by the legislative draft-
13 ing service, and they have identified some problems
14 in that area that we're going to have to think about.
15 For example, we have a Youth Corrections Act, where
16 you can handle youth up to age 21 under special
17 provisions.

18 We also have in Northern Virginia special
19 passes for Metro elderly. Both of those would be
20 affected by this provision, and I think we need to be
21 very careful that where there is positive legislative
22 and policy that gives a privilege or gives special
23 treatments with respect to age, that they are not in
24 conflict with this law.

25 We do have some suggestions from the

1 Alexandria Bar Association as to how we might be able
2 to deal with that problem, but while we tried to expand
3 it, we created some problems for ourselves, and now
4 we've got to work our way out of the problems.

5 MR. FEIBELMAN: Thank you.

6 MR. RING: Yes, ma'am, Ms. Crater.

7 MS. CRATER: I'm Flora Crater. I'm the chair
8 of the Virginia Area Restitution Council.

9 I want to call your attention to the defini-
10 tions On page 2, we have been asked if Virginia has
11 an equal rights amendment. There is a provision in
12 the Constitution that we consider this law, and when
13 it says in here seven or eight of the sectors shall
14 not be considered discrimination, we all know how we
15 feel about separate but equal facilities.

16 Of course, in this case I think they were
17 concerned about separate bathroom facilities, and of
18 course, we consider that covered by the right to pri-
19 vacy. So we don't think this needs to be in here.

20 I know that you cannot do anything about it,
21 but I want you to know that's one of the reasons why
22 we are fighting for an equal rights amendment.

23 Also, since you have said that this is sort
24 of a compromise document in that it's something that
25 is doable, if we're compromising something, I would

1 like to know what it is, because if we're going to be
2 arguing for this Act, I think we need to know so we
3 can tell them, "It doesn't say this," or "it doesn't
4 say that." So I think it would be helpful if we were
5 told what it was that's good that's not in here.

6 MR. RING: We have that we have covered all
7 that which is good in here, but part of the reason for
8 this particular effort is to get comments that might
9 suggest other areas where we could do more good, and
10 we're getting some comments.

11 For example, in handicapped, it was just point-
12 ed out that we tracked the federal law, and we did so,
13 I think, very consciously on the proposition that we
14 could then say that we're giving local enforcement
15 available remedies for federal relief.

16 If you extend those rights by state law, then
17 you may get into some arguments. Well, I think we're
18 open to consideration, and should be, to expanding those
19 rights under the Virginia Act, but when you expand them,
20 you also stir up some more opposition, and that's the
21 example of the kind of thing that I think we had in
22 mind in making that comment.

23 Is that right, Professor Hobbs?

24 PROF. HOBBS: Yes.

25 MS. CRATER: In the other 46 states or

1 however many there are that have human rights acts,
2 is there any one particular state that you looked to
3 that had what you would call a model?

4 PROF. HOBBS: Well, we drew extensively from
5 the experience in Kentucky and Pennsylvania and
6 Illinois.

7 MR. RING: Kentucky has been very, very
8 active in terms of not only their own state law, but
9 being evangelists for this concept, and they have put
10 out a great deal of material in which they have put
11 together their own model act to suggest to other states
12 and localities, and that has been basically an update
13 of the 1966 model Act by the National Conference in
14 uniformed state laws.

15 MS. CRATER: I guess what has concerned me
16 is that you're looking at an Act that's considered doable
17 in Virginia. I'm just afraid that you might have left
18 out something.

19 MR. RING: We hope that we have left nothing
20 important out. But we're here today in hopes that you
21 will point out to us something if we have left some-
22 thing important out.

23 Yes, sir.

24 MR. MILLER: I'm Calvin Miller, the Vice
25 President at large, Virginia State Unit, SCLC.

1 I would like to, one, underscore the efforts
2 here. Secondly, I would like to underscore the notion
3 of time.

4 As I foresee the political future in Virginia,
5 it will be no different than 1985 legislation and 1990
6 legislation and legislation for the year 2000, and to
7 further lag and put this legislation in the hopper I
8 think is a grave disservice.

9 Nothing could be, I think, more timely and
10 more correctly drawn than the Martin Luther King bill
11 which is perennially a kick-out of the Virginia General
12 Assembly.

13 So I would urge as soon as possible let this
14 document start its history through the Virginia
15 legislature for being turned down so that we might get
16 it within the next decade.

17 Secondly, Martin Luther King --

18 MR. RING: We hope to do better than that,
19 but I realize your cynicism and appreciate it.

20 MR. MILLER: Martin Luther King has stated,
21 among his many famous statements, that the 11 o'clock
22 hour is the most segregated hour in America. I have
23 two concerns here.

24 Paragraph 1-307, I guess I'm addressing my
25 question to Ms. Morgan, which states that you can't

1 advertise and use religion, where on 1-308 in the
2 identical next paragraph, the first sentence, you say
3 that religion is prohibit.

4 I'm a card carrying United Methodist, and
5 the United Methodist headquarters down on Broad Street
6 is lily white. The United Methodist Church is a big,
7 fat, rich corporation, and I can't understand giving
8 religion organizations another opportunity to dsicrimin-
9 ate.

10 I think we've waited this long. We may as
11 well put it all in and give those people on the hill
12 a chance to knock something out.

13 (Laughter.)

14 MR. MILLER: But in all seriousness, I do
15 consider it should be up to the church to say that they
16 must be allowed to discriminate, and as large as the
17 Methodist Church, the Presbyterian Church and the Baptist
18 -- I think they build, they buy, they have investments,
19 and I can't see why we should give them any other
20 reason to disriminate.

21 Secondly, I do not see it in the document,
22 but Ms. Morgan did mention something about elected
23 officials' staff. Here again I can't understand because
24 the capital hill, again, is almost lily white, and
25 elected officials do not pay their staff from their

1 pocketbook. The people in Congress also have lily white
2 staffs. They're using my tax money to discriminate,
3 and people over here at the capital are using my state
4 tax money to discriminate.

