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U. S. COMMISSION ON CIVIL RIGHTS

Regional Conference  
of  
U. S. Commission on Civil Rights  
Advisory Committee Members

Captain's Room  
Channel Inn  
650 Water Street, S. W.  
Washington, D. C.

Thursday, June 28, 1984

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P R O C E E D I N G S

(9:25 a.m.)

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3 CHAIRMAN RUTLEDGE: Before I turn the meeting  
4 over, all of you have your list of people who are partici-  
5 pating, you will get to know one another. And I think it  
6 will save the routine of going around and having everybody  
7 announce who they are, it is really obvious from the size  
8 of the group and from the documents in the folder.

9 Our staff is sitting back in the background, they  
10 are really very articulate people, so it is going to be  
11 tough to keep them sitting in the background; but neverthe-  
12 less they are. They will be available, if you need any  
13 information, they can be called upon. Yvonne Schumacher,  
14 who is sitting way back there with Barbara Stafford, who  
15 our office secretary, and Barbara is our Civil Rights  
16 Analyst, made the major preparations for this conference  
17 and have been in personal contact with everyone. And that,  
18 in itself, is a useful approach in bringing people together.

19 Also, the fact that we were limited in the number  
20 of people who were selected, we would hope that this does  
21 become institutionalized, that each year different members  
22 of an advisory committee will be invited to fill-in as  
23 chairperson.

24 With that, I would like to turn this meeting over  
25 to Walter Washington, who is the host chairperson, and

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1 someone I have worked with since at least the Housing Act  
2 of 1949. He and I invented the concept of having a decent  
3 home and suitable living environment, and of all places,  
4 we tried D. C., together when he was with the local housing  
5 authority, here in D. C., and he is still around.

6 Walter Washington.

7 MR. WASHINGTON: Thank you.

8 Yes, he is still around, with a few little scars  
9 here and there, but I am still around. I want to welcome  
10 all of you here today, and thank you for taking time to  
11 participate in this Regional Conference. I am sure it  
12 is going to be lively because we have some representatives  
13 from some lively states -- West Virginia, Virginia, the  
14 District, that is on its way to becoming a state --

15 (Laughter)

16 MR. WASHINGTON: -- Maryland, Pennsylvania,  
17 Delaware. And I guess we should talk about that before  
18 you leave, if your state hasn't taken action. except, I'm  
19 not sure about Virginia, because they have a problem with  
20 two more senators coming in. And, consequently, I am not  
21 sure they are too interested in what is happening in the  
22 District. But that's all right, we are neighbors and  
23 friends.

24 I think it is important that we are meeting here  
25 today, just 30 years ago this year the Supreme Court

1 finally began the long process of actually dismantling the  
2 system of legalized racism that prevailed every aspect of  
3 life in America. Twenty years ago, I might say, there was  
4 quite a reception here last night of Civil Rights leaders  
5 who came to symbolize the twenty years and the roaring  
6 struggle in which many lost their lives. And what we  
7 know is that the first real piece of civil rights legisla-  
8 tion was passed since the Civil War period, and was finally  
9 signed by President Johnson.

10 It was quickly followed by the first effective  
11 voting rights legislation in over 100 years. It was dur-  
12 ing President Johnson's Administration that he moved the  
13 District of Columbia in that same background to another  
14 form of government, overcoming the long years, over 100  
15 years, of commission form of government, to a weak mayor  
16 and strong council form of government; weak meaning that  
17 the mayor was not elected, but appointed by the President,  
18 and served at the will of the Congress.

19 However, that was the beginning of what we think  
20 was some liberation in civil rights and human rights,  
21 because it was in 1975 that we had the first election of  
22 a mayor and of a city council that this city has had for  
23 over 100 years. I happen to have been in part of that,  
24 also, since it was that first mayor elected in over 100  
25 years in the District of Columbia. Many people thought

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1 little of it, not recognizing that we had never had the  
2 right to elect our mayor and council in this century.

3 It seems to me that all of this sort of fits  
4 together with what was happening 20 and 30 years ago. I  
5 hope you will pardon the personal reference, but I happened  
6 to get into that little piece of history, and it was  
7 interesting, at least to us here in the District.

8 For those of you in the states that have enjoyed  
9 it since the Constitution was drawn up, it was a little  
10 moment. But I must say the amazing thing, as I was just  
11 mentioning to Joel Fisher here, was that he wanted to  
12 know about some of my experiences, and I pointed out that  
13 I didn't have very long after my first appointment in 1967,  
14 because a few months after that, Dr. King's death -- the  
15 city was overcome with a tremendous riot, as about 110  
16 other cities happened to be at that time.

17 We never had the chance to recover because  
18 immediately thereafter we had 3,000 demonstrations, rang-  
19 ing from 500,000 to 5,000 during the Vietnam and Cambodian  
20 periods.

21 So, those of you who come to the city today must  
22 know that nationally we have a particular feel in our  
23 hearts for the 30 years, and the 20 years of struggle,  
24 when you come to the city at a time when, again, we are  
25 still struggling here to get what we believe is our proper

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1 role in the scheme of the American system.

2           The civil rights movement has inspired men and  
3 women to claim their rights, and our country is still  
4 wrestling with many issues raised by these movements that  
5 remain unsolved. I think that we would like to come back  
6 to this meeting at some point in the very near future when  
7 we can say all has been done. I don't expect to be around,  
8 but I am hoping those younger members will rejoice in the  
9 time when we can say "Free at last, free at last".

10           I am hoping that today, as the issues are de-  
11 lineated and as they are brought to the floor for dis-  
12 cussion, that we can have, indeed, a structured, healthy  
13 discussion. We did not come today to deal with small fry  
14 and deal with small issues, but rather to point our  
15 direction for the days ahead with the large issues, and  
16 with the job yet to be dealt with and to be resolved.

17           I think in the background of that remark I would  
18 say to you that I have an honor and a privilege today in  
19 opening this session to introduce to all of us the  
20 Commission Staff Director, Linda Chavez. I had a very  
21 close and dear friend by the name Chris Gersten, Chris  
22 and I worked in local politics, he in labor and I on the  
23 political side, years and years, I suppose. And then one  
24 day it was my great pleasure to find out that Linda was  
25 married to Chris. They still travel in the same fashion,

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1 he is Chris and she is Linda.

2 There is another story about that, but I am going  
3 to hold it, until I have to use it. It is so good and it  
4 makes a point.

5 But in any event, I am sure that we all want to  
6 Linda, from the vantage point of her experience, from the  
7 vantage point of her hopes and desires in the area of  
8 civil rights.

9 And I would like at this time, if you all would  
10 receive her with a nice round of applause. I present to  
11 you our Technical Director, Linda Chavez.

12 (Applause.)

13 MS. CHAVEZ: Thank you very much. I look back  
14 fondly. I was telling Walter at the beginning of this  
15 session this morning that I recently moved from the  
16 District of Columbia, where I lived for 12 years, and in  
17 the process of cleaning out my closets, came across a  
18 Walter Washington for Mayor T-shirt, which I almost had  
19 the nerve to wear today, but better judgment told me  
20 otherwise.

21 MR. WASHINGTON: It would be welcomed here.

22 MS. CHAVEZ: I am very pleased to be here today,  
23 and I come here not to talk so much, but to listen. I  
24 would like to spend just a few minutes, however, talking  
25 a little bit about this program the Commissioners have

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1 adopted. I know many of you are concerned, and have  
2 written, and some of you have received responses to your  
3 letters, about some of the changes that were made in the  
4 recent meeting of the Civil Rights Commission, having to  
5 do with the State Advisory Committee. And I am sure you  
6 all have questions, and want to discuss that this morning,  
7 and I would be happy to do so.

8 But just let me preface that discussion by telling  
9 you that the main objective of the changes that were  
10 adopted at that meeting, was to improve the relationship  
11 and to have a better flow of communication from the  
12 Advisory Committees to the Commission. What we have tried  
13 to do is to make sure that the Commissioners receive your  
14 advise, receive it promptly and are able to act on that  
15 in an expeditious fashion; that you are given the support  
16 and the encouragement you need to be active state advisory  
17 committees, to meet frequently, to be able to really be  
18 the eyes and ears of the Civil Rights Commission, because  
19 I think that is the function of the Advisory Committees.  
20 And it is a function that you have served well for many  
21 years, and we hope that you will be able to continue to  
22 serve in that function.

23 The other thing that we hope will be accomplished  
24 with some of these changes is that the relationship between  
25 some of the Commission's projects and some of your own work

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1 will have better coordination and to use a word the  
2 bureaucrats use,-- there will be better interface between  
3 the advisory committees and the Commission.

4           The Commission adopted, I think, a very ambitious  
5 plan and program for Fiscal Year 1984, and 1985, and we  
6 are now working on a program for 1986. And included among  
7 the projects the Commissioners approved were four major  
8 studies in the area of education; a major study in the  
9 area of voting rights; two other projects in the area of  
10 housing; several projects on employment ramifications;  
11 a federal study in federal civil rights enforcement. And  
12 I think not only are the programs broad, but they give us  
13 in-depth information -- the Civil Rights Commission is  
14 able, almost better than any other agency in the government  
15 to pull together.

16           And we would like your assistance in that, there  
17 are several projects that I am hoping when you learn more  
18 about them, will stimulate you and your thinking about  
19 them, to want to deal with them in your own states. There  
20 are ways in which you can cooperate, and in which you can  
21 be helpful to us in providing us the kind of information  
22 that we have no other way of getting, about what is  
23 actually going on in your states.

24           We are also going through a period which I am  
25 sure all of you recognize, and it has been a very difficult

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1 period. We went through an unsettled time at the end of  
2 last year, where none of us knew whether there was going  
3 to be a Civil Rights Commission at this time. We lost a  
4 great number of staff people at that period, people who  
5 had the option to hire early, or had the option to find  
6 another employment. And we are just now beginning to staff  
7 back up to capacity, in order to get our work done.

8 And it was a time of really trying to figure out  
9 what it is that we are doing, and how we can best do our  
10 jobs, in terms of studying civil rights issues. And, again,  
11 we need your cooperation, we need your help and we need  
12 your advise, and that is why we are here today.

13 With that I am going to stop, and Commissioner  
14 Robert Destro is here, and may also want to say a few  
15 words.

16 MR. WASHINGTON: Thank you very much. We would  
17 like very much to hear from you, Commissioner Destro.  
18 Please speak in your own way. I think since we have  
19 set a tone here, we ought to give him a hand.

20 (Applause.)

21 COMMISSIONER DESTRO: Thank you very much.

22 Like Linda, the main reason I came here today is  
23 to do some listening. I have had a long personal interest  
24 in state advisory commissions and state advisory committees.  
25 I think, in part, because one of the states which I most

1 immediately came from had a rather pronounced lack of  
2 contact between its state advisory committees and the  
3 people that one would consider to be the major policymakers  
4 in the state.

5 I see the state advisory committees, as well as  
6 the Commission, as those who sit on the Commission and  
7 those who sit on the state advisory committees as con-  
8 duits. And I would like to see the committees develop as  
9 conduits where we can move information in both directions.  
10 I have noticed, as a native mid-westerer, now that I have  
11 been in Washington, that once you cross the Beltway, you  
12 have a tendency to see things as Washingtonians do, and you  
13 tend to get captivated in what is going on at the national  
14 level, to the exclusion of what is happening sometimes at  
15 the local level.

16 So, as the eyes and ears of the Commissioners, and  
17 the Commission itself, I think that your function is very  
18 crucial. So, what I would like to suggest is that we all  
19 take the opportunity to just get to know one another, and  
20 that is rather difficult in meetings like this. But as  
21 one of the recent appointees to the Commission, I read  
22 with interest many of the communications we got from  
23 members from state advisory committees. And I was struck,  
24 in some respects, by not only the dedication which showed  
25 in those letters, but also in some respects with the lack

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1 of information on which some of the letters were written.

2 And I really want to encourage you, if you are  
3 pleased, or you are upset with something that we are doing,  
4 all it really takes is to pick up the telephone and ask  
5 "Why did you do that?" If you are going to be our advisors,  
6 we have to hear from you and we have to know what you think,  
7 and why you think it.

8 We owe that to you, as well. And I think that  
9 Linda did a good job of explaining why it is that we took  
10 some of the actions that we did.

11 I think another point that I would like to touch  
12 on is that given the upset that Linda talked about during  
13 the time when the Commission was being restructured, all  
14 of us who were involved -- it became clear to all of us  
15 who were involved that whether or not we might be comfort-  
16 able with being tied together inextricably, and we are,  
17 you are tied inextricably to us; we are tied inextricably  
18 to you, and that is the way it should be. What we do  
19 reflects on you and what you do reflects on us.

20 And so I think it is very important that we not  
21 have an adversarial relation, but a mutually respectful  
22 relationship. I think that is the reason I make the  
23 suggestion that we stay in touch with one another, I think  
24 more closely than we have in the past.

25 One of the suggestions that Linda made today, the

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1 Commissioners need to see what you are doing by way of  
2 your reports. I can tell you, because of the volume of  
3 material that we get, if we get one of your reports a day  
4 or two, or even a week before a commission meeting, it is  
5 a part of a briefing, but ~~it's~~ it's about that thick -- there  
6 is absolutely no way that we can give it justice. We need  
7 the lead time in order to even read it and do it justice.

8 As a professor and a practicing attorney, I have  
9 been a strong believer in doing one's homework, that you  
10 need the time to do your homework. And I am certainly  
11 willing to do it and see why you are making suggestions,  
12 and what you think the suggestions are intended to do.

13 And, as is inevitable in any working relationship,  
14 there are bound to be some disagreements. There certainly  
15 were in some of the letters that we received. But I was  
16 happy to receive them, some of the letters I was able to  
17 respond to, some not. But I think that is the beginning  
18 of a process. We don't always have to agree with each  
19 other, I don't even agree with some of my best friends  
20 all of the time, but we do need to know each other, and  
21 we do need to develop some respect for one another. And  
22 the more we do that, I think the more agreements we will  
23 have at the end, because I think, all in all, none of us  
24 would be involved in this endeavor with the Civil Rights  
25 Commission, unless we really believed what Mayor Washington

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1 just said, that we all live to see the day that, hopefully,  
2 our children, and God willing, hopefully their children's  
3 children will be able to say for all of us, that everybody  
4 is "Free at last".

5 Thank you.

6 MR. WASHINGTON: Thank you, we are very delighted  
7 to hear from you. And I would think that at this point  
8 some of our members on the advisory committees from the  
9 region might have a question or a comment to make.

10 I will call upon our good brother from Philadel-  
11 phia, Joe Fisher.

12 MR. FISHER: Yes, I have a question I would like  
13 to ask the Staff Director. I hear that the purpose, or  
14 one of the purposes of the recent changes were to improve  
15 the relationships and to improve communications between  
16 the Commission and the state advisory committees. My  
17 question would be if that is the case, and I have no reason  
18 to think otherwise, why was not the chairperson or the  
19 committee people utilized in terms of offering their input  
20 before these changes were put into effect? Because, to  
21 my knowledge, and being one of the state chairpersons,  
22 I was not given any opportunity for any kind of suggestion  
23 or input.

24 And it appeared to me that these changes came  
25 down in the fashion that, to me, would not be conducive

1 to improving relationship, but to create situations which  
2 made it appear that we were being told here it is, like  
3 it or not, this is what it is. And I don't think that  
4 approach is conducive to improving communications.

5 MS. CHAVEZ: Well, I think it would have been  
6 difficult, if not impossible, to have pulled together a  
7 meeting of the state chairpersons in time to have everyone  
8 get together in one place and be able to give their input.  
9 You have had the opportunity to respond, and we have taken  
10 into consideration the comments that have been made. The  
11 final rules and regulations have been not been drawn up  
12 yet, they will be printed in the appropriate fashion, in  
13 order to have comment on them.

14 We have already begun to take a look at the letters  
15 that have come in from the state chairpersons, in order to  
16 try and evaluate what the impact is. So, I guess the  
17 main reason that we did it the way we did was that the  
18 Commissioners did have an opportunity to take a look at  
19 the rules and regulations, and to hear an analysis by  
20 career staff, as well as non-staff, on the way in which  
21 state advisory commissions have functioned in the past.

22 And the Commission's main concern -- and Bob can  
23 speak to this, as well -- is that from taking a look at  
24 such things as attendance at meetings, from taking a look  
25 at other aspects, outward aspects of activities there seems

1 to be some immediate things to be done, which we felt need-  
2 ed to be done quickly, to try to improve the quality of  
3 the work that was coming out, and also, to give direction  
4 to the regional offices. Because actually the regional  
5 offices and the regional staff are, in large part, responsi-  
6 ble for some of the work that goes into the reports.

7 The main consideration on the change is the way  
8 in which reports are based, this is something which I  
9 think Bob alluded to in his comments. When you are a  
10 Civil Rights Commissioner, every month, as all of you are  
11 employed full-time in other jobs, you come to a meeting  
12 and you literally have a stack of material this thick  
13 (indicating). And one of the items in the stack of  
14 material is an already printed report by the state  
15 advisory committee.

16 I think the tendency is not to spend the kind of  
17 time on that report which you might, if it in fact was a  
18 more immediate document that had come clearly as advise  
19 to the commission, but not in printed form. Once it is  
20 printed, the feeling is, well, there is nothing much we  
21 can do about it anyway -- it doesn't have the kind of  
22 immediate impact. It is almost as if it is a public  
23 document, not even meant for you.

24 And, yet, advisory committees are advisory, that  
25 is the function they were created to serve, that is what

1 the Federal Advisory Committee Act says they are to do.  
2 And so by suggesting that we get reports immediately,  
3 before they are printed, and that those reports be given  
4 to the commissioners, so that they can look at them first-  
5 hand, the hope was more time could be spent on maybe  
6 taking a more serious look, the commissioners would feel  
7 that they are their own, and that that would improve re-  
8 lations, not make them more difficult.

9           So far we have not dealt with a draft document,  
10 we still have been dealing with printed documents. But  
11 in the last full Civil Rights Commission meeting, the  
12 Commissioners read, approved and ratified the recommenda-  
13 tions of three state advisory committees. I thought it  
14 was a very productive exercise, I think they paid more  
15 attention to it, than if they simply were there for them  
16 to rubber stamp. They really felt they had some input  
17 because, indeed, they were, they were going to accept, or  
18 reject the recommendations, and they had to do it verbally.

19           REV. HARRIS: Could I just raise a question in  
20 reference to your comment on looking at reports and  
21 approving them? I think this whole thing is about improv-  
22 ing relationships between the advisory committees and  
23 the Commission, and opening the lines of communications.

24           I am from Virginia. We have worked in our  
25 advisory committee on a project with farm workers for

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1     sometime with the authorization of the old Commission to  
2     go ahead. We, under the new regulations, submitted a draft  
3     and were told promptly that we were in the wrong ballpark,  
4     with the wrong day for the game, and there ain't going to  
5     be no game anyhow.

6             In effect, we were turned back on a project that  
7     we spent many hours, much concern about which, to us, as  
8     members of the advisory committee, fell in the category  
9     of the kinds of things that we should be dealing with. And  
10    that was turned down by the Commission.

11            Now, we raised questions about how are we going  
12    to function in the future under the new guidelines, pro-  
13    cedures that have been stipulated to us by the Commission.  
14    And we are upset about that and believe that is not the  
15    way to create good relations. I have problems at home on  
16    that kind of thing, in my church when that happened, in  
17    politics when that happened, and certainly when that  
18    happens on a voluntary supervision thing where I am giving  
19    my time, my energy and my thoughts to it.

20            And so, if you want to have a good relationship  
21    with me, you are going to have to do something about that  
22    kind of activity.

23            MS. CHAVEZ: Now, that was an unfortunate situation  
24    which I don't know how it was allowed to develop,  
25    particularly for what you are referring to -- was looked

1 at and evaluated in the General Counsel's office by career  
2 employees, not by the General Counsel, who is a political  
3 appointee, but by career staff, who raised very serious  
4 questions about whether, under our statute, this fell within  
5 our purview, whether or not this was a civil rights issue.

6 Now, if the report had been focused on civil  
7 rights violations against migratory workers, it would  
8 clearly fall within our jurisdiction. But the career  
9 staff looked at it and said that they believed this  
10 particular report was outside of the civil rights area,  
11 not that it was outside the area of a problem and a pro-  
12 blem that ought, perhaps, be of concern to us, but that  
13 it was outside what we are told by Congress we can, and  
14 should be studying.

15 Since the people have made that recommendation  
16 were there when this particular concept was approved,  
17 it should have been raised at that time. It should have  
18 been communicated back to the regional office, and that  
19 should have been communicated to the state advisory  
20 committee, so that the report could have been focused in  
21 such a way that it would have been included within the  
22 jurisdiction. And there are ways of doing that.

23 The question though becomes is it right for us  
24 to use our appropriated funds to do something which is  
25 outside of our jurisdiction. And that is where that issue

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1 came down. It is one of the only ones that we have had  
2 that problem with, but that was the issue, that was the  
3 problem. It was a decision made by people who could have  
4 made the decision earlier -- why they did not, I don't  
5 know.

6 MR. WASHINGTON: We have three --

7 MR. WATKINS: I have a number of questions to  
8 ask related to this issue of submitting reports and having  
9 prior approval of draft, and you addressed two of those  
10 issues. So, I think you brought up the subject really  
11 at hand.

12 An advisory report, it seems to me, is compromised  
13 when the receiving body has prior approval of its content.  
14 If the document is intended to provide -- well, that's  
15 not the question I want to ask, I am making a comment  
16 there, that is simply an opinion. And I am not sure that  
17 the suggestion that by having prior approval of the draft,  
18 you are going to improve the quality of the report. That  
19 is like saying to a grade school student, well, it is  
20 going to be graded.

21 I think the results of the research and the  
22 opinions and observations, expressed in the report I have  
23 yet to see, is a state advisory report that I felt was poor  
24 quality, based on research done and the quality of the  
25 submission. But you raised in the last comment, the issue

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1 that I think is of the most concern to the people on my  
2 state advisory committee in Pennsylvania that I have talked  
3 with, and that is what you, personally, and the Commissioners  
4 define as "a civil rights issue", because from reading  
5 your public comments and watching you on television several  
6 times, I am really curious to know what you consider to be  
7 a civil rights issue. I have seen lists of all the things  
8 you don't consider to be a civil rights issue.

9 That's my question.

10 MS. CHAVEZ: Bob wants to address this, but before  
11 he gets to that, let me make a couple of comments.

12 Your advice to the Commission is in no way being  
13 censored, you may tell the Commission anything you wish  
14 to tell it. The Commission does not have to take that  
15 advice. The printing of the report is really what is at  
16 issue, it is not saying you may not say such and such,  
17 that would be an attempt to interfere with the new role  
18 of the advisory committee.

19 What is at issue is whether that advice, that  
20 report printed and public funds were expended on the  
21 printing of that report, and that has always been -- and  
22 I think it continues to be a Commission decision.

23 There are ways of communicating with the  
24 Commission that go beyond printed documents; not every-  
25 thing you tell the Commission has to come in a document

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1 that looks like this -- letters do it, telephone conversa-  
2 tions do it. There are other informal ways. Also, draft  
3 reports do it.

4           When I suggested the comments about the quality,  
5 there have been -- and I don't know if any of the reports  
6 I am referring to ever came out from the state committees  
7 that are here today -- but there have been instances of  
8 state advisory committee reports which inaccurately refer-  
9 red to sections of law. One I remember most clearly was  
10 a report that referred to Title VI and said Title VI  
11 probade discrimination on the basis of religion. That is  
12 not in Title VI, it is an inaccurate fact. It is an  
13 embarrassment to the Civil Rights Commission when that  
14 is printed in any public document.

15           There have been other instances of documents  
16 that had great differences between the materialsthat was  
17 presented in some of the charts and tables, and the con-  
18 tent of the narrative. Those are the kinds of things that  
19 can be improved, and I think that is a staff problem. That  
20 is not your problem, it is not the advisory committees  
21 problem, but certainly if you are going to print a docu-  
22 ment, you want it to be the best, most accurate, best  
23 quality document. And that is what we are really talking  
24 about, the printing of the document, not the actual  
25 advice that is in them, not what it is the Commissioners

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1 see and how they receive your advice, but whether or not  
2 that advice is printed in booklet that has a hard or soft  
3 cover on it, with the U. S. Commission on Civil Rights.

4 MR. WATKINS: In that case why isn't the staff  
5 review adequate?

6 MS. CHAVEZ: It could to be adequate, and it is  
7 improving, and we are attempting to -- other changes are  
8 being made to improve the quality of those documents.  
9 That still doesn't get to the point of whether or not  
10 the Commissioners wish to have the documents printed as  
11 their documents, and it does bear the name "U. S. Commission  
12 on Civil Rights" with a disclaimer on it saying this is  
13 not the opinion of the Civil Rights Commission. That is  
14 a distinction that is lost on about 99 percent of the  
15 decisions.

16 COMMISSIONER DESTRO: I think my comments -- well,  
17 in regard to both of your questions. It would be easy  
18 to answer from my perspective why staff review is not  
19 adequate, is that first of all, as advisors to the Com-  
20 mission you may well have spent a long time on your report,  
21 and I respect that. And I certainly would not tell you  
22 what to say, one way or the other.

23 My concern is is it, in my judgment, a digestible  
24 report, are people going to understand it and be able to  
25 use it. And I have heard too many comments in the field

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1 that while they may be interesting, some of them are  
2 certainly not very useful. And that is a criticism that  
3 I have heard from people who are active in civil rights  
4 fields, in the areas where I have lived.

5 The other aspect goes I think closer to the  
6 advisory function, the committees perform for the Commission,  
7 and individually, for the Commissioners. All of us are  
8 interested in what is going on, in order to formulate  
9 positions at the national level you have to have adequate  
10 information.

11 Now, if there happens to be a state advisory  
12 committee report on something that I particularly think is  
13 interesting, and is something that is near and dear to  
14 my heart, it doesn't really help me if I read the printed  
15 report and my reaction is well, what about this angle?  
16 And did anybody ever think about this angle? This is one  
17 that is interesting to me, and I think we could really  
18 use some information on.

19 Only the Commissioners can give you that; the  
20 staff is not commissioned, and only the commissioners can  
21 give you that. We can raise other questions, and that is  
22 why I say it is not -- I think the perception that I am  
23 hearing is that you are you, and we are us, and somehow we  
24 have this buffer in between, which is the staff. But my  
25 view of all of this is that we are all in this together.

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1           And when I ask somebody to do research for me, or  
2 when I get a law student of an associate attorney to say  
3 well, would you give me a reading on what the law is, or  
4 what the facts are in ascertain case, it would be ludicrous  
5 for me to just submit that, have it printed and say this  
6 is the way it is. I might say, it is not completely what  
7 I think we need; but if it is, fine, I am not going to  
8 tell you how to change it, because with an advisory, you  
9 don't have to take an advisory's advice, but you shouldn't  
10 tell them what to say, that is why staff review is not  
11 adequate.

12           MR. WASHINGTON: All right, we have a question  
13 over here.

14           MR. WATKINS: The other half of that question --  
15 that was the basis on which this report was denied  
16 publication. You are saying that you don't object to what  
17 they have to say, and yet you denied publication of a  
18 report on an issue that obviously that state advisory  
19 -- I think it was a coalition, or several state advisory  
20 committees together all felt was a civil rights issue and  
21 publication was denied on that basis.

22           COMMISSIONER DESTRO: Let me give you one example --  
23           MR. WELCOX: It was the chairman of that committee  
24 on migrate study, and I would like to address this, if I  
25 may.

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1           For three years in Virginia, for the first time in  
2 the history of Virginia, we have been studying issues that  
3 some of us call "modern day slavery". There are 6,000  
4 people probably right now from Haiti and Mexico, all the  
5 way up into the Delmarva Peninsula and further, who are  
6 being abused.

7           Now, we recognize your authority to say what is  
8 right and wrong about a report, but our issue here is why  
9 should we put forth all of this effort, when you are going  
10 to look at our report and say I don't like it, forget about  
11 it. I am a volunteer, we are all volunteers.

12           Rabbi Saltzman said one time that we are the souls  
13 of America, and if we don't care, nobody does. And that  
14 is why I am a part of this.

15           Now, I believe that this report is unfinished  
16 business of the old Commission, of the old regime, if you  
17 will. We in Virginia recognize that nothing may be done,  
18 but keep in mind there are crew leaders, there are farm  
19 owners who don't care about these migrant workers. And  
20 when they find out that the Commission doesn't care about  
21 the farm workers either, especially with what is happening  
22 with the immigration bill, there is going to be more  
23 intensification of the modern day slavery that is going on  
24 right now.

25           And when you see this, when you smell it, and you

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1 feel the heat of it, it is not something that you just set  
2 aside and say, "Well, we can't look at that". We have  
3 already looked at it.

4 So, I would like very much for you to reconsider  
5 your decision, because if you don't, I am quitting the  
6 Commission. I am quitting this group. I see no reason  
7 to remain, if everything we do is going to be nullified.  
8 And there are others, I am sure, who feel the same way.  
9 This is a very serious issue in Virginia.

10 So I would like very much to appeal to you to  
11 reconsider your decision, to at least accept it, because  
12 it looks like we have done something wrong. And we have  
13 done something with the blessing of the old regime, with  
14 the money of the old regime, with the instructions of the  
15 old regime. We really feel that that is an important  
16 issue.

17 Thank you.

18 MR. WASHINGTON: Yes?

19 MS. MORRIS: Emily Morris, from Delaware.

20 On the one hand, this morning I feel very detached,  
21 somehow I feel like those of you are on a mountain, and  
22 those of us who are the foot soldiers are in the valley.  
23 The only thing making me feel good this morning is the  
24 fact that I look across the room and see Howard Kenney,  
25 from West Virginia, who I haven't seen in years. I see

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1 Jim here, I haven't seen him in a long time, and there are  
2 other faces that I recognize in this room that I am sure  
3 this evening we are going to have a good time getting to-  
4 gether and really sharing information, as we used to do  
5 in the past.

6 I am just totally confused, and I am sure as we  
7 progress along, perhaps some of that confusion will leave.  
8 But I am having some difficulty understanding what your  
9 role is, and what your are about. I have always known  
10 what we have been about and that is representing the  
11 thousands of people in our local communities who have  
12 problems and issues.

13 When you talk about sub-standard housing, which  
14 is a real problem in Delaware, to me that is a violation  
15 of somebody's right, because it is a right that everyone  
16 should live in decent housing, not a privilege. So, I am  
17 having some difficulty understanding where you folks are  
18 coming from.

19 And I agree with the gentleman, I just received  
20 the Crisis Magazine from the NAACP, and it appears that  
21 they are willing, or going to exert some influence to try  
22 to get rid of the Commission, because they, too, don't  
23 feel that it is going to serve the people's purpose.

24 I will say one more thing -- when you talk about  
25 your funds, frankly, we don't have any problem, the people

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1 we represent in Delaware, with you using our funds to  
2 publish reports, or do anything else that is necessary to  
3 improve the quality of life.

4 I have other things I could say and will say later,  
5 but there is a great void that exists between us. And,  
6 incidentally, I am a Republican, and a darned good one.  
7 But I am having some real difficulty dealing with what  
8 I see coming down from this Commission -- I think it is a  
9 tragedy.

10 MR. WASHINGTON: Very well, Ms. Morris.

11 I think Mr. Lewis from Delaware has a problem on  
12 the Delaware migrant report.

13 MR. LEWIS: Several problems actually, but let's  
14 just take one at a time. Emily certainly pointed out  
15 some other problems we have in Delaware, and we will  
16 elaborate further. But I needed to get some information  
17 on the migrant report from Delaware, which our committee  
18 happens to feel was well researched, and maybe there is  
19 a problem we don't know about.

20 It is my belief that the Commission perhaps ought  
21 to serve as a deterrent to civil rights violations, rather  
22 than simply to clean up the mess after it is made. This  
23 particular report is such a report, it tries to serve as  
24 a deterrent, it does point out areas that within a few  
25 months, or a few years, or even a few weeks could become

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1 serious violations. And we would like to get an explanation  
2 as to why it was held up.

3 MS. CHAVEZ: Well, I think the critical issue that  
4 all of you are addressing is the difference between what  
5 are Civil Rights Commission issues and what are civil  
6 rights issues, which is what the Commission is about. We  
7 do not write the civil rights laws, we do not write the  
8 statutes that created the Civil Rights Commission, but  
9 that statute is very explicit and so are the civil rights  
10 laws.

11 And while I might have an interest, and have had  
12 an interest for a number of years in the problems of  
13 poverty, the problems of migrant workers -- many of the  
14 social ills that beset our society and work in different  
15 capacities to try to do something to improve those social  
16 ills, that does not mean that this particular commission  
17 is necessarily the vehicle to expose and to try to do some-  
18 thing those problems.