5 So I would like to urge that we eliminate
6 all of the exceptions.

7 And the language, you say if it is a rational
8 relationship to the promotion of religious principles,
9 which seems to me beautiful rhetoric. Anything could
10 be rationally related to the atom bomb and debt. This
11 language here doesn't do very much for me.

12 My main point is I don't think these two bodies
13 should be allowed to discriminate legally.

14 Thank you.

15 (Applause.)

16 MR. RING: Thank you for your comments. Let
17 me make a comment before you respond.

18 We started about ten minutes late, and so
19 I have allowed us to go ten minutes longer than we were
20 scheduled to go. The other panels that are appearing
21 here are going to continue reaction to this draft. So
22 I am going to close with this question and then assume
23 that those of you who have additional questions will
24 have opportunity to ask future panels those questions,
25 and the rest of us will be in the audience. If you

1 need a reaction from us, we'll be able to give it to
2 you.

3 Now, the answer.

4 PROF. MORGAN: Well, both comments I think
5 will be helpful in possible revision, the religion com-
6 ment in particular. Your suggestion on narrowing the
7 language may well be taken.

8 I think the language itself though is consider-
9 ably narrow than the exemptions in current federal law,
10 and in many state laws, and in part, based on concerns
11 about constitutionality of any further limitations based
12 on First Amendment protection for religion.

13 But as to whether some more narrowing of the
14 language could be made without running into constitution-
15 al objections, your comments are well taken perhaps.

16 MR. MILLER: Thank you very much.

17 MR. RING: At this time, I know that these
18 people and also some who are not here, in particular
19 Professor Rutherglen, who wanted to be here, but he
20 is a father who is expecting today, and therefore called
21 to say that unfortunately he couldn't be here, but I
22 think these people worked very hard, and I think although
23 there needs to be some improvement and sandpapering,
24 they've done a superb job and deserve your applause.

25 (Applause.)

1 MR. RING: Now it's time for our next panel.

2 -- (Pause in proceedings.)

3 MR. RING: I think the state and local people
4 were also to sit up there and field some of the
5 questions, Steve, Steve Levinson and Fred. Yes, I think
6 you're included in this panel. Al, is Al Smith still
7 here?

8 REV. HARRIS: This section, state and local
9 officials' response to the model Act, all of the state
10 and local officials that participated earlier, if you
11 will please come to the podium, this is roasting time.
12 If there are any members of the General Assembly pre-
13 sent, we invite you also to come to the stage.

14 To moderate this section of our conference,
15 Vincent Callahan, Jr., who is a member of the Virginia
16 Advisory Committee, will now come forward.

17 MR. CALLAHAN: Thank you, Reverend Harris.

18 My name is Vincent Callahan. I'm a member
19 of the Virginia Advisory Committee and also a member
20 of the House of Delegates representing the 34th Legis-
21 lative District, which is in Fairfax County.

22 What I would like to do and partially respond
23 to some of the previous questions dealing with the
24 possibility of legislation being introduced, the chances
25 it may have of passage, and a few other things that

1 have gone into the preliminary planning for not only
2 this conference, but for the formulation of the legisla-
3 tion and how it got to its present form.

4 The Virginia Advisory Committee, I guess,
5 as has been explained, is a voluntary bipartisan body
6 that merely makes recommendations. It has no powers
7 other than that, and as a matter of fact, I believe
8 it's legally barred from lobbying for anything along
9 these lines, although as an elected official, I have
10 no such legal barriers, and as a result, I have talked
11 about this with a number of people.

12 Now, in a non-lobbying type of atmosphere,
13 I met along with other members of the Virginia Advisory
14 Committee with Governor Robb on -- I just looked it
15 up -- it was May 18th of this year, to apprise him of
16 the fact that the Advisory Committee was considering
17 proposing or not proposing, but advocating, you might
18 say, a model Act dealing with the creation of a human
19 rights or a civil rights commission in Virginia, and
20 Governor Robb expressed interest in it and said he would
21 follow our proceedings with interest, as has been point-
22 ed out by the fact that representatives of the
23 Executive Branch of government have participated and
24 attended in this conference for the past several days.

25 To put this whole question in its proper

1 perspective, I'd like to bring up what we're faced with
2 in the 1984 session of the General Assembly, which
3 starts -- I believe the date is January 15th, which
4 is almost exactly two months from today. It's the second
5 Wednesday in January.

6 This is led off by money problems, the fact
7 that there are questions about whether or proposed
8 budget, which will be Governor Robb's first budget,
9 and whether we have the means to meet the proposals
10 before us and adequately serve the needs of our
11 citizens; the upgrading of education, which leads the
12 pack among those in the raising of teachers' salaries;
13 the revision of the roads funding formula, getting more
14 money for transportations, which is one of the major
15 recommendations of the Joint Legislative Audit and Review
16 Commission.

17 We will have legislation probably on a coal
18 slurry pipeline and uranium mining. We'll have drunk
19 driving legislation again before us, with proposals
20 to raise the drinking age; the health care delivery;
21 state reorganization, which touches on this particular
22 matter here today. I'm a member of the Joint
23 Legislative Audit and Review Commission, also known
24 as JLARC, and I was at a meeting of them this morning
25 in which the staff presented some major recommendations

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1 on state reorganization.

2 -- There is a hearing going on right now with
3 JLARC, which I skipped to be here, dealing with local
4 mandates, mandates coming from the legislature to
5 localities on what they should do and how much money
6 goes with it, and it also touches upon this.

7 What I'm saying is we have an awful large
8 number of major issues coming before us in this session
9 coming up in two months, and this is another one that
10 will be before it.

11 Now, whether or not the legislation will be
12 introduced: I can assure you that I support it, and
13 if necessary I will introduce it, even to get the foot
14 in the door, as was talked about. One of the problems
15 with introducing a major piece of legislation like this
16 without the whole, say, year or two years of public
17 hearings and things like that, which is customary in
18 Virginia, since we are a part-time legislative body,
19 is that it has not perhaps had the public airing that
20 we would have desired.