19 We have a very specific function, and that is to  
20 ensure that the civil rights laws of the federal govern-  
21 ment are being enforced properly, and to expose instances  
22 of racial, national origin, gender, age and handicap  
23 discrimination; discrimination in housing, employment,  
24 education, in voting, in the administration of justice --  
25 that's what our law says, and that is what the laws in the

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1 books say. They talk about denials of opportunity on the  
2 basis of race or sex, or national origin, they do not talk  
3 about denials of opportunity on the basis of economic  
4 disadvantage.

5 Now, the availability of low income housing and  
6 adequate, suitable housing is a concern to me as a citizen,  
7 it is something that I have worked on in other jobs and  
8 in other capacities, but the law, civil rights law that we  
9 are there to try and watch to see is being enforced does  
10 not say you cannot discriminate against someone because  
11 they cannot afford a particular kind of house.

12 Now, if you want to change that, if you want to  
13 work on that, there are ways of doing that, there are other  
14 avenues. But the Civil Rights Commission is not the avenue.  
15 There are still violations of fair housing, as it is  
16 written in the Fair Housing Act going on; there are still  
17 people, no matter how much money they have, who are not  
18 allowed to live where they want to live, because of the  
19 color of their skin, or because of their national origin.  
20 That goes on, and I don't need to tell you that, you know  
21 that goes on, it goes on in this city, it goes on -- I  
22 had it happen when I went to buy a house in Washington,  
23 D. C., and I was steered away from the neighborhood I  
24 wanted to live in because the realtor thought I would not,  
25 in his words "be comfortable there" because the majority

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1 of the people in that neighborhood were black. It goes on,  
2 it goes on every day. That is the kind of problem that  
3 this Civil Rights Commission was created to try and investi-  
4 gate and to point out.

5 And when the Commissioners adopted their program  
6 in January, they went through a dozen or more projects that  
7 focused on those issues. They are not the only important  
8 issues in our society and they also are not the only  
9 important issues to minorities and women, but they are  
10 the issues that this Commission was created to look at.

11 MR. LEWIS: Excuse me, my question was not answered.  
12 We still need to get an answer to the migrant report on  
13 why it was not released, and while you are answering that,  
14 maybe you can tell if racism is not a social problem, then  
15 what is it? Because I don't know anymore.

16 MS. CHAVEZ: Well, just on the specifics on the  
17 Delaware, and other reports, I think the only adequate  
18 thing to do, because again, it was a decision recommended  
19 to me by career people on the staff, is to get a letter to  
20 you and have them go through it and explain point-by-point  
21 why it is that they thought that this particular report  
22 was outside our jurisdiction. And I will try and get that  
23 to you within two weeks.

24 COMMISSIONER DESTRO: Can I address one of these  
25 points, from the perspective of a commissioner? Again,

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1 I think this points out the reason why there are some mis-  
2 understandings, and I think that not having seen these  
3 draft reports leave me totaly at a loss. And in the end  
4 it is the Commissioners who are responsible to you, not  
5 the staff, but the Commissioners who are responsible to  
6 you, and are responsible to answer those questions.

7 The staff is both responsible to you, and to us.  
8 And if it took three years, then that is a problem. And  
9 we have to work together to work it out. And as a civil  
10 rights litigator, myself, I know that there are many  
11 different ways to tell a story. And I see probably -- my  
12 guess would be, not having seen these migrant reports, is  
13 that the difficult at bottom are what a reporter might  
14 call the angle on the story.

15 And when we talk about a civil rights issue, -- I  
16 looked at a regional report which was filled with un-  
17 employment statistics. Now, unemployment statistics, in  
18 my mind, are a social problem and they also reflect and  
19 underline some race problem. There is absolutely no  
20 question in my mind about that.

21 MR. RATTLEY: Define the difference between the  
22 two.

23 COMMISSIONER DESTRO: They are the same -- hold  
24 on a minute, and I will get to that.

25 As far as the function of the Civil Rights

1 Commission, we could stand up for the next 10 years and  
2 complain about unemployment. Just like labor unions, just  
3 like civil rights organizations, just like local community  
4 groups, and we are not going to be taken anymore seriously  
5 by the people who work on Capitol Hill and in the White  
6 House, but if we can put together a report that shows  
7 precisely, or gets in the ballpark of how actual job  
8 discrimination has an impact on those unemployment figures,  
9 that is where we can have our impact.

10 We have to keep ourselves focused narrowly on  
11 the issues which do have an impact. When I read the  
12 regional report for this region, it had in it a list of  
13 the problems in the area, and it had a chart on unemploy-  
14 ment statistics. It told me what the unemployment statistics  
15 were, but it was not at all helpful.

16 And what I would want to know is what is the race,  
17 or what supposition does the State Advisory Committee have  
18 on what percentage of that unemployment is caused by job  
19 discrimination, other than pure economic policy. We are  
20 no more expert, and you are no more expert -- probably  
21 most of you are more expert than somebody like me is on  
22 that issue.

23 But I do know that employment discrimination cases  
24 when I see them, and I know how to prove them. And what  
25 we need to do is to have the data where we can go and we

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1 can bang on the door and say this is the problem. And when  
2 you see, like I did, one of the first Advisory Committee  
3 reports that I read very closely with a fine tooth comb,  
4 when the affirmative action figures in the chart don't  
5 say the same thing as the affirmative action text does,  
6 and not only did I have a hard time following it, but any-  
7 body who read it and read it seriously would say, well,  
8 these people don't know, they are saying two different  
9 things.

10 And those are the kinds of concerns that I have  
11 as a Commissioner.

12 MR. WATKINS: Aren't you telling us though that  
13 the role -- your perception of the role of the Commission  
14 is actually the role of the EEOC, which is the enforcement  
15 of Title VI and Title VII?

16 COMMISSIONER DESTRO: No.

17 MR. WATKINS: Or is it to advise the Administra-  
18 tion and the Congress on the effect of national policy  
19 regarding civil rights issues and where there is need for  
20 legislation, where there is the need for, perhaps, a  
21 change in the administrative policy, or a shift from  
22 emphasis where the major administrative bodies, HUD, HEW,  
23 or whatever they are called now -- what the impact of their  
24 policies are? In which case, being able to demonstrate,  
25 for instance, that there a SAC report that may suggest that

1 the economically disadvantaged state of a group of migrant  
2 farmersworkers is the result of employment and national  
3 origin and race discrimination, more than it is the result  
4 of their being economically disadvantaged. But their  
5 state of economic disadvantage is being used -- you know,  
6 the fact that they are disadvantaged makes them ideal  
7 victims for discrimination and violation of those civil  
8 rights and labor laws.

9 And what you are telling me is that slavery is  
10 an NLRB issue.

11 COMMISSIONER DESTRO: No, no, I am not. Let me  
12 make clear what I am saying here, is that we have a very  
13 different function than the EEOC and the more I sit on the  
14 Commission, the more impressed I am with it. What Linda  
15 said, that there are few agencies in this government, I  
16 doubt that there is any other one in the government, and  
17 in that respect Rabbi Saltzman was correct, there are very  
18 few other agencies that can give airing to issues like we  
19 can, very few.

20 And there is no question in my mind, having dealt  
21 with immigration and with some questions on migrant workers,  
22 I was very much involved in the Mario boat lifts and the  
23 litigation involving that -- there is no question that  
24 some of that involved race, some of it involved what  
25 happened to women in the camps, there is no question that

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1 it is a social issue, as well as a civil rights issue. But  
2 what we have to do, in order to be effective, if I got  
3 up and said there was a problem in the camps, everybody  
4 would say, so, what else is new?

5 But if we highlight, and we have to highlight  
6 what those problems are, provide the data, so that we can  
7 go to Congress and go to the President, and say, "Look, you  
8 are administering this program in a way that is not  
9 calculated to do the job it is supposed to do". And that  
10 is where I say my suspicion is, without having seen the  
11 migrant report, is that the staff doesn't have that  
12 impression of it.

13 If it is not focused in that way, all it is going  
14 to be is another one of these public documents with a  
15 number on it from the Government Printing Office, and  
16 nobody is going to use it.

17 We have got to have useful information that we  
18 can summarize quickly, and say "This is the problem, here  
19 is the data, now it is your responsibility to do something  
20 about it". You have to hit the mule between the eyes with  
21 a board, but if you are hitting him with this big marsh-  
22 mallow, it is not going to do any good. And that is my  
23 perspective.

24 MS. CHAVEZ: Can I just follow-up on that?  
25 Everybody is asking sort of the same question.

1 MR. WASHINGTON: Let me see if this question bears  
2 on it.

3 MR. PITTS: Mr. Chairman.

4 MR. WASHINGTON: Let me see if it bears on the  
5 same issue.

6 MR. EATON: It bears but --

7 MR. WASHINGTON: If not, let's hold it.

8 MR. EATON: We have too many issues, what issue  
9 are you talking about, social issues versus civil rights  
10 issues? I am talking about reports and what is the future  
11 of our relationship.

12 MR. WASHINGTON: Hold that, and we will let Linda  
13 Chavez go ahead, and then we will get to you, as soon as  
14 she finishes.

15 MS. CHAVEZ: Let me just give you an example of  
16 something that -- a study which the old Commission under-  
17 took and sort of update on that study that the new  
18 Commission is undertaking, that I think sort of highlights  
19 what we see as the difference between social issues and  
20 civil rights issues, and how we hope to be helpful in this  
21 process.

22 Again, as Bob said, to get information and be  
23 able to do something with it. The old commission did a  
24 report called "Social Indicators", it was done in 1978,  
25 and it was a compilation of statistics, primarily, which

1 showed that there are disparities on a whole bunch of  
2 social indices between groups, between black and white,  
3 men and women, and other national origin groups. And it  
4 went through such things as income, education, employment,  
5 job status -- just a bunch of charts. The underlining  
6 implication in that study was that there are differences  
7 between groups, and those differences are primarily due  
8 to discrimination.

9 Now, the study didn't say it explicitly, because  
10 it is a difficult thing to say explicitly and to prove,  
11 but that was the main gist of the report. And it was very  
12 dramatic, and you know that, you know the unemployment  
13 figures between white males and black males are totally  
14 out of kilter, the black unemployment rate is twice as  
15 high, and when you go down to black teenagers, you have  
16 50 percent unemployment rate. So, it is a very dramatic  
17 thing to put into a chart.

18 The question is once you have that information,  
19 what, if anything, can you do about the problem? If you  
20 look at that problem you say this is a civil rights  
21 problem, we have this problem because of discrimination.  
22 Then your answer is obviously going to be better Title VII  
23 enforcement.

24 But if you take a historical view and you look  
25 back at these figures and how these figures have changed

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1 over the years, one of the things that you are going to  
2 notice as you go back to the late 1940s, the 1950s and  
3 the 1960s there was still that gap. And I don't think  
4 anybody in this room would claim that there is more dis-  
5 crimination today, or as much discrimination today as there  
6 was in 1948, 1950, 1955.

7 Obviously, there is less discrimination and yet  
8 the statistics still --

9 (Simultaneous discussion.)

10 MS. CHAVEZ: No, I would say there is less dis-  
11 crimination, but we have a difference there. The point  
12 is you want to understand why there is this enormous gap.  
13 And if all you were given was the raw figures and the  
14 charts, you don't know really how to go about fashioning  
15 the solution. All you can say is let's keep doing the  
16 same old things, and maybe if we do more, it will work.

17 The new commission adopted a proposal to do a  
18 study on what is called "New Perspectives of Discrimination".  
19 We are going to go back and we are going to focus narrow-  
20 ly on one aspect of disparity between groups, and that  
21 aspect is income differential. Income differential affects  
22 a lot of things, first of all, the selection of what kind  
23 of job you have. It is also something that tells you  
24 how much you are going to be able to buy in other kinds  
25 of services, how much health care you are going to have,

1 how much housing and so on.

2           So, in order to focus, we are focusing on income.  
3 We have pulled together a panel of about 15 experts from  
4 around the country, economists, top-level people who have  
5 done research in this field. We have made sure that the  
6 spectrum is representative in terms of political views  
7 from the liberal to the more conservative, and we have  
8 asked them to sit down and to look at these statistics,  
9 and begin to tell us what other kinds of information we  
10 need on income.

11           So instead of just looking at the raw figure, we  
12 are going to take a look between groups on how much  
13 education they have, on what kinds of jobs they are doing,  
14 on what their family status is, and to try and look in a  
15 very focused way on what is going on there. So that when  
16 you come around to the solution part, that is what you  
17 are interested in, and that is what we should be interested  
18 in in solving these problems, not just disposing of them --  
19 someone will have a chance to begin to understand the  
20 problem, and to know what to do about it. To know, for  
21 example, in terms of educations -- we are going to try to  
22 get not just an education measure, in terms of the number  
23 of years as defined by the Census Bureau, but what kinds  
24 of schools these people went to; what kinds of courses  
25 they took in school.

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1           And if you are interested in doing something about  
2 the problem, having the kind of information you need to  
3 have. And that is the way in which we are going about our  
4 work.

5           Now, why anyone would object to getting more  
6 information, I don't understand. And yet, you would think  
7 this is some radical new thing that we are doing, and it  
8 has nothing to do with civil rights.

9           MR. WASHINGTON: Okay, sir.

10          MR. PITTS: Yes, sir, Mr. Chairman, I think many  
11 of us have come here with the whole bit was borne out of  
12 the struggle. We have come and we have listened so far  
13 to those whose lips drip with words of interposition and  
14 nullification.

15          And to the brother from Virginia who has been in  
16 the struggle, I would like to coin the phrase "the modern  
17 day cotton picker slavery". He cannot, we cannot leave  
18 the modern day cotton picker to the slavery, or this new  
19 slavery, that is covered up with the niceties of com-  
20 plexity.

21          I have heard that we now must define these issues  
22 based on whether they be civil rights, or social. I  
23 firmly believe that they are one and the same. They are  
24 the fiber and the garment together. They cannot be  
25 separated. It is as a rock that is thrown into a pond,

1 the water ripples and the level rises. That pond is  
2 changed for an eternity. The water from the murky creek  
3 from the left and the clear brook to the right may enter  
4 into the same stream and they will never be separated  
5 again.

6 So then how do you come and say to us these  
7 issues are, in fact, separable and apart? You would ask  
8 us to redefine mandates of the legislation and the histor-  
9 ical impact of this Commission.

10 It seems to me that to continue along this road  
11 that you have chosen, this yellow brick path -- I speak  
12 to Ms. Chavez and the Commissioner, is to follow after a  
13 beast that want this course of reason and like Naomi, we  
14 follow the mandate, the historical impact of this Com-  
15 mission and the State Advisory Committees to the grave.

16 This is no time for us to accept, you have heard  
17 of conservative policies, rules and regulations. Do not  
18 come here thinking that you shall sweeten our ears, remove  
19 us from our stand, because we shall oppose every move  
20 that you make in that direction.

21 It seems to me the time is now for you to hear  
22 what we have come to tell you. So, lend your ear and use  
23 your compassion for people.

24 MR. WASHINGTON: Hear, hear.

25 Mr. Azores.

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1 DR. AZORES: I belong to the Virginia SAC. I  
2 fully agree with the proposition, and unless it is revised,  
3 amended, or repealed we have to abide by it. So, it seems  
4 to me that the problem that we are talking about here boils  
5 down to the question of construction, so whether or not  
6 a specific problem involves social issues, or civil rights  
7 issues is a very debateable question.

8 Now, in this particular case where some of us  
9 feel that the decision of the Commission is wrong, or we  
10 don't agree with it, in other words. What I would like to  
11 know is this, what are the remedies available to us by  
12 way of review of it, or consideration?

13 And if judicial steps are required in order for  
14 us to get a definite and conclusive conclusion as to whether  
15 this is really a social or civil rights, are the SACs able,  
16 or are they empowered to hire lawyers at government expense,  
17 in order to know once and for all the question of whether  
18 a particular problem is social or civil rights?

19 COMMISSIONER DESTRO: Let me answer, in part, the  
20 question, if I may. I think that at this point certainly  
21 we are far from -- the Commission has never said that this  
22 report, in toto, was a waste of time, or was a bad report.  
23 From what I understand and what I have heard about it, is  
24 that the staff has problems with it in the way it is put  
25 together.

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1           Now, it seems to me that the first level, as Linda  
2 says, working together with the staff to solve their  
3 problem. If you don't like what the staff does, the first  
4 level of appeal, obviously, is going to be us, and we  
5 haven't even seen it yet. And we can't respond to your  
6 concerns legitimately until we have seen the work you have  
7 done.

8           And in that respect it is very frustrating for me  
9 to sit here and listen to what ogres we are, because we  
10 are not responding to your legitimate needs. And my own  
11 personal view is that you would have to be an idiot to  
12 think that farm workers and the migrant workers are not  
13 victimized. I mean, you have to be blind in one eye and  
14 not be able to see out of the other.