21 We're having a public airing right now, which
22 is very desirable, but as has been pointed out, it's
23 getting close to the 11th hour, if we are not already
24 in the 11th hour.

25 What we can do though is introduce legislation

1 and, under the provisions of our constitution and our
2 rules, if necessary, if it's not getting anyplace, we
3 can hold it over until the 1985 session with a vehicle
4 already existing there to hold public hearings and get
5 greater public input in the interim between the 1984
6 and 1985 sessions without killing the bill, or you can
7 kill the bill and have it reintroduced. I prefer the
8 carryover procedure myself because at least it's alive.
9 You have your foot in the door, and you have a vehicle
10 for public hearings on that.

11 It's also necessary to get the support of
12 the Executive Branch of government. Now, this kind
13 of support is not necessary in all bills, but I believe
14 on major legislation the support of Governor Robb is
15 absolutely necessary.

16 It's also necessary to enlist and mobilize
17 support of the legislators from around the Commonwealth
18 because, again, you're dealing in a controversial area,
19 most of whom have not heard of this bill at this stage
20 of the game, nor have given any serious consideration
21 to it.

22 One of the questions was brought up earlier:
23 does the argument that Virginia is the only state or
24 only one of four particular states in this case that
25 does not have this particular kind of legislation on

1 its book hold any water in Virginia?

2 --After 16 years of experience, I don't think
3 it does, very frankly. And I think Virginia in many
4 cases leads, but in many cases lags. I think that
5 legislation of this type is, however, politically
6 feasible in Virginia, and with that comment, I will
7 turn it over to -- how are we going to handle this?

8 John Watkins, do you want to start off?

9 He's a member of the House of Delegates from
10 Chesterfield County, who just got re-elected without
11 opposition, which is the way to do it. I've never had
12 that opportunity before.

13 John.

14 MR. WATKINS: Thank you.

15 Ladies and gentlemen, I appreciate the
16 opportunity to be with you this afternoon.

17 FROM THE FLOOR: We can't hear you.

18 MR. WATKINS: Can you hear me now?

19 FROM THE FLOOR: No, no.

20 MR. WATKINS: It needs to be turned up. I
21 may have to stand up there.

22 Ladies and gentlemen, my name is John
23 Watkins, and I represent the 65th Legislative District
24 in Chesterfield, which is northern and western
25 Chesterfield County. I'm a member of the House of

1 Delegates.

2 To follow up a little of what Vince had to
3 say in terms of the recommendation of legislation of
4 this type in the upcoming session, I would say that
5 there are two or three things that probably should be
6 reiterated and brought out at this point.

7 Number one, Virginia is not the least bit
8 timid in being the only state or the only one of four
9 in not having a particular statutory law, of either
10 not having it or of having it, and I think a prime
11 example of that is the fact that Virginia is probably
12 the only state in the union that forbids coal slurry
13 pipelines. We're the only ones. So we're not at all
14 timid in this state to stand alone in any one thing.

15 And in saying that, I think it's good to em-
16 phasize the fact that a piece of legislation of this
17 type is more of a positive thing than it is a negative
18 thing, and I think that the individuals who present
19 this type of legislation and the individuals who advo-
20 cate this type of legislation are going to have a lot
21 to do with its acceptability and with its utilization
22 in the Commonwealth of Virginia.

23 It obviously, and Professor Hobbs, you're
24 to be commended for the work that has been done in this
25 particular piece of work, and your associates. It is

1 a very difficult thing to draft a piece of legislation
2 and be able to cover all of the bases, if you will,
3 in that drafting.

4 This has been, from what I have read and seen,
5 and I have not had the time to study it probably as
6 much as I would like to, this is an excellent job. I
7 am not an attorney, and I do not know all of the legal
8 ramifications. I am a businessman, and I can visualize
9 some of the ramifications as far as the business
10 community is concerned.

11 As with any piece of legislation or any new
12 piece of legislation, it's going to have questions,
13 and it's going to have a lot of changes made to it in
14 the course of events that must take place as it goes
15 through the General Assembly.

16 Well, to help with some of these changes and
17 help with a model bill of this type, I think that there
18 are probably four things that should be done in the
19 process of getting it introduced and getting it passed.

20 Number one is to find some individuals on
21 both the Senate and on the House side who are willing
22 to advocate and who are willing to introduce legislation
23 of this type, on both sides, and assure them your back-
24 ing and your assistance, and give them the model bill
25 and sit down and explain to them exactly how you came

1 up with the type of drafting you did.

2 --A list of all of the complaints and all of
3 the comments that are made is also helpful because it
4 gives those individuals an opportunity to know what
5 they're going to be hit with.

6 Secondly, I would suggest that a companion
7 resolution be introduced on both sides, this resolution
8 calling for either a subcommittee or a joint subcommittee
9 of the House and Senate members as a study resolution
10 for the implementation and the adoption of this legis-
11 lation.

12 This is a fall-back position, and I bring
13 this to your attention because if you do not do it and
14 the bill is killed or passed by, then you don't have
15 any point to fall back to. You have to wait until the
16 next session of the General Assembly to get it re-
17 introduced.

18 Keep in mind there is the carryover provision
19 this year in that we will be going to a long session
20 this year, short session next year. So legislation
21 can be carried over from either house. So there's that
22 possibility as well.

23 Here again, the fall-back position is that
24 if you have carryover and you have a resolution for
25 the study, the study can be taking place in the interim

1 between the two sessions.

2 Fourth, I would suggest that anyone who has
3 the proper pull or the proper influence with the
4 Executive Branch of government, Governor Robb's
5 administration is advocating change as far as the
6 organization of government in this state or in this
7 commonwealth.

8 I feel that a human rights commission, pro-
9 perly placed in that organizational structure, you would
10 probably find it much easier getting it in from that
11 standpoint than just as a piece of individual legisla-
12 tion itself. In other words, if there's going to be
13 the total reorganization, and there are some recommen-
14 dations that it be done, that the restructuring of the
15 different secretaries and the different cabinets and
16 their areas of responsibility, that you should know
17 where you're headed as far as how this would structure
18 into a new cabinet structure and make sure that the
19 Executive Branch is aware of it and where you want it,
20 and that way you'll find it easier to move through the
21 system as a change of that size takes place.