15           But it is just a question of how do you highlight  
16 it, so people will pay attention to you, and that you are  
17 saying something different. In this town I have learned  
18 that unless you say something a little different, you are  
19 never going to be heard. You have got to say it in an  
20 articulate, slightly different angle -- that's why reporters  
21 always crawl over each other to get the different angles  
22 on things.

23           So the direct answer to your question is it hasn't  
24 even reached us yet, we are still working on it. And Lord  
25 only knows, if the staff just threw it back to you and

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1 said forget this, this is over. That is not their right  
2 either. We are the ones who have that final say.

3 MR. LEWIS: Mr. Destro, you spoke very eloquently  
4 earlier about the fact that, as a lawyer, you believe in  
5 meticulously reviewing the case and doing your homework,  
6 and those very fine things. And I wonder whether I am  
7 hearing now that, perhaps, the Commission hasn't, in that  
8 there are several reports obviously being reviewed and  
9 rejected by the staff and you know nothing of them. And  
10 there are several decisions that, indeed, the Commission  
11 has made and, perhaps, there was some homework to be done  
12 that might not have been done.

13 I am just wondering whether --

14 COMMISSIONER DESTRO: No, that's really not it,  
15 because what I hear being said here is that you don't  
16 want us to review the reports before they are printed.  
17 And when something like this happens, it highlights the  
18 need for all of us to be working together on these things.  
19 We shouldn't be doing the work of the staff, and we should  
20 be supervising the work of the staff.

21 Now, it just appalls me that it took three years  
22 for the staff to tell you that it was dissatisfied. That,  
23 to me, is not worth the money we are paying them to do.  
24 Now, I don't know why that is and it is certainly up to  
25 the staff director to find out why that is.

1 MR. HARRIS: The reason for it, I can tell you  
2 now, is because you saw to give a new definition for what  
3 civil rights is. Now, that never occurred under the staff,  
4 until you tried to clearly define a difference between  
5 social issues, social policy and civil rights. That is  
6 where the problem came.

7 Now, as you have that problem with this one that  
8 is already in the hopper, what that says to us, and the  
9 reason we are concerned and upset about reports, what it  
10 says to us is are we going to be restricted to some narrow  
11 road as we go to deal with issues that are in our communities  
12 and in our states. And unless you can more clearly define  
13 what you are talking about when you are talking about going  
14 down one road on social issues, another road on the civil  
15 rights issues, and not ever let them intermingle -- unless  
16 you clearly define that, you are not going to have that  
17 open communication that you are talking about. I can tell  
18 you that very seriously.

19 COMMISSIONER DESTRO: Let me give you an example  
20 of one of the reports that I voted against in January, and  
21 why. And I know there is at least one or two commissioners  
22 who voted against it for the same reason. It was one of  
23 the ones that got the most press. We voted against a study  
24 on cutbacks in student aid, a big hot issue.

25 I am an educator, I know how much it costs kids to

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1 go to school, and I wonder how I could do it myself, if I  
2 were in their position today. And I sit on the Affirmative  
3 Action Committee at my own university and I know what the  
4 problems in education are, I know what the problems in my  
5 own university are, and I know there is racism involved in  
6 some of those.

7 But what my concern is, is look, we know that the  
8 student aid is going down, but we don't know how much dis-  
9 crimination there is in the administration of available  
10 student aid, because if we are not dealing with the question  
11 of administration and how that aid is parceled out, then  
12 even if the availability of funds went up, minorities would  
13 still not be getting their proportionate share. And that  
14 is a concern of mine.

15 And you can say it is too expensive to go to  
16 college, you need more aid. We all know that. But our  
17 concern is where does the discrimination have an impact  
18 on the legitimate recipients of that aid. And that study  
19 proposal didn't even touch it.

20 I never said we never want to study it, I said,  
21 look, if we want to study student aid, let's put together  
22 another proposal.

23 Now, it seems to me that that addresses a very  
24 serious social problem, which has a disproportionate impact  
25 on minorities. And the reason it has that disproportionate

1 a) there are four; and b) there is discrimination. And we  
2 need to find out how much of each.

3 MS. RATTLEY: You have us confused now.

4 MR. WASHINGTON: I know it is confusing, but you  
5 have been waiting, and we passed you.

6 MR. EATON: Sol del Ande Eaton from Maryland.

7 At the beginning of this meeting we talked about  
8 improving relationships between the SACs and the Commission-  
9 ers, meet frequently, get support of the Commission, our  
10 advisory committees be considered, et cetera, et cetera.  
11 I really would like to bring to your attention that if  
12 this is what we are all about, then today I would like to  
13 say, as the representative from Maryland, I would like to  
14 suggest to you that you review these two reports again.

15 Maryland did publish the report on migrant workers,  
16 and I will tell you why I am asking you to do this. I  
17 don't know what the difference between our report and their  
18 report is, if there is any. But I know that what has been  
19 published has done a lot of good in terms of people seeking  
20 legislation to help the migrant workers. The newspapers,  
21 the media has put much more emphasis on this. And I think  
22 our report, however humble it was, it has done a whole lot  
23 of good.

24 And I think the people from Virginia and Delaware,  
25 perhaps, would like to see some of those results in their

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1 own jurisdictions.

2 I am a little bit disappointed in the sense that  
3 the word of the staff comes back all the time from Mr.  
4 Destro, as the staff not being supported, or the staff  
5 doing their own thing. I don't know which staff you are  
6 referring to, but I am very grateful to the staff for  
7 helping us, that report was published due to the staff.

8 As you all know, we do this on a voluntary basis,  
9 so the work they do is very much appreciated. And I am  
10 just a little bit confused when you staff the staff is  
11 doing their own thing, the staff throws it back to the  
12 group -- I don't know if there is something else besides --

13 MR. WASHINGTON: Is there a difference between  
14 regional staff and central staff? Is that what --

15 MR. EATON: Yes, I am a little confused with your  
16 definition of staff, Mr. Destro. Would you please qualify  
17 that for us?

18 MR. WASHINGTON: Jessie, is that part of what  
19 confused you, or is it something else?

20 MS. RATTLEY: That is part of it, that is part of  
21 it because everytime Mr. Destro answers one of the partici-  
22 pants, one time he would say it was the staff that rejected  
23 the report; the next time I hear that the problem is  
24 because the printed. And, personally, I haven't heard  
25 that it is a problem with us. If you don't want a printed

1 report, we won't send you a printed report. I don't know  
2 if that is a real problem, but that keeps coming up.

3 Then another one, the last one, he said he review-  
4 ed one and he said it had no merit, you know, it had no  
5 substance, as far as civil rights is concerned. And then  
6 they go back to the social issues versus civil rights  
7 issues, and that is why I am totally confused. It is  
8 being bounced around.

9 So, if we could get the real problem, pick any  
10 report, take the Virginia report, was it that the staff  
11 didn't like it, was it that the Commissioners didn't like  
12 it, or was it the content?

13 You see what I am saying? You are giving us so  
14 many different --.

15 MS. CHAVEZ: Well, we are talking about a lot of  
16 different things, maybe we ought to separate them out.  
17 The Maryland report on migrant workers -- the migrant  
18 worker report that came out of Maryland was printed under  
19 the old rules on Advisory Committee reports. I saw those  
20 reports in printed form, as well as the Commissioners. I  
21 did not see them in a copy that was a draft, I saw them  
22 when they were actually printed up.

23 MS. RATTLEY: You are saying that is a different  
24 problem.

25 MS. CHAVEZ: This is the old way, and then it was

1 my duty to pass them on to the commissioners for them to  
2 accept, or reject the recommendations of the report. That  
3 is the problem, we have, I hope, rectified that problem  
4 by adopting the new procedure. That was a problem for a  
5 lot of reasons, and we have talked about some of those  
6 reasons. One of which is that it doesn't get the attention  
7 of the commissioners, it is a fait accompli, why bother to  
8 read it, it has already been printed, it has a disclaimer  
9 on it. We can disassociate ourselves from it.

10 We are talking about the real world, we are not  
11 talking about ideals. When you have this much material  
12 to read in two nights and it is something you can't do any-  
13 thing about, you are not going to spend time reading some-  
14 thing you can't do anything about, when there are other  
15 materials there.

16 MR. WATKINS: That is what you are supposed to do  
17 about it, accept it, or read it; and then accept or reject  
18 the advice.

19 REV. HARRIS: Ms. Chavez, your earlier statement  
20 was -- which presupposes that it was not worthy to have  
21 been undertaken in the first place. So, if you presuppose  
22 that it was not to be undertaken, then it never really was  
23 of any concern of yours to even read it.

24 MS. CHAVEZ: Let me just go one, two, three,  
25 because we are dealing with three different problems here.



1 One is the old way and some of the problems we had with  
2 the commissioners getting printed documents over which they  
3 had really nothing to say; they were already out, they  
4 were printed, they were disseminated, many of them, before  
5 the commissioner ever saw them.

6 And we have made rule changes in order to overcome  
7 some of the problems this created. And the Maryland report  
8 was a report done under the old way.

9 The Delaware report had not been printed yet, and  
10 it had come to the Commission, and under the new regulations  
11 they did not print it until the commissioners had had a  
12 chance to read it.

13 All reports go through what we call legal suffic-  
14 iency review, that, again, is part of the normal rules and  
15 regulations, and operations that the Commission has always  
16 been that way. I do not know why, and I will attempt to  
17 find out why for you. But the General Counsel's office  
18 career staff who reviewed the new unprinted report and  
19 said "This is outside the jurisdiction of the Commission,  
20 it must go back again", that should have been said at the  
21 very time that the concept came forward. The General  
22 Counsel's office should have looked at it and said, "There  
23 is a problem with jurisdiction, can you do such and such  
24 to fix it?"

25 REV. HARRIS: Was this after the redefinition of

1 jurisdiction?

2 MS. CHAVEZ: No, this was three years ago, it was  
3 the same people who should have been looking at it and had  
4 concerns about it three years ago. They did, or whoever  
5 was the supervisor said, "Don't worry about that, that is  
6 not your concern".

7 The point is, this was not a political decision,  
8 it was a decision that we do with how you focus a report  
9 to be a legal report, within our statute, and within our  
10 jurisdiction. Now, that should have been done, and we will  
11 get a letter to you to try and describe to you what the  
12 jurisdictional problems are.

13 It is possible, it is conceivable, maybe even  
14 hopeful, that once you know what those problems are, there  
15 are things that can be done to fix the report, in order  
16 that it come back and it will be a legal report within our  
17 jurisdiction. Then it goes to the commissioners and they  
18 adopt it, and it is printed. That is what one would hope  
19 would happen.

20 MR. WILCOX: Can you do that with the Virginia  
21 report?

22 MS. CHAVEZ: I promise you, I will have the staff  
23 review it and tell you what is wrong with it, specifically;  
24 get it back to you, and then you can decide what you want  
25 to do with it then. If you want to fix it, or not fix it;

1 if you decide you don't want to fit it, you don't have to  
2 do that. And then it will come to the Commission saying  
3 they will decide whether they want it to be an official  
4 Commission report, print it and disseminate it under the  
5 auspices of the Commission on Civil Rights.

6 They will accept the report, regardless, and they  
7 will read it regardless. They may not accept it for print-  
8 ing, but they will read it and it will be your advice to  
9 them.

10 REV. HARRIS: Thank you.

11 COMMISSIONER DESTRO: In answer to your question,  
12 Ms. Rattley, it is understandable, it is confusing, because  
13 we are talking about a number of things. When I talked  
14 about rejecting the student aid study, there was no study  
15 at that point, that was a proposal that was rejected.  
16 And as far as I was concerned, our staff had put together  
17 a proposal, they said, "Let's study this". And my reaction  
18 was that isn't going to be particularly helpful, why don't  
19 you go back to the drawing board and come back with some-  
20 thing that is a little bit more helpful.

21 And that is why I think it is important to have  
22 the commissioners involved in the process, because I think  
23 it is grossly unfair to a state advisory commission to have  
24 a report come up to the top and be rejected, without having  
25 had some -- without them at least telling you why. And

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1 maybe we can say why we don't really agree with some of  
2 the staff's recommendations. And it is not an adversarial  
3 relationship with the staff. I assume that everybody  
4 works in good faith, unless otherwise demonstrated because  
5 we all work in good faith, we can have misunderstandings.  
6 And all we have to do is communicate, in order to make it  
7 clear. And I think that is really all we are talking about  
8 here.

9 MS. CHAVEZ: I have to stand up and defend the  
10 staff on this particular one, because there is an --

11 DR. BICKLEY: Mr. Chair, I would like to clarify  
12 one point that I think in the comments of Commissioner  
13 Destro are confusing the members here. One is that he  
14 talks about going against a study or a project, and I am  
15 afraid some of these people might think that it was one  
16 of their projects and one of their studies that came to  
17 headquarters. And I think we should clarify these two  
18 projects and how they are handled.

19 MS. CHAVEZ: Let me just follow up, I don't want  
20 the staff to be dumped on. I want to defend them.

21 The proposal that the Commissioner talked about  
22 was a proposal that had been approved by the previous  
23 Commission. It was, as a matter of fact, not a staff  
24 recommendation, it was a recommendation made by the  
25 Commissioners who were on the Commission, prior to the

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1 new constituted Commission. As a matter of fact, what the  
2 staff said, and what one of the two commissioners who  
3 voted against the majority position on this, acknowledge  
4 that that particular study, the study of student financial  
5 assistance, could not be done -- it could not be done  
6 because although the President had recommended such a  
7 student financial assistance, the Congress had restored the  
8 money. So, there was nothing to study.

9           It was simply it could not physically be done,  
10 you cannot study a problem that did not take place. And  
11 so that study wasn't done, in part, for that reason. Even  
12 if we wanted the study, it was not done.

13           MR. WATKINS: Let me go back to a question that  
14 I opened with, and perhaps explain my reason for asking  
15 it, based on what Mr. Destro said about his reason for  
16 rejecting the study was different than Ms. Chavez's  
17 information.

18           The concerns that I know that I, and a number of  
19 people of my state and committee have, is over your  
20 definition of the role of the Commission. And my question  
21 before about how narrowly you define that role in terms  
22 of identifying violations of Title VII. I think my  
23 question about the role of the EEOC is specific, that is  
24 their job, to my understanding anyway.

25           One of the studies which our committee discussed

1 and formed a subcommittee to address, and then subsequently  
2 dropped because of the change and other things, we had  
3 greater concern was the impact -- or to determine whether  
4 or not there was a disparate impact, economic impact as  
5 the result of the changes in the block grant -- or the  
6 administration of block grant program. This was a study  
7 which had already been conducted in the southwest and  
8 reported on. And we wanted to find out, in Pennsylvania,  
9 first of all, who was responsible for seeing that that  
10 didn't happen.

11 Now, that is not by any stretch of the imagination  
12 to me, anyway, a search for a direct violation of Title VII,  
13 although you might, if you followed it down to a fine  
14 enough point, find a place where a minority contractor  
15 was denied a contract on the basis of discrimination and  
16 you could find a Title VII violation.

17 What we were looking for was to identify whether  
18 or not a national policy, adopted by the legislature and  
19 the administration, was going to have an unpredictable  
20 disparate impact that we could identify, quantify,  
21 characterize and report back to the Commission, and say  
22 "Commission, we think you ought to go to the Administration  
23 or the Congress and tell them that they have done some-  
24 thing which has an unpredicted impact, which has an impact  
25 in terms of civil rights, and maybe social policy -- I am

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1 not sure, that's what I am leading up to.

2 And I think, from what the two of you have been  
3 saying, that this is not what you consider to be the role  
4 of the Commission, or the role of the State Advisory  
5 Committees. And I think, if that is the case, then maybe  
6 we don't need a Civil Rights Commission, because we already  
7 have an EEOC. It is not an advisory commission, it is  
8 a commission set up to enforce a law.

9 And I have never been under the impression that  
10 this Commission's job was to enforce the law.

11 Now, my question is what is your concept of the  
12 role of the Commission, vis-a-vis civil rights, social  
13 policy, what have you? Because from everything that I  
14 have read, I don't think we agree.

15 MR. WASHINGTON: Let me intervene for just a  
16 moment. As a matter of courtesy at this point, I want  
17 to acknowledge the presence of our chairman of the  
18 Commission, Clarence Pendleton, Jr., who has arrived.  
19 Some of you didn't know, it, but he is here. He came in  
20 quietly, and I didn't want that to happen -- that he  
21 would be here without you knowing it. He is here, and  
22 I want to say to him that the questions and discussion  
23 has developed into one that is fairly lively. He came  
24 in quietly -- I don't know whether you want to stay, or  
25 leave quietly. But I am sure that the brothers and

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1 sisters here will eventually, if not now, get to questions  
2 of you. We are pleased to have you, and I wanted to  
3 acknowledge your presence as our chairman, to the partici-  
4 pants here.

5 COMMISSIONER PENDLETON: If I could jump in, Mr.  
6 Washington, to answer Mr. Watkins question.

7 MR. WASHINGTON: Be our guest.

8 COMMISSIONER PENDLETON: I am sorry I look like  
9 Daffy Duck, I didn't know where this meeting was, until  
10 a half hour ago.

11 I wanted to let you know that I am here, but I  
12 think it is important -- I'm sorry, did I interrupt some-  
13 body?

14 MR. WASHINGTON: No, sir, you have the floor,  
15 please.

16 COMMISSIONER PENDLETON: I just want to say that  
17 I have been to all of the meetings this time out, in all  
18 of the SAC areas, and a couple of State Advisory Committee  
19 meetings in St. Louis, and one in New York the day before  
20 yesterday. And I am pleased to say that the discussion  
21 has been spirited, and we have come to some resolution in  
22 the end.

23 Not to go on with platitudes about where you are  
24 and where we are, Mr. Watkins, I see us clearly subscribing  
25 to the mandate as put up in the United States Commission

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1 on Civil Rights back in 1983. And it says exactly in that  
2 Act what we will do. And in terms of whether or not we  
3 get into social policy, I don't think you are going to see  
4 this Commission cut social policy at all, because to our  
5 way of thinking social policy and social programs are not  
6 a civil right.

7           There is a clear distinction between the two. We  
8 voted that way, and it is clear with us that if there are  
9 civil rights violations and the like, we want to look at  
10 that. If it means that a social program is out there --  
11 we are looking at one this time, the Federal Civil Rights  
12 Enforcement of Vocational Rehabilitation. We want to find  
13 out whether or not the states and localities in the federal  
14 government are doing what they are supposed to do under  
15 that specific act, and follow those monies through, because  
16 there is a considerable amount of money in those programs.

17           The level of funding in those activities is not  
18 our concern, it is just to make sure if there is one dollar  
19 or \$100 million, that that money is not distributed in a  
20 manner that can be perceived, or is really discriminatory.  
21 And we want to look at that.

22           So, it is clear with us where social goals are  
23 admirable social goals, and the Commission in the past has  
24 dealt with social activities, this Commission will not.  
25 And I think that is appropriate.

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1 MR. WATKINS: I would like somebody to tell me  
2 what the differences are.

3 COMMISSIONER PENDEETON: The Civil Rights Act of  
4 '64, and the preceding acts, and succeeding acts, laws and  
5 statutes and so forth, have all talked about making every-  
6 body equal; have all talked about non-discrimination in  
7 the allocation of public resources and denials and so  
8 forth.

9 As plainly as I can put it, none of us can be  
10 denied a room in this hotel, that is against the law on  
11 public accommodations. That is civil rights.

12 If the government in its wisdom decides to pay for  
13 our room, that looks out for our welfare, and that belongs  
14 in some other agency, not with the Civil Rights Commission.  
15 The only thing that we are really concerned about is where  
16 you are denied access to the room.

17 There were the social goals that the government  
18 gets into that we can all subscribe to and they are worthy  
19 programs that are the subject of annual debate in the  
20 Congress. Civil rights policy cannot be the subject of  
21 annual debates, and as budgets go up and down, based upon  
22 what the Congress says, that is a legitimate public  
23 debate situation. And that is how I think many of us see  
24 the difference.

25 MR. WATKINS: How would you define the difference

1 between your role and that of the EEOC?

2 COMMISSIONER PENDLETON: Our role is fact-finding,  
3 clearinghouse work, monitoring to make sure that all of the  
4 laws are being carried out in a non-discriminatory manner.  
5 EEOC's role is strictly that matter of enforcement and  
6 investigation. There is a distinct difference.

7 So, for you to say that we don't need the  
8 Commission, that could be very true, maybe we don't need a  
9 Commission. The EEOC's role is a matter of enforcement.  
10 But if Congress passes the law and says that we are the  
11 fact-finding agency and we begin to give policy recommenda-  
12 tions to an administration, or Congress, that is our role.

13 And what amazes me is that many people that I  
14 talk to around the country have never read the 1983 U.S.  
15 Commission on Civil Rights Act.

16 MR. WATKINS: What I was suggesting was that as  
17 in an advisory capacity, this organization might identify  
18 discriminatory impact that is not a violation of Title VII.  
19 And it seems to me that that is part of its role. It says  
20 here a clearinghouse of information, to apprise the laws  
21 and policies of the federal government with respect to  
22 discrimination or denial of equal protection of the laws  
23 of the Constitution. There might not be overt, individual  
24 discrimination against an individual who is denied access  
25 to this hotel.

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1           COMMISSIONER PENDLETON: I probably agree with you  
2 to a point, I think it is clear that if in the course of  
3 doing the work you find something that is not appropriate,  
4 not being handled right, I think it would be appropriate  
5 for us to pass that information along. But in terms of  
6 whether or not that is jurisdiction, or not, it is really  
7 not jurisdictional.

8           But I think we would be derelict in our responsi-  
9 bility if we saw something and said, Look, there is a  
10 problem we can see, and maybe Justice, maybe Civil Rights,  
11 and Office of Education; maybe Civil Rights at HHS -- there  
12 is a problem, and maybe you want to take a look at that.

13           We did that in the case of the black farmers, in  
14 the face of losing their land, we sort of like did a report  
15 in that area about whatever is really happening. And we  
16 have an ongoing dialogue, since I have been a part of the  
17 old and new Commission, with Secretary Block, to try to  
18 get that whole advisory committee process over there  
19 squared away, and to make certain that blacks who have  
20 farmland don't lose it all.

21           MS. CHAVEZ: I said to you earlier that when the  
22 study that we are doing on income differences of different  
23 groups, this is going to try to get in-depth information  
24 on what those differences are. We are not going to say  
25 whether or not there is discrimination, so let's just close

1 our eyes and forget about the rest of it. We want to get  
2 that information, we want to be able to pass that informa-  
3 tion on to policymakers. But I have heard some people in  
4 this room saying we don't care, we know where the answer  
5 is, if the answer is discrimination, we don't need the  
6 facts and figures. We don't need any of your incoming  
7 information -- I have heard people say that and I am con-  
8 fused by that, because I think that our role is to put  
9 together as many facts as we can, to try to begin to under-  
10 stand the nature of the problem.

11 And it is not always going to be absolute dis-  
12 crimination as defined by violation of Title VII. It may  
13 be inadequate education, it may be the schools in certain  
14 parts of cities having different kinds of education than  
15 in other parts, that that the students who live in low  
16 income areas are predominately minorities. We want that  
17 information, we want to be able to pass it on to policy-  
18 makers, so they not just say well, let's just go out and  
19 have better enforcement of the Title VII and the Civil  
20 Rights Act. Maybe they are going to have to come up with  
21 different solutions -- that's the role that we can play.

22 We are not going to close our eyes at the problems,  
23 but we are going to try and define what those problems are  
24 in order to come up with appropriate solutions to the  
25 problems.

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1 MR. WATKINS: Yes, but the denial of that report  
2 is based on the fact that it doesn't suggest a direct  
3 violation of Title VII. That's where I don't agree.

4 (Simultaneous discussion)

5 MR. WASHINGTON: I didn't understand that there  
6 was a reaction to not getting facts. I understood that  
7 the question was raised with respect to a specific, and the  
8 answer was well, we don't need anything more on that. And  
9 I didn't get the impression, and I want to clear that up,  
10 that there was any consensus on that point. In fact,  
11 I think that is an important distinction to make.

12 MR. WILCOX: We never assumed that we were the  
13 experts. All we did was, in fact, say that we didn't know  
14 anymore than anyone else. We just collected the facts.

15 I think we are talking about the same thing, but  
16 it is not connected.

17 MS. CHAVEZ: We are trying to package it in such  
18 a way that it comes within our jurisdiction, that's what  
19 we are talking about.

20 MR. WASHINGTON: You had your hand up -- Mr.  
21 Azores, you are next.

22 MR. AZORES: I am sorry, but I think that my  
23 question hasn't been answered. I am referring to a case  
24 where a particular SAC was discriminated against, the  
25 findings and conclusions were with respect to jurisdiction.

1 And then this particular SAC decides to debate this to the  
2 courts, who after all is the final arbiter who will really  
3 interpret the law. Now, the person is considering that  
4 we SAC members are volunteers, we don't get salaries --  
5 we are public servants of the rights of the poor and the  
6 down trodden. Can we expect government funds, in order to  
7 defray the expenses of the lawyers?

8           COMMISSIONER DESTRO: I wouldn't think so, and I  
9 would argue strenuously that that is not appropriate. I  
10 think -- we define our own understanding of our jurisdiction  
11 just as, in part, you define the understanding of what you  
12 feel is your jurisdiction.

13           Now, if there is a disagreement, we set up the  
14 disagreement and we have to leave it to Congress to decide  
15 who is right on this. But I seriously doubt that, as one  
16 who teaches federal court, that there would be a federal  
17 court in the country who would touch a case like that with  
18 a 10-foot pole.

19           DR. AZORES: Are you saying now that your find-  
20 ings and conclusions with respect to a particular question,  
21 like the question of jurisdiction, which is a question of  
22 law -- are you saying now that that is final, and not  
23 appealable to the courts?

24           COMMISSIONER DESTRO: No, what I am saying is that  
25 I think the courts would hold, if you were to go to court,

1 that the Commission is the final word on where its juris-  
2 diction is, as long as that is not a clearly erroneous  
3 determination of its jurisdiction. Jurisdiction by its  
4 essence, if you study jurisdiction in anyway, is inherently  
5 somewhat discretionary, but as long as it is not clearly  
6 an erroneous determination of what jurisdiction is, I  
7 really don't think that very many courts would get involved  
8 in that.

9 DR. AZORES: And precisely who would determine  
10 what is erroneous?

11 MS. CHAVEZ: The courts would decide, the U. S.  
12 Supreme Court, in the funding case involving the State of  
13 Texas defined very clearly the distinction between edu-  
14 cation as a civil right. And what they said in that case  
15 was that if a state provides public education to the  
16 inhabitants of that state, then it had to do so in a non-  
17 discriminatory basis, on the basis of race, color, natural  
18 origin, sex and religion.

19 It also said that it did not have to spend equal  
20 amounts of money in the different portions of the state.  
21 Because education, in and of itself, is not a right. What  
22 is a right is that one has education and it is a program  
23 that is administered in a non-discriminatory fashion.

24 So the courts have spoken on the difference  
25 between civil rights issues and discriminatory issues.

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1 In terms of the advisory committee and whether  
2 you have access to recourse in the courts, you are depen-  
3 dent bodies of the Civil Rights Commission. If you dis-  
4 like what the Civil Rights Commission does, if you dislike  
5 our definition of jurisdiction, the only appeal is the  
6 Civil Rights Commission. You are advisory to the Commission.  
7 The Commission cannot and would not expend funds on a law-  
8 suit as a private individual. If you can find a civil  
9 rights, or other kind of organization to pay for such costs,  
10 conceivably you could go to court on that, but I wouldn't  
11 give it much chance succeeding, if you read the Federal  
12 Advisory Committee Act.

13 MR. WASHINGTON: I am going to, unless somebody  
14 objects, ask for a five-minute recess. We will come back  
15 and have a full hour and try to recognize everybody who  
16 has their hand up, as I have.

17 Does anybody object?

18 (No response.)

19 (Whereupon, a short recess was taken.)  
20  
21  
22  
23  
24  
25

1 MR. WASHINGTON: Ladies and gentlemen, this is  
2 moving along very well. I had just a little problem trying  
3 to recognize you all as your hands went up, but I don't  
4 think I've missed anyone.

5 While I was out at the break, someone said to  
6 me, outside of the Director's vision, that they had not  
7 heard anything from Bill Conner, that he's been so quiet  
8 at the meeting -- he's over here. We've heard a lot from  
9 this side from the Virginia folks, but it's been good, and  
10 that's the nature of what we wanted.

11 I also wanted to break because I wanted you to  
12 have a little communication between each other. I think  
13 it would be well to start off, to have Bill Conner, who is  
14 a law professor at Delaware Law School and he's twice been  
15 elected County Executive with a distinguished career and,  
16 as many of you know, Mrs. Conner, before him, chaired the  
17 Delaware SAC.

18 Joe, we've had many points of view, and answers,  
19 and much discussion on the matter. In your own way, you  
20 might want to give us your views as you see them from your  
21 vantage point as a person who has been in the field, and  
22 I know all of us would like to hear from you.

23 MR. CONNER: I was sitting here thinking that  
24 I have a little bit of a detached viewpoint because I  
25 haven't been a part of any of these reports that are so

1 much in controversy here, although my wife was, but I got  
2 to thinking about the apparent view of the new Commission  
3 and Staff Director, of the role of the advisory committees.  
4 I don't know that they articulated it quite this way, but  
5 it seems to me that it shakes down something like this,  
6 that somebody up there is looking at the advisory committees  
7 as though they were the state offices of the Commission  
8 rather than being advisory groups.

9           It seems to me the role of an advisory group is  
10 to bring the best advice that they can generate to the  
11 Commission, and if the Commission elects not to take it,  
12 that is their prerogative, indeed, their responsibility if  
13 they think it is wrong, and if they think that it requires  
14 further elucidation, they could all send it back and ask  
15 more questions and get the reports fleshed out if they  
16 are lacking in some way, but it seems to me that the state  
17 advisory committees have been the impression that they are  
18 being choked off, that they are not going to be allowed to  
19 speak out, the reports aren't going to be printed and so on  
20 unless somehow they meet the views and the policies of the  
21 Federal Commission itself.

22           Now, it seems to me that stands the whole matter  
23 on it's head. And I would like to see this easy relation-  
24 ship that Mr. Destro called for that we should have between  
25 us and the Commission and staff prosper, and it seems to me

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1 the way to do that is to let the state committees say any-  
2 thing they please.

3 That isn't to say that they can go off in the  
4 area of federal environmental policy or something and waste  
5 the Commission's money on studies of the environment that  
6 have nothing to do with civil rights, but at least they  
7 ought to be allowed to express opinions. They ought not  
8 to be told that they can't release a report because it is  
9 only partially completed, you can't talk about it to the  
10 press, who is sitting there anyway.

11 Why don't we relax, and if we have a different  
12 view of what the proper area of responsibility of the  
13 Commission is than some of the commissioner's do, why not  
14 let us say so, and if you don't agree, well, then, you have  
15 the votes, but at least we are not squelched.

16 So that would be the basis on which I would like  
17 to see us go forward.

18 MR. WASHINGTON: Yes?

19 MR. PENDLETON: Mr. Conner, you raise a point  
20 that I think is critical. The media impression about the  
21 actions about the SACs was that there was an attempt to  
22 muzzle, stifle, you can't say what you want to say.

23 I think the record, the transcript will show  
24 just the opposite, that within the jurisdictional frame-  
25 work of the Commission, you can say what you want to say.

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1 There is no attempt to stifle anybody's comments, no attempt  
2 to censor any of that.

3 And I think it is important for us to understand  
4 that one gets agreement from disagreement moreso than when  
5 everybody says they all like or agree.

6 From a personal point of view, what I'm looking  
7 for -- and this perhaps pertains to one of Reverend Harris'  
8 comments at the break -- I'm searching for that intersec-  
9 tion between what it is people on one side of the aisle  
10 believe and what it is some of us on the other side of the  
11 aisle believe, and the only way to do that is to continue  
12 the dialogue, and I think that the SACs are advisory and  
13 are not offices of the Commission.

14 There are rules against that, and I think it  
15 would be inappropriate even if there were not rules against  
16 it, to take people who have interests, who have skill, who  
17 have talent, who have spent time in this whole civil rights  
18 arena for years, to say suddenly we want to make some  
19 ideological changes in what you say.

20 Far be it. And I don't think that any commissioner  
21 nor the staff director believes that that is what we are  
22 trying to do. I think what has happened is there needs  
23 to be a set of operational words about how the new process  
24 begins to work. I know that Mrs. Chavez is working at  
25 that, how you really do it. What do we talk about in terms

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1 of the fame and the grade, but in terms of content, that  
2 isn't the issue at all.