22 There were a couple of points that were made
23 that I wanted to speak specifically to that I think
24 should be looked at quite seriously. Number one, the
25 lady -- I think she was from Fairfax -- that spoke

1 on the "may" and the "shall," the utilization of the
2 word "may" instead of the utilization of the word
3 "shall."

4 This is a state mandate, and you should keep
5 it in mind. I think that the authors of this model
6 Act probably had that in mind at the time. A lot of
7 legislators in the Commonwealth of Virginia feel very
8 strongly about not adopting mandates unless you fund
9 them, and I would say that this would be a typical exam-
10 ple of that, and you wouldn't want the legislation
11 killed for that purpose only, but you always have the
12 possibility of it.

13 I would say the best approach is "may" as
14 far as the local human rights commissions would be
15 established.

16 Secondly, under the employment, specifically
17 speaking to the private sector, as I am an employer
18 under the private sector, discrimination, the burden
19 of proof, I feel, is a shared burden of proof by both
20 parties involved in any discrimination suits or any
21 discrimination clarification, and I think it would be
22 improper to shift or to try to shift the burden of proof
23 of discrimination from one party to another or entirely
24 lay it at the foot of one party.

25 So I felt that in the definition that was

1 used under the employment, that there could probably
2 be some problems that would come out of that.

3 The last point I would like to make is --
4 and you'll have to excuse the fact that these are
5 randomly taken, but I just had to take notes as we went
6 along and as I listened to the presentation just prior --
7 the cost analysis, and I think Mr. Ring attempted to
8 approach the cost analysis as far as a new agency is
9 concerned.

10 I think that you must be aware of the fact
11 that budgetary restraints or budgetary constraints at
12 this time are immense, and I think that you should prob-
13 ably have a very clear and concise idea of exactly what
14 this is going to cost the general fund, how much, and
15 I'm talking in dollars and cents, not in percentages,
16 and how much is going to be reimbursed from the federal
17 government.

18 It is something of extreme importance, and
19 it will have to be done in terms of the legislation
20 as far as appropriations are concerned. Now, you may
21 get a model Act passed in the 1983 or the 1984 session,
22 but if no funds are appropriated to it, I would say
23 to you that you have something that is not viable.

24 So it is a two-stage proposition in that you
25 must approach it both from a financial standpoint as

1 well as a legislative standpoint. So that is yet another
2 hurdle to overcome, and it will take a considerable
3 amount of research, and I dare say as much as has been
4 taken in drafting the model legislation.

5 I again say I do appreciate the opportunity
6 to be with you and comment on the model Act. I think
7 that it embodies much of the needs as far as civil rights
8 and human rights in Virginia, and I commend you for
9 your work. If I can be of any assistance, I will try
10 to do so.

11 Thank you.

12 MR. CALLAHAN: We'll have questions now from
13 the audience to either the two of us or the three
14 previous.

15 Do you want to make some comments?

16 MR. LEVINSON: One comment, and really just
17 a question to either of you. I'm not that familiar
18 with the legislation process in Richmond between the
19 long session now and the short session in '85.

20 Clearly, as a human rights director and as
21 someone who has participated in this process, I'm one
22 who agrees with the comments about getting a foot in
23 the door and about, you know, I don't see any point
24 in delay.

25 But I have a question. If the bill is either

1 introduced now and held over or studied, the point being
2 not passed in the '84 session, the long session, and
3 it comes up in the '85 session and suppose that we are
4 successful, it's my understanding that the bi-annual
5 budget is going to be determined now.

6 All right. How do I get it funded if I get
7 it passed?

8 MR. CALLAHAN: We have a two-year budget,
9 but we also have a short session in between the two
10 years. In fact our 1983 session is a short session,
11 and the main purpose of the short session is to update
12 the budget, and we have before us what is called the
13 mini-budget that takes a second look at the appropria-
14 tions and the revenues coming in.

15 MR. LEVINSON: Okay. That will be done.

16 MR. CALLAHAN: That's a problem that can be
17 worked with, and I don't think you're talking about
18 a whole lot of money.

19 MR. LEVINSON: No, and that was my comment
20 if I could, to the Representative. We do have at least
21 as accurate as we can project cost figures for the
22 Governor both in terms of state costs to the taxpayers
23 and in terms of reimbursement from the federal govern-
24 ment.

25 MR. ALLEN: I'd like to make one comment.

1 I think just for the record, I am opposed
2 to delaying the submission of this particular bill.
3 I feel that the issue stands as it is and to play games
4 with it, I just can't go along with.

5 I understand politics. I have no problem
6 with that. However, I feel that the issue needs to
7 be brought forth; that those opposed need to let them-
8 selves be known, and let the population, let the people
9 who are affected by this deal with it.

10 I mean we all have a vote, and for those who
11 are politicians, those folks in Richmond who are not
12 advocates of those issues that are very dear to those
13 of us here in this room, let us go to the ballot and
14 deal with it.

15 I don't like my daughter's future being played
16 in the back room of some political caucus. I mean it
17 just gripes the hell out of me. I think that we've
18 been faced with segregation, racism, sexism, all of
19 these various topics that we've discussed over the past
20 two days, and this is nothing new.

21 I mean the State of Virginia has had laws
22 on its books to prohibit blacks from being educated.
23 We've had all these other laws. There didn't seem to
24 be any big problem in getting those passed, and now
25 we have a situation where we're trying to say, "Okay,

1 State of Virginia, it's against the law to do these
2 things. It's against the law to treat blacks and
3 Hispanics and women and handicapped people in a differ-
4 ential manner."

5 And now we want to put it off for another
6 year or another two years or three years, or as the
7 gentleman indicated earlier, in the next ten, 12, 15
8 years.