3           There have been some reports that we have seen  
4 that have had some glaring errors about reference to laws,  
5 just some mistakes. So when you get some, it's a matter  
6 of making certain before it goes to print, that everything  
7 in there -- that the "i's" are dotted and the "t's" are  
8 cross, and there is no problem with its content in terms of  
9 what it's references and so forth, but in terms of content,  
10 you say, you do what you damned well please, and if you  
11 disagree with us, I think that's healthy.

12           And I don't think anybody can say to me -- and  
13 most of my colleagues -- I'll let Mark speak for himself --  
14 I am not threatened by what it is you say that may be  
15 different, and I will not be disagreeable with you. I  
16 might disagree, but I think you have a perfect right to say  
17 what it is you want to say. And if we believe in civil  
18 rights, what else can we do.

19           MR. CONNER: There was a marvelous old story,  
20 Mr. Pendleton, about Al Smith, who ran for President, the  
21 first Catholic to run. He went out with a group of Pro-  
22 testant and Catholic friends for a fishing weekend, and  
23 after playing poker until 4:00 a.m. and drinking much  
24 whiskey, he got up at 6:00 o'clock to go to Mass.

25           And as he and his Catholic friends were stepping

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1 over the recumbent forms of their Protestant colleagues,  
2 he turned to his Catholic friends and whispered, "God,  
3 wouldn't it be awful if it turned out that they were right  
4 and we were wrong?" (Laughter.) It could happen to any  
5 of us.

6 MS. BICKLEY: I want to shift the focus a little  
7 bit. I have a question. When I came into town last night,  
8 I noticed an article in the Washington Post, and also  
9 something that came on television concerning Title IX,  
10 and since that is my business -- I am employed by the  
11 college -- I'm a little bit interested. In the direction  
12 that the Commission sees that did not seem to be either  
13 the question between social and civil rights, or maybe it  
14 was there and I didn't understand it.

15 I'm kind of curious about the direction of those  
16 kinds of interpretations of civil rights, what future,  
17 what can we expect from the Commission?

18 MR. PENDLETON: I'm certain that our testimony  
19 is available to you up on the Hill, about how we felt about  
20 it. We, -- as a Commission, we had not seen legislation  
21 when the court opinion of the decision came out, and what  
22 we said as a Commission was that, yes, we support institu-  
23 tionwide coverage, but we wanted to pinpoint the remedy  
24 which is already in the law, in essence.

25 The newspapers reported that as a 6-to-2 vote.

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1 That was the first time we tried to work together as a  
2 collegial body and, strangely enough, Commissioner Berry's  
3 comments, that were really a motion that got voted down,  
4 was an introduction to our Title IX statement.

5 We have not made any Title IX -- and the syntax  
6 of what she said was, "I agree with the statement"; but  
7 she had voted against it in the course of the meeting. We  
8 have not seen any legislation yet. We think that there  
9 is really some -- I mean, among staff people, and I share  
10 some of that, and some of my colleagues share it, that how  
11 far does it go when you change the word "program" or  
12 "activity" to the word "recipient", and the discussion about  
13 trickle up and trickle down, and whether that gets into  
14 all the federal money received directly or indirectly by  
15 a recipient gets to be a problem.

16 We really haven't said anything other than what  
17 we said in the original statement, and I would just chance  
18 that at our next Commission meeting, we will probably have  
19 some report about where we are with the legislation, coming  
20 from staff. And I'm certain on July 5, or whatever that  
21 date is, that we're going to be able to make some other  
22 definitive statement about it.

23 When I testified at the Senate, I did not give  
24 any Commission statement about policy because there was  
25 none. We talked about an analysis of the House bill and



1 the Senate bill, from a staff point of view, and I'm happy  
2 to report to you that Senator Leahy's staff person talked  
3 with our General Counsel for about a half an hour and said  
4 that we had the fairest presentation of anybody, the most  
5 balanced and the best presentation about Title IX that he  
6 had heard. And it means that they are going to get to-  
7 gether and talk about the kind of thing that we see could  
8 be problems, not ideologically but just plain operational  
9 problems, and I thought that was a good thing for us and  
10 tended to minimize any comments from the other side of the  
11 aisle.

12 MRS. CHAVEZ: The two policy positions that we  
13 did have on the legislation is that we are in favor of  
14 overturning the program specific aspects of the Supreme  
15 Court decision in Grove City. The other policy position  
16 that the Commission did take a specific position on was on  
17 fund termination, and the Commission voted to retain the  
18 current language under Section 602 of Title VI and Section  
19 902 of Title IX, we would say that when it goes to terminat-  
20 ing funds if there has been a violation of civil rights  
21 under this Act, that the actual termination of funds only  
22 goes to that program or activity which has been found to  
23 be discriminating. That has been the interpretation of  
24 the law prior to the Grove City decision, and what the  
25 Commission voted was to retain that.

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1 All the civil rights organizations that have been  
2 arguing for the new bill claim that the new bill will go  
3 no further than that in pinpointing fund termination.

4 We looked at the language, and we believe at the  
5 staff level that the way in which the bill is written may  
6 not guarantee that fund termination precisely as it was  
7 before Grove City, and we did talk on this in our analysis.  
8 That's really the only two areas. In one of those areas,  
9 we are fully consistent with the position of the Civil  
10 Rights Commission, which is that broad interpretation of  
11 who is covered under the Act.

12 MR. PENDLETON: Just one more point, Mr. Washing-  
13 ton. A lot of us negotiated out that position. There are  
14 people who believe in the broad interpretation, there are  
15 those who believe in the narrow one, there are some who  
16 believe in the Supreme Court decision as written, and I am  
17 happy to say that Bob Destro and Frances and I sat down  
18 just talking about it the night before we voted on the  
19 statement, and we became clearer, and we actually sat down  
20 and drafted a statement that our colleagues looked at the  
21 next day, and we all gave a little bit to be able to say,  
22 here we are, here's what we can support. It didn't com-  
23 promise anybody's principles, but that's what we thought  
24 was in the best interest of the Commission and in the  
25 best interest of the people that we think we have to send

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1 a message to.

2 MR. WASHINGTON: Yes?

3 MR. MC INTYRE: I am likewise concerned about  
4 what I read in the paper yesterday. Let me contribute to  
5 the health and welfare of the Commission slightly by dis-  
6 agreeing, inasmuch as disagreement is the source of some  
7 of this wholesomeness.

8 Are we opposed to the bill that passed the House  
9 yesterday 10-to-1? Are we opposed to that?

10 MRS. CHAVEZ: We have -- the staff of the  
11 Commission, both career and non-career staff have looked  
12 at that bill and has said that the language in the bill  
13 is not very clear. Because the language is not very clear,  
14 we don't know whether it's going to broaden in some aspects  
15 or narrow in some aspects.

16 When the Chairman and I testified before the  
17 Judiciary, we gave testimony -- the Chairman on the policy  
18 aspects and I on the SAC analysis -- on ways in which we  
19 believe the current language will affect the interpretation  
20 of Title IX, Title VI, 504 and the age discrimination act.

21 MS. BICKLEY: Are we opposed or not?

22 MR. MC INTYRE: Do we oppose that bill?

23 MRS. CHAVEZ: We have not taken a position on the  
24 bill. All we have done is said there is language in the  
25 bill that is very fuzzy. We don't know what it means.

1 MR. MC INTYRE: Well, let me go on. Why does  
2 that concern us? You see, we have listened for two hours  
3 this morning on the reasons and justifications for sucking  
4 in our collective jurisdictional bellies. Now I see us  
5 expanding that jurisdictional belly in a direction quite  
6 different from -- let me make my point -- quite different  
7 from what we were discussing this morning.

8 Were we invited to come to the Senate --

9 MRS. CHAVEZ: Of course.

10 MR. MC INTYRE: Well, of course, I'm not --

11 MRS. CHAVEZ: We have always been invited, for  
12 27 years.

13 MR. MC INTYRE: Did we ask to be invited?

14 MR. PENDLETON: We did not ask to be invited.  
15 We were asked. You will recall, in the asking process --  
16 in the House, Mr. Symon's committee would not let Mrs.  
17 Chavez give the testimony and insisted that I be there.  
18 And we said there were 29 other instances in which the  
19 Staff Director had given testimony on legislation like  
20 this, and it was appropriate to do it. I was in California  
21 and couldn't get away. As a result, we sent our testimony.

22 MRS. CHAVEZ: For 27 years, we have testified  
23 on civil rights legislation. There has never been, since  
24 the creation of this Commission, a civil rights bill in  
25 which the Civil Rights Commission wasn't asked to testify.

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1 We have always testified. We did this time, and we always  
2 have.

3 MR. MC INTYRE: But Mr. Symon's and Mr. Biacci's  
4 bill, I'm sure, was designed to eliminate discrimination  
5 as to sex, under Title IX, is that right?

6 MR. PENDLETON: No, sir.

7 MRS. CHAVEZ: It was designed to overturn a  
8 Supreme Court decision.

9 MR. MC INTYRE: Which lessened the protective  
10 coverage of Title IX.

11 MRS. CHAVEZ: We are in favor of that being  
12 overturned. The question is, how to do it? What is the  
13 best law that you can come up with which will do what you  
14 want to accomplish.

15 MR. PENDLETON: And it was the reach of that  
16 legislation that went to 504 and the Age Discrimination Act  
17 and the change, the return from program activity to  
18 recipient that bothered us. Who is a recipient?

19 MR. MC INTYRE: Why does it bother you, Mr.  
20 Pendleton?

21 MR. PENDLETON: It bothers me because in terms  
22 of us appraising the civil rights laws that are out here,  
23 and say, for example, in the indirect aid situation or  
24 indirect funding situation of federal money, in your state,  
25 that in Morgantown there is minority contractor out there

1 that didn't get a piece of a contract let in that area.  
2 Then that means that all of the money for the state could  
3 be cut off. All I'm saying is that that triggers it off  
4 into the welfare recipient, it triggers it off into the  
5 housing vouchers, wherever there is federal aid, that whole  
6 thing trickles backward.

7 Now the question becomes, if you have recipient-  
8 wide cutoffs of money, does that accomplish anything, or  
9 if you pinpoint the remedy, does it accomplish something.  
10 And as we appraise the laws, not to be judgmental, we have  
11 to know where those things are. And if somebody asks us,  
12 that is a substantial change from program activity to  
13 recipient.

14 MR. MC INTYRE: As I read the newspaper account,  
15 and it may be inaccurate, we were objecting to the law  
16 because, one, it's vague, as I read the quotation, and,  
17 two, because it was intrusive on private prerogatives, in  
18 a general way --

19 MRS. CHAVEZ: That is not what I said. You  
20 are not reading a quote. If you go back and look at the  
21 article, that was not a direct quotation. There were no  
22 quotation marks. That was the reporter's interpretation  
23 of what I said. I'd be happy to give you copies of our  
24 testimony. It is very clear. You can judge for yourself  
25 what we said. We did say the law was unclear.

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1           Virtually everyone is saying the law is unclear.  
2 My only direct quote in there was that there is going to  
3 be an enormous amount of litigation and that we hope that  
4 the Congress would not be saying, "That's not what we meant  
5 when we passed this law".

6           MR. MC INTYRE: The Commission, as it exists  
7 today, has earned the immediate reputation of being a very  
8 conservative body. Whether it is or not, I, for one,  
9 don't know. I'm inclined to go along with the view that  
10 it is much more conservative than the one it succeeded.

11           Now you are not contributing to discouragement  
12 of that attitude by going before a legislative body and  
13 opposing a piece of legislation or announcing that it's  
14 unclear --

15           MS.. CHAVEZ: We didn't oppose it.

16           MR. PENDLETON: There are some things we oppose,  
17 but the other problem here is, Mr. McIntyre, in all fair-  
18 ness to all of us, if we just had some other means of  
19 knowing that what we say to one another or other bodies  
20 other than the newspaper. And it seems to me that in many  
21 cases, the newspaper --

22           MR. WATKINS: I'm just glad you don't have any-  
23 thing to do with the First Amendment, too.

24           MR. PENDLETON: Well, I'll take that in another  
25 way, but let me just say to you that we communicate that

1 way, and people see something in a newspaper and it might  
2 be part of a quote or part of something else, and all I'm  
3 saying is that that presents a problem.

4 We never opposed anything at all. There's no  
5 where in the record -- and perhaps one needs to ask your  
6 own senatorial or congressional people for a copy of the  
7 transcript and read it for yourself, because that's the  
8 verbatim testimony. When you read it in the newspaper,  
9 with all deference to Mr. Watkins, I'm not so sure that's  
10 the best way to do it. I am saying that the record is  
11 there for you to look at.

12 Now in terms of whether or not we disabuse some-  
13 body about our laws being conservative, having a more  
14 conservative vent, however you want to define that, I  
15 don't think I disabuse that at all. I think it's clear.  
16 I am one, and I have been one, but I don't stifle the  
17 dissent of those who think another way.

18 Everything that we have ever done has been a  
19 vote. And Mr. Reagan did take care of that, Mr. Watkins,  
20 you're absolutely right, and I would hope that this meeting  
21 would not degenerate into that kind of side talk because  
22 that doesn't get us anywhere.

23 I came here for one reason. If you've got some  
24 questions to ask about what we are going to do with the  
25 SACs and how we're going to go forward with civil rights.

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1 If you want to change this into a discussion about who I  
2 am and who Reagan is, we can do that, but I'm not so sure  
3 that's where you're here.

4 (Simultaneous discussion.)

5 MRS. CHAVEZ: What you read was a direct quote  
6 that said we don't want the Congress ending up saying "We  
7 didn't mean that when we passed the bill", and we don't  
8 want this bill to be one that is totally left to the courts  
9 to decide what it means. That's not good legislation.  
10 You don't write a bill and say, "Well, we're not really  
11 sure what it means, but we don't have to worry about that,  
12 let the courts decide that".

13 MR. MC INTYRE: Well, does Congress say that they  
14 don't know what it means? Does Mr. Symons say that he  
15 doesn't know what it means? Does Mr. Biacci say he doesn't  
16 know?

17 MR. PENDLETON: They don't say they know what it  
18 does mean.

19 MRS. CHAVEZ: We were before the Senate, and  
20 the Senate and many of the members on that committee,  
21 including some of the Democratic members, are not sure what  
22 it means.

23 MR. MC INTYRE: What would we say in answer to  
24 the question, do we favor the House enacted version of this  
25 bill? Do we oppose it because it's vague, or do we favor

1 it because we favor the spirit of it?

2 MR.. PENDLETON: The Commission has taken no  
3 position at this point, and I think that any of us would  
4 be derelict in our responsibility by saying this is the  
5 Commission's point of view. We have not discussed it. If  
6 you give us a chance to discuss it, we could probably give  
7 you an answer.

8 MRS. CHAVEZ: On the one section of the bill --  
9 that particular bill is a change from what the Commission's  
10 position is on fund termination.

11 MR. PITTS: So then the Commission's silence  
12 speaks for itself.

13 MR. DESTRO: No, it doesn't speak for itself  
14 because when we met -- we met, I believe it was in May --

15 MRS. CHAVEZ: March.

16 MR. DESTRO: -- in March -- we didn't see a bill  
17 until it was too late. We had already scheduled a consul-  
18 tation of comparable worth, so we had two days on that, and  
19 we won't be able to take a position on that bill until the  
20 next meeting. One of the greatest difficulties with  
21 respect to what does the bill mean -- and, believe me,  
22 I've talked to a number of people on both sides of the  
23 Hill, and both parties -- who have said that they think it  
24 is not clear, but if you read the Grove City decision  
25 quite carefully, the Grove City case says that what was the

1 big problem in Grove City is that Congress wasn't clear  
2 about what they wanted to do. And so what you wind up  
3 with is a titanic civil rights struggle over something  
4 that Congress could have cleared up years ago if they would  
5 have made it very clear what they wanted to say.

6 Now I, for one, don't want to see all these  
7 civil rights cases under Title IX and 504 and Title VI  
8 and the Age Discrimination Act tied up in court for years  
9 while they slug out what Congress means. I think they  
10 ought to do that in the first instance. Now we haven't  
11 taken a position on the substantive position, but that's  
12 coming.

13 MR. MC INTYRE: Well, right now, does the Com-  
14 mission have a position --

15 MR. DESTRO: No.

16 MR. MC INTYRE: -- on whether or not funds should  
17 be withheld institutionally or departmentally?

18 MR. DESTRO: Oh, that part, yes.

19 MR. MC INTYRE: What is that position?

20 MRS. CHAVEZ: That the old interpretation prior  
21 to -- we believe that fund termination ought to be pin-  
22 pointed. The Leadership Conference on Civil Rights says  
23 that that is what its position is. We are in full accord  
24 with that position. We don't believe, the staff does not  
25 believe that this bill does that.