9 I can remember as a child, as I'm sure many
10 of you, being denied access to public facilities, and
11 I can also think of last year in a test situation. I
12 went to a store in Fairfax County, and I was also denied
13 admission. I mean, you know, we've got 30-some years
14 of difference here, and I'm really tired of prolonging
15 it to appease the political factions.

16 I think we need to move on it. I think we
17 need to go forward, and if in fact those people who
18 are making the decisions in Richmond are not consistent
19 with the things that pertain to us, then we need to
20 deal with it.

21 That's all I have to say on that.

22 (Applause.)

23 MR. SMITH: I just have two points. Point
24 number one is a clarification. I just wish that Fred
25 and Steve would stop referring to the state legislature

1 as being Richmond.

2 (Laughter.)

3 MR. SMITH: Point number two, I think it's
4 a matter of prioritizing and a matter of cost. I think
5 the thing that most Americans, including Virginians,
6 are aware of is the cost. I would like to have a
7 comparison not of just the cost of this commission or
8 this body being enacted, but a cost that government,
9 citizens and business lose when we enter into frivolous
10 things in the '80s regarding the rights of human beings
11 to have access to public locations, stores, et cetera.
12 I would say to each of you that to continue this exorbi-
13 tant cost is not only draining the state budget, but
14 is costing many Americans, including Virginians, an
15 inordinant amount of distress, distrust, distress in
16 state and local governments.

17 It is time that we put priorities where they
18 belong and realize that the beginning of all success
19 in a state or county is the rights of human beings to
20 enjoy those facilities that exist.

21 (Applause.)

22 MR. CALLAHAN: We had somebody who wanted
23 to make a response. Go ahead.

24 MS. BARLOW: My name is Alma Barlow. I am
25 on the National Tenant Organization, a member at large.

1 I am also the President of the Virginia Tenants Asso-
2 ciation. I am the Executive President of the Richmond
3 Tenant Organization, and I'm also an appointee of
4 Governor Charles Robb on the Board of Commissioners,
5 block grant Commissioners.

6 So I, too, know what it is to sit down and
7 compile a document, and so I want to commend those who
8 put this proposed human rights Act together, but I have
9 great problems with it.

10 You talk about race. You talk about free.
11 You talk about color. You talk about sex. You talk
12 about marital status, and national origin. But I see
13 no mention of the word "economically and socially dis-
14 advantages people" in here, and I think that there needs
15 to be a human rights ordinance for us.

16 So often we are classified as not being a
17 part of the system, and so to the lawmakers, we appeal
18 to you today to please incorporate us in this proposed
19 document.

20 And as far as waiting for it to be introduced,
21 I think the present administration that we have in the
22 Commonwealth of Virginia would be our beginning to start
23 now in trying to get this human rights Act passed. I
24 would hate to see us wait until 1984, when everybody
25 is in the bathroom, and we all know what I'm talking

1 about, making deals. Let's make a deal with human
2 beings and human dignity of people in the Commonwealth
3 of Virginia.

4 And I, for one, am a registered voter. I
5 do voter registration every year with my organization
6 of 31 people, 17,000 membership.

7 I also do voter education, and I know many
8 of you have seen me at the General Assembly fighting
9 for our life, and I can remember when a House Bill No.
10 12 came up in General Assembly this year to eliminate
11 the authorities in the Commonwealth of Virginia, and
12 we had to fight just for a place to stay, and in the
13 entire time the people who make the policy remember
14 that one vote is one vote, be it the people with the
15 money or be it the people who are in a low income
16 bracket.

17 When we go into the polls and vote and pull
18 the lever, we can only pull it one time, and as you
19 compile the document and edit it, I would ask that we
20 be remembered in this document.

21 And I thank you.

22 MR. CALLAHAN: Thank you very much.

23 We'll get to you next.

24 MS. BENDRICH: My name is Peggy Bendrich,
25 and I don't wear any special hat. To some degree I'm

1 going to be the devil's advocate. I don't have all
2 the knowledge that you people do about politics, but
3 I have the knowledge of the Assembly long enough to
4 know that you don't want to just throw this bill in,
5 advocate it, without really doing your homework.

6 We admitted in the previous time that we do
7 need some corrections. Let's make sure that what we
8 submit will cover the most that it can and make sure
9 that it is in a position where it can't be killed as
10 our two delegates referred to it; if we can't get it
11 through, that it can be carried over because there's
12 a lot of work, and I sure as all the dickens do support
13 it, but I would hate to see it chopped down on the first
14 try.

15 So let's keep that in mind as we go forward
16 with this. Let's do it right.

17 Thank you.

18 MR. CALLAHAN: Thank you.

19 Do you want to go ahead.

20 MR. MILLER: I am Bruce Miller, a Commissioner
21 on the Alexandria Human Rights Commission, and I am
22 pleased to testify at this statewide conference on civil
23 rights complaints and compliances.

24 The Alexandria Human Rights Commission has
25 reviewed and unanimously endorses the proposed

1 legislation establishing the Virginia Human Rights
2 Commission and wishes to commend the Virginia Advisory
3 Committee for following up on their 1979 recommendation
4 for creating of a state humans right act.

5 The Commission also wishes to commend the
6 grassroots in their effort to create a model Act.

7 The Commission strongly endorses early pass-
8 age in the Virginia legislature. However, the Commis-
9 sion does have some concerns relative to the proposed
10 legislation, and I am pleased to make the following
11 recommendations of the Alexandria Human Rights Commis-
12 sion, which we feel are absolutely essential to a stronger
13 Act.

14 As I discuss our Commission's recommendations,
15 I will refer to each section by number and then by sub-
16 paragraph, if needed. Copies of these recommendations
17 to include recommended language changes will be supplied
18 to the Virginia Advisory Committee.

19 In the model Act, Sections 1-305, 1-306,
20 Subparagraph 2(a), and 1-307(1), all do not protect
21 the handicapped. 305 addresses training. 306(2)(a)
22 addresses the employment process and applications, and
23 307(1) addresses employment advertising.

24 The Commission strongly feels that the
25 handicapped must have due protection in all three of

1 these areas.

2 Section 1-308(1)(c) addresses bona fide
3 occupational qualifications. This section, the Human
4 Rights Commission of Alexandria feels, is totally
5 unnecessary. It is doubtful that any such position
6 with bona fide occupational qualifications based on
7 sex actually exists.

8 Traditionally this has been used to discrim-
9 inate against women. In addition, federal law on the
10 issue of the handicapped requires an employer's
11 reasonable accommodation for an otherwise qualified
12 employee. It is reasonable to place a similar require-
13 ment on all employers covered by the Virginia Act, and
14 reasonable accommodation language should be included
15 in the employment section regarding the handicapped.

16 In Section 1-309, entitled "Preferences to
17 Correct Imbalances in Employment not Required," the
18 Alexandria Human Rights Commission feels that this sec-
19 tion will be construed to prohibit affirmative action
20 plans. It is explained in the comment that this refers
21 basically to making quotas unlawful.

22 But the statutory language itself could be
23 argued to prohibit the development of goal and affirma-
24 tive action plans.

25 In addition, the Alexandria Human Rights

1 Commission requires affirmative action plans as part
2 of consent decrees or mediation, conciliation efforts
3 when an employer has been found to violate the Act or
4 as part of a predetermination settlement.

5 To rectify, we recommend that line 2 have
6 the additional language to require through the utiliza-
7 tion of quotas any employer, employment agency, et cetera,
8 and in the last line, we recommend the following language:
9 "affirmative action plans utilizing goals and time tables
10 that are developed voluntarily by employers or that
11 are required by the Commission as part of its duties
12 and functions shall not be construed discriminatory
13 practices."

14 In Section 1-503(1) (d), we are recommending
15 the addition of two other items. Number 15, to encourage,
16 monitor and evaluate affirmative action efforts in
17 State government employment.

18 We have recommended this because this would
19 create a requirement similar to the Alexandria Human
20 Rights Commission's function to evaluate city employ-
21 ment. The state's Equal Employment Opportunity Report
22 should be submitted annually to the Commission. The
23 Commission should evaluate this report and submit a
24 report to the Governor. The theory behind this is that
25 state government should be a model employer in terms

1 of affirmative action efforts.

2 And we recommend Item 16 to convene information
3 and investigative public hearing.

4 In 1-603(5) (a), we are recommending the follow-
5 ing addition. This has to do with power and duties
6 of the Commission. Add, to include the deferral of
7 complaints of discrimination to the local commission
8 presiding in the jurisdiction in which the complaint
9 arose.

10 In 1-604(4), line 4 should be "locality or
11 city or county" instead of just the word "county."

12 In 1-609(2) (b), we request the addition of
13 Item 12, to require development of affirmative action
14 plans and revision of personnel policies and procedures,
15 and the addition of Item 13, any other relief that the
16 Commission deems appropriate.

17 In 1-704, federal law requires a complaint
18 to exhaust remedies through the EEOC prior to a private
19 right to sue. A similar provision should be included
20 in a state act.

21 In 1-800(2), we request the following addi-
22 tion: (a) where local commissions are established that
23 have been previously or are subsequent to passage of
24 this Act, found to be substantially equivalent to federal
25 law as determined by the appropriate federal agency,

1 the local commission may qualify or continue to qualify
2 as a deferral agency for purposes of federal grants,
3 and the Commission shall defer any and all such cases
4 arising in the local jurisdiction to the local commis-
5 sion for processing, unless the complainant specifically
6 requests waiver.

7 And (b), the Commission shall develop policies
8 and procedures for a determination of whether local
9 commissions are substantially equivalent to the state
10 commission, and that where local commissions are so
11 found, the Commission shall defer cases to the local
12 commission which arose in that locality under provisions
13 of this Act.

14 Finally, in Section 201(9), we raise a con-
15 cern about including parenthood in the definition of
16 marital status, that is, whether this will adequately
17 protect the right of all concerned. Those who are
18 childless and choose not to live in close proximity
19 with children are particularly persons who are elderly
20 living in rental complexes. The Act exempts housing
21 specifically designated as housing for the elderly,
22 but there are many rental complexes in Alexandria where
23 a substantial elderly population exists.

24 The potential impact of the Act on these
25 segments needs to be examined.

1 On behalf of the Alexandria Human Rights
2 Commission, I wish to thank the Virginia Advisory
3 Committee for listening to our recommendations, and
4 we trust that they will be given due consideration.

5 Thank you.

6 MR. CALLAHAN: Thank you very much. If you
7 could just turn those over to a member of the staff --
8 I guess you've already done that -- it will be put in
9 its proper order.

10 Go ahead.

11 MR. CLAIBORNE: First of all, my name is Ron
12 Claiborne. I'm the Commonwealth Fair Housing Adminis-
13 trator. However, the comments that I'm about to make
14 are those of mine as a public citizen as opposed to
15 my official capacity.

16 One thing that concerns me about the model
17 Act is the language in terms of enforcement of the Fair
18 Housing Act. I don't know how many of you here are
19 very much aware that the Attorney General of the United
20 States or the Attorney General of Virginia is not
21 expressly authorized by statute to proceed on behalf
22 of aggrieved parties should a conciliation process fail.

23 If we're going to make the legal right of
24 equal housing opportunity a reality in this country,
25 then we have to expressly authorize the Attorney

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1 General of the United States, as well as the Common-
2 wealth of Virginia, to proceed to court to secure
3 injunctive relief, and to award punitive and compensa-
4 tory damages on behalf of those parties.

5 Otherwise, you're creating profound anxieties.
6 You're not fulfilling the dream as the statute envis-
7 ioned.

8 Unfortunately, the private Bar is not filling
9 the need in terms of fair housing law. Fair housing
10 and civil rights law is a specialty area that not all
11 attorneys understand, that not all attorneys are
12 interested in. If it was not for the National Committee
13 Against Discrimination in Housing, as well as the
14 Lawyer's Committee for Civil Rights in the Law in
15 Washington, D.C., many of the complainant parties that
16 go before the federal and state agencies in this
17 country would not be provided that legal promise of
18 equal housing opportunity.