1           There is language in the law now that could be  
2 retained, which has always been interpreted to be pinpoint-  
3 ing of funds. And all we are saying is, why change it if  
4 you are not really changing the way --

5           MR. MC INTYRE: If, for instance, at the University  
6 of Charlestown, the public funds are being received and  
7 they do not have a program of athletics for young women  
8 equal to that for young men. Now should funds be withheld  
9 from the entire institution, or just the athletic depart-  
10 ment?

11           MRS. CHAVEZ: The Leadership Conference on  
12 Civil Rights never suggested that the funds should be  
13 withheld from the entire institution.

14           DR. BICKLEY: What is the position --

15           MRS. CHAVEZ: The position of the Commission  
16 is the same as the Leadership Conference.

17           MR. PENDLETON: We keep saying over and over  
18 again. If there's a problem in the chemistry department,  
19 you cut the money off in the chemistry department, not the  
20 entire institution.

21           MRS. CHAVEZ: But you go in and investigate the  
22 entire institution.

23           MR. MC INTYRE: Why don't you make the position  
24 broader? Doesn't it have a greater impact --

25           MRS. CHAVEZ: Why don't you talk to the

1 Leadership Conference, that's their position.

2 MR. PENDLETON: You ask us about a position, we  
3 give you a position, and you say, why don't you make it  
4 broader? We took a position. That's a response to your  
5 question.

6 MR. MC INTYRE: All I'm saying in that respect  
7 is, that tells me how broad our bellies, collectively,  
8 can become jurisdictionally when we want them to. You are  
9 adopting the view that you can broaden them as you desire,  
10 consistent with your conservative tone; we can suck them  
11 in as required, consistent with your conservative tone --

12 MR. PENDLETON: I think that's a little bit  
13 disingenuous in that. I think what we said in this case  
14 is that it is clear that's what the old situation was.  
15 The civil rights groups support that. To say that that's  
16 a conservative vent is not accurate.

17 MR. WATKINS: The whole situation was not  
18 departmentally --

19 MR. PENDLETON: It was departmentally limited.  
20 That's why you cut off money to athletics and didn't cut  
21 off money to the whole school.

22 MRS. CHAVEZ: In Title VI, Section 602 -- if  
23 someone can get a copy of Title VI, you can read it in the  
24 law. That is what is in there now.

25 MR. WASHINGTON: My friends, I think we have

1 pursued this as far as we can without coming out with  
2 something beyond what you know. The rest of it will have  
3 to go for conjecture.

4 What I would like to do is to give everybody who  
5 has not had a chance to say a word, in this 10-minutes left,  
6 a chance to say a word. I think we have had a good dis-  
7 cussion and we don't want it to generate anywhere, except  
8 to the point where you want it. I want you to -- we have  
9 had good participation.

10 Let me just do this, we have a short time, we  
11 won't always have the Director and the members of the  
12 Commission here, let me just start around the room, we  
13 can do it in a minute, raise a question, or make a comment.  
14 I am not going to contain you, you can do either one.

15 MR. WATKINS: Don't go back and ask another  
16 double-jointed question.

17 MR. WASHINGTON: I just want to let everybody  
18 have a chance.

19 Ms. Rattley, you look so much like my wife, you  
20 go ahead.

21 MS. RATTLEY: Yes, I have that problem.

22 MR. WASHINGTON: I won't tell her that.

23 MS. RATTLEY: That's not what I meant. I want  
24 to go back to the difference between your civil rights  
25 issues and your social issues. And it appears to me that

1 it would be impossible to determine that this is a civil  
2 rights discrimination issue, unless you consider the  
3 social indicators, the social issues. Somehow they seem  
4 to fit into that same bag, but all morning we are separ-  
5 ating them.

6           Could you comment on that, going back specificall-  
7 ly to the Virginia report on migrant workers? You may  
8 say, well, we address social issues and I think you did  
9 say that, and not civil rights issues. But then later we  
10 said that you have to look at the social issues to get  
11 the indicators to determine that it is a civil rights  
12 issue.

13           How does it fit?

14           MS. CHAVEZ: Instead of using that particular  
15 report, let me use the example that I used earlier. We  
16 know we have a problem in terms of certain disparities  
17 that exist between groups. We know that there is a higher  
18 unemployment rate among minorities, we know that income  
19 that minorities earn, on the average, is lower than the  
20 income white males earn. We know a lot of things about  
21 the disparities that exist between groups.

22           The Commission is not going to say -- we are  
23 not going to tell you that because we might have to look  
24 at the things that are not strictly civil rights violations  
25 and violations of Title VII. What the Commission is going

1 to say is we are going to look at that problem, and we are  
2 going to try and get the best information and as many facts  
3 as we can, to try and understand what portion of that pro-  
4 blem is discrimination.

5 When it is discrimination, we are the commission  
6 to make recommendations about the enforcement of our civil  
7 rights laws, about changes that might be made in those  
8 laws, which could better eliminate that discrimination.

9 But all of those facts relating to some of those  
10 social issues will be in that report, as well. And there  
11 will be clearly inferences that policymakers can make, tak-  
12 ing a look at that report. If we find out, for example,  
13 that in one of the regions there is such an astronomical  
14 unemployment rate among black teenagers, that is not just  
15 discrimination, that there are other issues as well, includ-  
16 ing inadequate education, including being more likely to  
17 come from homes in which there are not two parents present;  
18 in which maybe we find out that there is a problem in the  
19 kind of education the kids are getting and the kind of  
20 courses they are taking -- all of those factors contri-  
21 bute to that high unemployment rate.

22 While we may not make recommendations in all of  
23 those areas, the information will be there for the policy-  
24 makers to do that.

25 So, we are not shutting our eyes and saying we are

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1 only going to look at this part and ignore everything on  
2 the periphery. What we are saying is that we are going to  
3 try, as broadly as we can, to look at the problems.

4 But because we are the Civil Rights Commission,  
5 not the minority rights commission, or the social problems  
6 commission, when we come to making recommendations about  
7 policy, we are going to try to focus in on what our mandate  
8 is.

9 MR. WASHINGTON: I don't think my program is  
10 going to work. But if anybody on this side has a brief  
11 comment, please make it now -- not another question, be-  
12 cause I think we have had three hours of questions, two  
13 and a half. If you have a comment, go ahead.

14 MR. WATKINS: I won't couch it as a question,  
15 given the variety of sizes and social-economic and  
16 political makeups of the various states in our union, it  
17 seems inappropriate to me to limit the size of the SACs  
18 to a generally mandated 14, that's my comment.

19 How was that number arrived at, from the original  
20 mandate, with the addition of one for each million in  
21 population, in addition to that. And we can't adequately  
22 represent all of the segments of our population with that.

23 DR. WHITTINGTON: We are not supposed to say  
24 too much, but I still have not understood the differences  
25 between social and civil rights, when you say you are

1 using social indicators to determine the issues of civil  
2 rights.

3 MR. WASHINGTON: Somebody will have to write  
4 that, because we have been over that four or five times.

5 DR. WHITTINGTON: It still isn't clear to us.  
6 The other comment I wanted to make was in reference to  
7 something Sol del Eaton said, and that is the reports  
8 which are sent to the Commission. sometimes do have a very  
9 positive effect, even though you may disagree with them.  
10 Because the migrant report that Maryland presented has  
11 had a tremendous impact on the migrants on the Eastern  
12 Shore. However, there are some things which are still  
13 occurring which should not occur.

14 An example, and this obviously is a civil rights  
15 issue, when a state agency provides food stamps for its  
16 constituents, its local constituents in one office and  
17 the migrants have to go to another office, which is only  
18 for migrants. And I think that is a problem.

19 MR. WASHINGTON: I tell you, you have been sitting  
20 there and didn't say anything, but you uncorked enough  
21 there to let me know you had it in you.

22 MR. WILCOX: Since the Chairman wasn't here  
23 during my little sermonette, my only comment is that I  
24 would like to urge the Commission to read carefully the  
25 remarks dealing with the report. It is not just the

1 migrant report, it is the kind of thing that is focusing  
2 in on the level of productivity of the Virginia SAC, and  
3 I imagine all the other SACs.

4 If we are too restricted in our studies, then  
5 we are not going to produce any facts.

6 MR. WASHINGTON: Yes, sir?

7 MR. KENNEY: Not much to say, other than this  
8 discussion reminds me of the Turner Report which said  
9 that there are two separate, distinct societies, there is  
10 a black world and a white world. And somewhere along the  
11 line we must not forget that.

12 MR. WASHINGTON: All right, sir.

13 MR. GREUX: I have no comment at this time.

14 MR. HARNICK: No comment.

15 MR. GLENN: Same here.

16 MR. CUSHING: No comment.

17 MR. WASHINGTON: Ed, you don't need to have a  
18 comment.

19 MR. HAYWOOD: No comment.

20 MR. DODDS: No comment.

21 MR. FLOYD: I have a number of concerns, I will  
22 make a few observations this afternoon. Personally, I  
23 think it is important to recognize that in the defining  
24 of an issue, you either increase your attack or direction  
25 to the problem, or you limit. And one of the things that

1 we, as minorities, as blacks, have been involved in for  
2 so many years is that people define our problem, and often  
3 they define our problems in such a way that they cannot  
4 deal with them.

5 This is the first time which we have had a  
6 governmental agency that has been set up to deal with the  
7 problem, be an advocate, and study and make recommendations  
8 for the improvements. And it is turning out to be the  
9 persons who are redefining our problems in such a way  
10 that they cannot be dealt with, social problems and so  
11 forth.

12 If you were excluded 50 years ago, or 100 years  
13 ago from employment because of discrimination -- you  
14 didn't get the job, you didn't get the economics, you  
15 were unemployed. And now 50 years later you say you  
16 are poor, not because you are black and you were dis-  
17 criminated against way back, you have an economic problem  
18 because you are poor and because you are not educated,  
19 and because you don't have skills.

20 Why don't you have those skills? And if you  
21 trace history all the way back, generation after generation,  
22 you can find people in your family who were discriminated  
23 against. You can find those specific individuals. But  
24 today if we look at US Steel, or somebody out there, you  
25 may not be able to find all of those minority people who

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1 have applēd on a given day and at a given time right now,  
2 and so therefore our U.S. Civil Rights Commission says we  
3 can't deal with the problem, because you can't come up  
4 with the specific individuals.

5 I have serious trouble with that.

6 MR. WASHINGTON: Thank you.

7 MS. MORRIS: I believe that Ms. Chavez kept refer-  
8 ring to a report, apparently, that had come into your office,  
9 to take a look at, set solely on the basis of information  
10 that had been compiled. You are going to study it further  
11 and find out why these people are not employed, the kind  
12 of education they have, or do not have, and so forth, and  
13 so on.

14 I am still concerned about that kind of study,  
15 because, first of all, there have been enough studies done  
16 on minorities. I don't think they need to study them any-  
17 more. What I would like to see happen is I would like to  
18 see some studies on the employed. And I believe that these  
19 findings are what is going to rock this nation.

20 I am going to make it very brief, Mr. Washington,  
21 but I just want to set an example, I believe that sometimes  
22 gives minorities more confidence -- it gives me an awful  
23 lot of confidence, being in the world of work. I have  
24 been able to look at youths out there working with me and  
25 to understand that they are no more qualified than I am, but

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1 yet they hold the bigger position.

2 I will give you an example, I work in accounting,  
3 there are over 300--and some people employed. These people,  
4 very few of them have college educations, very few, I  
5 would bet that probably not 10 of them have college edu-  
6 cations, and they keep the salaries low in this county  
7 because they don't want an intrusion of folks like me, and  
8 some of the others in here, to even apply for those jobs.  
9 So, they keep these jobs very tight for their relatives  
10 and for the uneducated of their folks.

11 So, what I am saying is instead of continually  
12 studying us, or the minorities, that what you need to do  
13 is run some studies on those folks who are employed.

14 MR. WASHINGTON: Very well, thank you.

15 The Chairman has got to go to the Hill. I think  
16 in all courtesy -- would you like to say something?

17 COMMISSIONER PENDLETON: I would just like to say  
18 if we could meet more often. I am ready to come to any  
19 SAC or state SAC you want me to, and sit down and talk  
20 about it. I find out, and Ms. Chavez finds out that when  
21 we meet individually with the SAC people, we have more  
22 time for dialogue, and I don't mind staying as long as you  
23 want. I am not looking for a ceremony when I get there,  
24 I want to sit down and look for that intersection of what  
25 you believe and what we believe, and with regard to the

1 Commission, and work some of these ideas out.

2 If we don't establish some trust level, we are  
3 going to be having these same conversations year after  
4 year. And I want to get beyond that, because we have some  
5 very serious issues that affect Americans and civil rights.

6 MR. WASHINGTON: Thank you, sir.

7 McIntyre, I think you had your day in court.

8 MR. McINTYRE: There is no question about that.

9 (Laughter)

10 MR. WASHINGTON: We will go to Ms. Galiber, would  
11 you like to say a word?

12 MS. GALIBER: I apologize for being late. I guess  
13 I will piggyback on the Chairman's statement that I am  
14 concerned that ethnic, minority and handicapped people in  
15 this country continue to languish and die because of  
16 discrimination in employment, housing and education. And  
17 I would hope we could deal with some of those issues.

18 MR. WASHINGTON: Thank you.

19 MS. EATON: I just would like to say that on a  
20 positive note it is kind of disheartening to see it and  
21 listen to arguments. And I guess it is only natural with  
22 a group like this, but I hope by the end of tomorrow we  
23 can meet here, united in the sense that we are really going  
24 to work for the people that we represent.

25 And one more question is that I hope that in these

1 two days -- I had to take a report, to the chairperson of  
2 Maryland's SAC, and I still have doubts about which staff  
3 has which responsibility, especially when it comes to  
4 reports, and whatever.

5 And I hope in the next two days we will be able  
6 to address this.

7 MR. WASHINGTON: All right, thank you.

8 Bill Conner, I think you have had your day in  
9 court, too.

10 Ms. Collingwood, would you have a statement?

11 MS. COLLINGWOOD: Well, I, too, apologize for  
12 being late, I was unsure when I got here whether some of  
13 the questions I had had been discussed. It is clear now  
14 that they have, Mr. Watkins has held the fort very well  
15 for Pennsylvania, and I am happy about that.

16 I would like to reiterate some of the points that  
17 he raised, and also, to take Mr. Pendleton up on his offer  
18 to visit our SAC, because I think further clarification  
19 is needed on a lot of issues that concern us in Pennsylvania,  
20 clarification on procedures for the reports, publications,  
21 on the role of advisory committees, and about individual  
22 versus members of the commission, freedom of speech, et  
23 cetera. And also the size of the committees.

24 MR. WASHINGTON: Thank you.

25 Dr. Bickley?



1 DR. BICKLEY: No comment.

2 MR. WASHINGTON: All right.

3 Dr. Azores, you have been on a good bit, but you  
4 can still say some things.

5 DR. AZORES: Concerning federally funded programs,  
6 I am not so sure whether non-citizen minorities, who are  
7 nevertheless permanent residents, can have access to, and  
8 be the recipient of these privileges and benefits from all  
9 federally funded programs. If there are some restrictions  
10 concerning them, I want them removed.

11 MR. WASHINGTON: Thank you.

12 I hope you all will understand that I am not  
13 trying to monitor this, but I have been in hundreds of  
14 meetings, and I always hear people say, "If I just had  
15 one minute more, to have said that last thing, I would  
16 feel better".

17 So, take that moment, please.

18 MR. PITTS: I have said, I think -- however, I  
19 will say that in regards to the Chairman's position on  
20 trust, they have come here and asked us, in a sense, to  
21 barter with trust, when they are changing the rules  
22 continuously in the middle of the game. We cannot trust  
23 such players in the game of life.

24 Therefore, I think that we would ask that a  
25 different course be taken.

1 MR. WASHINGTON: Very well.

2 Reverend Harris.

3 REV. HARRIS: I would like to just take a minute  
4 to include my concern that was raised originally at the  
5 beginning of the meeting, relative to the staff position  
6 on the migrant workers report put together in Virginia.  
7 I have worked three years to compile this information,  
8 with the understanding that we were dealing in the civil  
9 rights area. The advice came from headquarters.

10 I do not intend to allow this report to go down  
11 in the dust. This report will be published, it may not  
12 be published as a piece of information from the Commission  
13 on Civil Rights. But if I have to go to my church and  
14 ask my deacons to recommend the funding for the report,  
15 to the general public, it will be done.

16 And I simply want to make that known, that the  
17 information that I refer to is public, we have discussed  
18 it in our regular meetings, while the press was present.  
19 And now it is in the hands of the staff and the staff has  
20 told us that it should not have been started from the  
21 beginning. We were not told that.