19 So due consideration should be given to draft-
20 ing language to include the expressed authorization
21 for matters to be received judicially by the Attorney
22 General should attempts at conciliation conference or
23 your fact-finding hearings fail.

24 Thank you.

25 MR. CALLAHAN: Anybody else? Go ahead. We

1 have another panel scheduled at four. So we'll take
2 a few more people, and you can maybe ask your questions
3 in the next panel, but go ahead. We'll wrap this one
4 up on this particular question.

5 MR. FARRAR: I'm Ted Farrar, Director of
6 Community Services, an independent serving Tidewater.
7 I am speaking as a private citizen right now.

8 I want to commend the Committee for coming
9 forth with the proposed Act. However, in talking with
10 staff persons of the Committee, I have had indications
11 that the recording of these proceedings will not be
12 available until March of 1984. I think that this will
13 be a great detriment in us attempting to try to get
14 some legislative response in the upcoming General
15 Assembly.

16 I think that it would be very helpful if the
17 Advisory Committee could impact the staff of the
18 Commission in getting a recording of these proceedings
19 with great haste because we could use this, I think,
20 in our advocacy efforts with members of the General
21 Assembly.

22 My second area of concern is that there is
23 a class of persons that has not been spoken to for two
24 days, and I can't leave here today without seeing it
25 brought forth, and that is the sexual orientation.

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1 I think that the State of Virginia has waited, you know,
2 overlong to even do anything about protecting minorities
3 in th commonwealth, and I don't think at this time we
4 can wait any longer to protect this class at will.

5 Thank you.

6 MR. CALLAHAN: Thank you very much.

7 With regard to the printing and promulgation
8 of the proceedings, perhaps you can enlighten us on
9 that.

10 MS. HOFFMAN: We normally take about two weeks
11 to get the transcript back from the court reporter.
12 Since the court reporter is here, is that about right,
13 about two weeks?

14 THE REPORTER: Yes.

15 MS. HOFFMAN: So as soon as we have a
16 transcript, it will be open to the public.

17 Of course, you can imagine how many pages
18 that's going to be, but we will have it available in
19 our office, and if we possibly can, we can make it
20 available to a group or an organization, perhaps not
21 to every individual who would like to have one since
22 that would be quite a cost.

23 In terms of the printed report from this
24 conference, we expect that by the middle of March.

25 MR. CALLAHAN: Thank you.

1 MS. HOFFMAN: One more comment I'd like to
2 make.

3 MR. CALLAHAN: All right.

4 MS. HOFFMAN: Rather than go into the next
5 panel, actually the next panel was to get responses
6 from the private sector. Perhaps we could just continue
7 with the questioning and wrap it up rather than going
8 into another panel.

9 MR. CALLAHAN: Let's get Ms. Burkhardt up
10 here because she was supposed to be the moderator. You
11 can sit up here and answer some questions or ask some
12 if you want to.

13 So we'll continue with the questions.

14 Are there any more questions? Yes, sir.

15 MR. KREIGER: I'm going to give it one final
16 shot. My name is Arthur Kreiber. I'm speaking at this
17 time, I hope, on behalf of the Petersburg Commission
18 on Community Relations Affairs.

19 As you heard our staff personal already say,
20 and we would acknowledge Petersburg's well practiced
21 accomplishments, I think there are two things I want
22 to express now on behalf of the Commission: that we've
23 been in existence since '74. We still are not legally
24 supposed to hold a hearing. We are still not supposed
25 to hear housing complaints, to the best of my

1 information.

2 Two years ago we had a draft for a fair hous-
3 ing ordinance. As per the Commission, we worked on
4 it for months. We talked many hours on language, words,
5 concepts, expanded protected classes to the point where
6 if you turned around the wrong way you were protected.
7 I'm saying that somewhat sarcastically, but also a deep
8 feeling that two years later we came out with another
9 one. This time we cut out a lot of the protected
10 things because we figured it might get through easier.
11 It hasn't.

12 Now, speaking on behalf of me as an individual,
13 I would like to stress that I'm very much still in favor
14 of having a protected class to be as wide and as many
15 as possible. If there's any way that any one of you
16 needs being protected, you might want that one day.
17 It may not be because of your skin color. It may not
18 be because you're male. It may not be because you're
19 five foot, two. But what it may be the color of your
20 eyes. You just struck the person the wrong way or you
21 scared them because you told them something they were
22 afraid to hear.

23 The things that you need to watch out for
24 are to make sure that you don't ignore the people that
25 Alan was talking about; that you keep open as many

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1 doors as possible; and also make the law do something
2 on the other end so that you don't just have a piece
3 of paper lying there.

4 Now, Petersburg has got ordinances. They
5 don't mean anything yet, and it's not because they
6 haven't been passed, but because they have no teeth.
7 We can't do a thing, and part of that is because we
8 haven't, until very recently, taken the courage to do
9 something and say we're going to try. If we fall flat
10 on our faces, we'll fall flat. That doesn't mean we
11 can't get up and try again.

12 I would strongly urge everyone here to think
13 very seriously about taking what we've got and running
14 very hard with it, very aggressively with it because
15 I think it's a very good document, although there were
16 a lot of things I wanted to punch out. I think it's
17 a very good document, and maybe to start off now to
18 push with this and then as it goes through the General
19 Assembly, get them to add the things that we need
20 because they're going to tear it apart anyway. They're
21 not going to accept it at face value.

22 So, again, I'm stressing let's do it now
23 instead of waiting.

24 Thank you.

25 MS. BURKHARDT: Thank you.

1 I'm Dorothy Burkhardt. I'm a member of the
2 Virginia Advisory Committee. I spent some time as a
3 member of the Governor's Commission on the Status of
4 Women, the Governor's Committee on Consumer's Education,
5 and some nine years as Chief of Consumer Complaints
6 in the White House Office of Consumer Affairs.

7 There it was nothing but trouble all day long.

8 We've had the provisions of the proposed Act
9 explained to us by those who worked on it. We've heard
10 responses from state and local officials, and many mem-
11 bers of the private sector who are in the audience today.

12 We want to be sure that everyone who wishes
13 to has an opportunity to comment or ask a question.
14 If there are any remaining members of the audience,
15 especially from the private sector, who wish to be heard
16 now is your chance, your last chance, to make a comment
17 or ask a question.

18 If you have something to say, go to the
19 microphones, and you'll be acknowledged.

20 Yes, Ms. Connell.

21 MS. CONNELL: If I may, I'd like to speak
22 from two different hats. First I'd like to speak for
23 the State League of Women Voters.

24 The League of Women Voters continues to support
25 protection of individual rights and liberties, and for

1 most of the process of finding the appropriate mechanism
2 to promote social justice by securing equal rights for
3 all and prevent discrimination and poverty.

4 I'd now like to turn to my hat as Vice Chair
5 of the Alexandria Human Rights Commission.

6 You have heard from Commissioner Miller in
7 support that the Alexandria Human Rights Commission
8 is in full support of forging ahead with this legisla-
9 tion.

10 I was at a conference which some of you were
11 at three or four years ago that this Commission had,
12 and we walked out of here with all kinds of grand plans,
13 and we were going to meet in Northern Virginia and
14 Southwest, and oh, we were really going to get it all
15 together.

16 I would like to say right now to everybody
17 in this room: what about tomorrow? What are we going
18 to do tomorrow?

19 I talked to two of our Executive Directors,
20 Steve Rutherson (phonetic) and to Bruce Miller, and
21 since the chair is not here, I'm the prerogative of
22 saying that the Alexandria Human Rights Commission would
23 be willing to take the names and addresses of anybody
24 who is willing to work at the grassroots level now and
25 maybe we can work on some legislative strategy and

1 the right plans.

2 I would urge everybody to please not walk
3 out of this room again as we did three or four years
4 ago and end up doing nothing. Let's do something now.

5 Thank you.

6 MS. BURKHARDT: Thank you.

7 I'm sure it's the intent of all members of
8 the Virginia Advisory Committee to do something now
9 and to continue with this. We thank you for your
10 comment and for your offer of assistance. It's a matter
11 of record.

12 Is there anyone else?

13 Your last chance. Going, going --

14 MR. LEVINSON: Let me, if I can, make a comment.

15 MS. BURKHARDT: Okay.

16 MR. LEVINSON: Two comments for the record.

17 I was fortunate enough -- I'm not a member
18 of the Virginia Advisory Committee, but I have partici-
19 pated from the beginning in some of the discussions
20 and certainly in some of the review, and I think
21 Professor Hobbs related to you some of the background
22 for the development of this bill.

23 I want it to be very clear on the record that
24 there was no intent, and there was plenty of discussion,
25 about the type of bill and what would pass and what

1 wouldn't pass and what was realistic and what wasn't
2 realistic in the Commonwealth of Virginia.

3 I personally, and the members of the Virginia
4 Advisory Committee, were unanimous in the feeling that
5 we were not going to put to the public, and we were
6 certainly not going to put to the members of the General
7 Assembly, a bill that simply was a bill that we thought
8 we could get through, to pass.

9 Some of us believed that we'd rather not have
10 a bill if that's the kind of bill we end up with.

11 Our intent, with the rough edges, with some
12 mistakes, with some omissions, which I think basically
13 means we're human and we make some mistakes and maybe
14 we overlook somethings, but our intent from the
15 beginning was to create, quote, a model Act, and a bill
16 that we could all be proud of, and a bill that would
17 be effective in enforcing and protecting and insuring
18 the civil rights of all of the citizens.

19 This kind of meeting, to provide the criticism,
20 the constructive ideas, is part of that process, but
21 I don't want the record to reflect that this is --
22 certainly politics and we're political animals and we
23 have to face the realities -- but I want the record
24 to be clear that it was the intent of everyone in-
25 volved to create and introduce and promote a civil

1 rights bill for the Commonwealth of Virginia that had
2 some substance, that had some teeth, and that was a
3 model for everyone.

4 Secondly, Fred and I both, in our staff
5 capacities and, I guess my Commission is here, and Fred
6 on behalf of his Commission would like to reiterate
7 for the record the comments of Jeanne Connell. We would
8 like to help coordinate whatever kind of activity is
9 necessary.

10 The Virginia Advisory Committee is bound by
11 certain federal laws and can only take certain actions,
12 but we at a local level can continue to pursue this
13 bill and can continue the process so clearly outlined
14 by Representative Callahan and others in terms of the
15 legislative process.

16 We'd like to help you coordinate that. We
17 have some staff ability. We have our Commissions, and
18 if we can help coordinate that in the next 30 to 60
19 days, please, our names and addresses are listed. You
20 can contact us, and we're here.

21 MS. BURKHARDT: Is there anyone else who cares
22 to comment?

23 (No response.)

24 MS. BURKHARDT: If not, on behalf of the
25 Virginia Advisory Commission, I wish to thank all of

1 you for your interest, for your attendance, for your
2 comments. We are pleased that you came. We hope to
3 work with you further. We hope we'll all be successful
4 together in getting this legislation passed.

5 It is now my honor and my duty to declare
6 this meeting adjourned.

7 Thank you.

8 (Whereupon, at 4:13 p.m., the proceedings
9 in the above-entitled matter were concluded.)
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C E R T I F I C A T E

This is to certify that the foregoing transcript

In the matter of: Statewide Conference on
 - Civil Rights Complaints and Compliance

Before: U.S. Commission on Civil Rights
 Virginia Advisory Committee

Date: November 14, 1983

Place: Richmond Room
 Holiday Inn-Midtown.
 3200 West Broad Street
 Richmond, Virginia

represents the full and complete proceedings of the
aforementioned matter, as reported and reduced to type-
writing.

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