22 So, please note that it will be published.

23 MR. WASHINGTON: Thank you, Rev. Harris.

24 MR. LEWIS: I just wanted to reiterate my  
25 interest on behalf of the Delaware Committee in seeing the

1 observations on our migrant report as well. I understand  
2 from Ms. Chavez that we will be getting a response in a  
3 couple of weeks, I will be looking forward to reading that,  
4 so we can make the decisions we need to make.

5 And I urge the Commission as well, the actual  
6 Commissioners, to take a more active role in reviewing  
7 reports and looking at staff activities.

8 MR. WASHINGTON: Thank you.

9 Your chairman for this afternoon, the distinguish-  
10 ed member, Mr. Joe Fisher, would you --

11 MR. FISHER: Yes, I would have to say I am still  
12 disturbed as many of you are in reference to all of the  
13 changes that have been made affecting these SACs. And  
14 I am more disturbed because from what we heard today, the  
15 purpose of these changes were to improve the communications  
16 and improve relationships. And I cannot see, in anyway,  
17 how this could really have come about without any input  
18 from these SAC committees.

19 And we are the people who are out there in the  
20 trenches, we are the people, I think, that ought to have  
21 been the resources, or at least give us the opportunity  
22 to give our ideas as to how we can better improve com-  
23 munications and relationships with the SAC chairs and  
24 with the Commission.

25 And just as an example of that, and my colleague

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1 from Pennsylvania, Dave Watkins -- reducing the number of  
2 SAC committee people to 11, to me, is ridiculous, especially  
3 if it has been based upon the number of people who attend  
4 the meetings; because all of us who are out there, we know  
5 that attending meetings is not the criteria by which you  
6 base the effectiveness of these committees. Quite often  
7 we have people who do an awful lot of the work, but they  
8 are not able, for whatever the reasons, to attend the meet-  
9 ings.

10 So, the Chairman, on his way out, indicated that  
11 he wants a lot more meetings like this. I think that he  
12 ought to convene a lot more meetings, before these changes  
13 that are going to effect us are done, instead of our having  
14 to get a notification that this is what is going to be done.

15 MR. WASHINGTON: Hear, hear.

16 We have come now to a terminal point, really 12  
17 minutes over. So, I would like to say that we are pleased  
18 that we had the Director and Commissioner Destro. And I  
19 couldn't leave without having given him an opportunity to  
20 say a word.

21 COMMISSIONER DESTRO: I want to echo what the  
22 Chairman said, that I think a lot of the difficulties that  
23 I hear today relate to communications, relate to lack of  
24 information. And I don't want any of you to feel -- with  
25 respect to me, I am just as willing to come to your meetings,

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1 whenever I can do that, and consistent with my other  
2 obligations as a professor. Also, I don't want you to  
3 hesitate, if there is a question that you have of the  
4 Commission, or if there is information that you need of  
5 us, to pick up the telephone and call us, or write us a  
6 letter. And we will try to do our best to respond to your  
7 individual questions.

8           That is one of the reasons we are here, we have  
9 got to hear from you. And if you are having problems, we  
10 shouldn't have to -- you are the committee in your state,  
11 we are the Commission on the federal level, and so we  
12 should have that open communication with each other.

13           If you are not getting what you think you need,  
14 let us know, and maybe we can help you get it. And I  
15 certainly, for one, would be more than happy to fulfill  
16 part of that role.

17           MR. WASHINGTON: All right.

18           Ms. Chavez.

19           MS. CHAVEZ: Well, I started off by saying I came  
20 here to listen and I have gotten an earful. It was not  
21 unexpected, this is not the first of these meetings I have  
22 been to, although I have not been able to be to all of them.  
23 Some of the things you raised today were specific to your  
24 own area, specific to concerns that you have in your own  
25 states regarding reports, other areas are much more broad.

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1 Mr. Watkins pinpointed a number, the distinction between  
2 civil rights and social issues. It is not a debate that is  
3 going to end here today, it is a debate that is going on  
4 in public arenas, it is going on in the political arena.  
5 We are not going to solve it.

6 I am not sure we are ever going to convince each  
7 other, each of us, that the we are right. But we are here  
8 to listen and we are here to debate. And I just want to  
9 extend my willingness, as well, particularly in this region,  
10 you know, I have lived here, as has Bob. And when you are  
11 having meetings, and you want us to be there, you want our  
12 presence, let us know and we will make every attempt  
13 possible to come and listen. And we will keep our ears  
14 open.

15 MR. WASHINGTON: One of the things I want to say  
16 in closing is that I am hoping that all of the Commissioners  
17 will hear the transcript of this meeting. I think you  
18 would be amazed, if my notes are any indication, of the  
19 ground that you have covered, and of the subjects that are  
20 raised, and of the concerns of the SACs, both as to issues  
21 and as to trust, and as to communications.

22 I believe that you all will be amazed to see  
23 how much ground you have covered. And I want to say further  
24 that I appreciate your courtesies to me, I had a little  
25 difficulty trying to get through, but you all were speaking

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1 your pieces, and you spoke articulately as well.

2 MR. RUTLEDGE: You did an excellent job as Chair-  
3 man.

4 (Applause)

5 DR. BICKLEY: Before we leave, and before Mr.  
6 Destro leaves. I simply want to express a concern for  
7 recharting the SACs. We, black folks in West Virginia  
8 have no political clout, there are only 60,000 of us in the  
9 whole state of West Virginia. We are in a state that  
10 masquerades as a border state, and is really a southern  
11 state.

12 I am concerned, the appointments that I have  
13 seen made recently follow political lines, or inclinations  
14 towards softening the approach that is taken by the State  
15 Advisory Committee, and I would hope that as you proceed  
16 to recharter next year you will consider that.

17 MR. WASHINGTON: We have an announcement from  
18 the Regional Chairman. He will talk to you.

19 MR. RUTLEDGE: I have a few announcements, but,  
20 Walter, I wondered whether you wanted to tell the story.

21 MR. WASHINGTON: You tell it.

22 MR. RUTLEDGE: I think it is an appropriate  
23 story, the story is that when you are dealing with com-  
24 mission, my experience has been, in terms of people --  
25 and not much has ever been done under the Ford Administration,

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1 or the Carter Administration, or under this Administration,  
2 and when we were trying to get a new charter for the  
3 District of Columbia Advisory Committee, I got Walter to  
4 agree, although it was the last thing he wanted to do,  
5 to become one of the chairpersons.

6 I finally went to him and said, "You know, we  
7 put in this request for recharter sometime ago, and I got  
8 a vibe, but there was one commissioner who insisted that  
9 we had no labor representation." And I always wanted to  
10 get Jay Turner, who was at this time, and still is, I guess,  
11 the Executive Chairman, of the AFL-CIO, Metropolitan  
12 Washington, D. C. area.

13 In any event, the one commissioner who is not  
14 here now, he was vice chairman, Steve Horn, was always  
15 looking for policymakers, the kind that usually never  
16 attend our meetings, but a policymaker. In any event --  
17 and I have heard that even from this Commission, some of  
18 the commissioners, they want a policymaker.

19 In any event, Walter said to me, "Ed, I talked  
20 to him, I could probably get him. He is a very busy  
21 man. But there is one person who is his special assistant,  
22 who is tops, and why don't we ask him?"

23 And I said, "Well, you know, if I ask this fellow,  
24 and if we are turned down, I am going to be embarrassed  
25 and a lot of people are going to be embarrassed". He

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1 never posed the man's name, he was Christopher Thruston,  
2 who happens to be related to Linda Chavez, who didn't know  
3 it then.

4 Now, he may have become Chairman of this committee,  
5 and she might have had a conflict of interest at that time,  
6 being staff director. It is an interesting story, in that  
7 it has a personal quality about it -- the difficulty in  
8 selecting people, and examining people. These people you  
9 see sitting around the table, all of them tops in their  
10 field, have gone under very careful selection, and there is  
11 another two-thirds that we didn't invite in here because  
12 we didn't have the resources for it.

13 So, what I am suggesting is that the comments  
14 made by our advisory committee members are all made in  
15 good faith, and we hope that these people will listen to  
16 them. I will not comment on the migratory labor study,  
17 but you are talking about the national staff, not the  
18 regional staff. And we have something to tell you about  
19 that personally.

20 As far as the announcements are concerned,  
21 Commissioner Berry could not make it this morning, she will  
22 be here for the meeting after lunch, and she does want to  
23 make a few comments to the advisory committee members, and  
24 then we will proceed with the panels as they are established.

25 One chairperson could not make the meeting,

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1 Patsy Blackshear. I'm sorry about that, but Sol Eaton has  
2 been designated as the alternate for her, and she will be  
3 the moderator in her place.

4 We will discuss some of the roles of people,  
5 in preparation for tomorrow's meeting, this afternoon.

6 Thank you.

7 MR. WASHINGTON: We are adjourned.

8 (Whereupon, the luncheon recess was taken at  
9 12:25 p.m.)

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## AFTERNOON SESSION

(1:50 p.m.)

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2  
3 MR. FISHER: May I have your attention.

4 We would like to call this afternoon's session  
5 to order. And prior to getting into the meat of the after-  
6 noon agenda, Ed Rutledge has a couple of announcements he  
7 wants to make.

8 MR. RUTLEDGE: The first announcement is that  
9 Commissioner Mary Berry, apparently called in from out-of-  
10 town and said she couldn't make it to this meeting. We had  
11 really set aside the opening of this afternoon's session  
12 for her, but I am sorry to report -- whether she will get  
13 in sometime tomorrow, I am going to call her office and  
14 simply tell her that the Advisory Committee members, not  
15 only would like to hear from her, but are interested to  
16 meet with her. I will convey that, as has been conveyed  
17 to me.

18 The second is that I would like you to read on  
19 page 8 of the procedures, where you have the layout for  
20 regional conferences. The guidelines for the speakers of  
21 panels, some of it is self-evident and some of it isn't.  
22 What we would like to do, and bear in mind, the last two  
23 paragraphs are the important matters that I would like you  
24 to give serious thought to. And I am suggesting to the  
25 federal panelists who are up here now, and certainly those

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1 from the state and city commissions, that they really make  
2 every effort, if at all possible, to be here tomorrow, also.  
3 I really wanted, and hoped for full participation of the  
4 people who are around the table representing the federal,  
5 state, or local agencies, and not simply to hear from them  
6 for one hour, and call it quits.

7 I feel that they are part of something that we  
8 are all involved in. I know it has been enlightening to  
9 them, the kind of discussion that was held this morning,  
10 and I think they will better understand the national situ-  
11 ation, also, in these discussions, because if you look at  
12 the discussions for Friday morning and afternoon, it will  
13 reflect the fact that we need their advice and commentary  
14 tomorrow, as well as the representatives of the Advisory  
15 Committee.

16 If you are not going to be here tomorrow, by the  
17 end of the session let us know, so we can plan accordingly.  
18 And who can speak for the panels in those brief presenta-  
19 tions, so we have a complete record, as of tomorrow.

20 Thank you, Mr. Chairman, it is your meeting.

21 REV. HARRIS: In response to our Regional Director,  
22 relative to the panelists, perhaps not being able to attend  
23 tomorrow, to have time for a discussion, we may want to  
24 make some adjustment, while we have them. We can react or  
25 reflect on what they have to say to us today, those of them

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1 who will not be able to be with us tomorrow. I think it is  
2 important, not only for us to hear from them, but for them  
3 to hear from us as well.

4 MR. FISHER: I think the agenda will provide what  
5 you are suggesting, but on a more limited basis. But we  
6 are go ask the panel, each segment, the federal, state and  
7 locals -- we are going to ask them to limit their remarks  
8 to 10 minutes, and we want to be very specific about that.  
9 And in so doing, that will give us an opportunity to ask  
10 questions, and perhaps, engage in some dialogue. But, again,  
11 it's going to be on a limited basis, not going to be like  
12 the morning tomorrow.

13 But we will address your concerns, on a limited  
14 basis, if we adhere to what our time constraints are going  
15 to be.

16 Any other questions?

17 MR. RUTLEDGE: I would just like to make this one  
18 comment to Rev. Harris' remark. I believe that even though  
19 we are on a schedule, it can't be that tight, that if there  
20 are any advisory committee members, even at this meeting,  
21 who have a question -- for example, one of the panelists  
22 on the federal agency, even if we go overtime, I think it  
23 ought to be explored at this time.

24 But I was thinking more of their participation  
25 with us in the deliberations tomorrow, and just extending

1 another invitation to make clear for them that we want  
2 their participation.

3 MR. FISHER: Any other questions?

4 (No response.)

5 MR. FISHER: I would like to compliment Ed  
6 Rutledge and his staff for the approach that has been taken,  
7 in terms of this conference. I think that the morning  
8 session was very enlightening. I don't know how much good  
9 is going to come out of it, but at least it was enlighten-  
10 ing. And I think an opportunity for us to get the perspec-  
11 tives of these organizations, and from the national level,  
12 the state level and the city level, I think that is going  
13 to be very meaningful.

14 And with that, we are going to start off with the  
15 federal panel. I would like to -- well, their names and  
16 their titles are listed on the agenda. I don't have any  
17 particular preference as to who is going to start, and  
18 maybe it would be just as easy if I just voluntarily said,  
19 maybe, we will start on my right, which would mean that  
20 that would be Edmund Haywood, Regional Director, Community  
21 Relations Service, U.S. Department of Justice.

22 So, Ed, would you start off?

23 Again, as Ed Rutledge pointed out, the rough  
24 outline is also on page 8 of your agenda. And what we  
25 are really asking the speakers to do, just to reiterate,

1 just summarizing their responsibilities of their agencies,  
2 highlight the current direction and priorities of their  
3 agency. We are asking them to provide information about  
4 their offices, major accomplishment over the past year or  
5 so, an assessment of the impediments to achieving their  
6 mission.

7 And, finally, the speaker should address the  
8 nature of their interaction with other federal, state and  
9 local civil rights officials, and point out ways that  
10 communications could be improved, to their mutual benefit.

11 So, with that, Ed, we will hear from you.

12 MR. HAYWOOD: Thank you, Mr. Fisher.

13 The Community Relations Service is that agency  
14 within the federal government mandated by Congress to work  
15 with community, local, state and federal agencies in  
16 mediating and conciliating differences that surface from  
17 racial interactions.

18 There are 10 regional offices throughout the  
19 country, and we believe we have a fairly good track record  
20 in our work in school desegregation, economic development,  
21 housing and urban development.

22 The agency has embarked on four new initiatives  
23 in the areas of disparity in court sentencing; alternatives  
24 to litigation; immigration and adjustment, particularly  
25 for Haitians and Cubans; and excessive use of force and

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1 police abuse.

2 In area one, disparity in court sentencing, the  
3 agency has been meeting with judges across the country  
4 to bring to their attention what is conceived as a dis-  
5 parity in the sentencing of persons for various kinds of  
6 misdeeds, for want of a better word. This particular  
7 portion of the agency's program has been more effective  
8 and has been worked on mostly in the northwest sections of  
9 the country, in the Seattle, Washington area, and in that  
10 general geographic locale.

11 Secondly, we have embarked on a program of having  
12 cases assigned to us that we would mediate and conciliate  
13 as opposed to having them go through court litigation. The  
14 cases that come to us are assigned to us by judges.

15 Area three, the Community Relations Service has  
16 added to its headquarters office here in Washington, a  
17 unit that deals with Cuban and Haitians under the re-entry  
18 program.

19 Fourthly, we are continuing to assess police  
20 departments, law enforcement units in improving community-  
21 police relations. We have assisted in a number of locales  
22 within the Mid-Atlantic region, to help rewrite firearms  
23 policies, to develop and implement police use of excessive  
24 force.

25 Our accomplishments have been too numerous to

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1 mention here.

2 I would be happy to answer any questions relative  
3 to these four areas, and to any of the other activities that  
4 we have been engaged in. There is one phase of our  
5 activity that I did not mention, we have been successful  
6 in training and assisting to train human relations workers  
7 in various governmental and various federal, state and  
8 local governmental units.

9 This particular regional office that serves this  
10 area, is located in Philadelphia, Pennsylvania. We do  
11 have four professional staff members to cover the Mid-  
12 Atlantic Region, and I am the Regional Director. There  
13 are many people here who have had some kinds of contact  
14 with our office, and who have had some interplay with our  
15 official staff.

16 Thank you.

17 MR. FISHER: Thank you.

18 I am going to ask if each of you will jot down  
19 whatever questions that you may have. I think it may be  
20 more meaningful, because we will get the perspectives of  
21 each of our panel members, and then we can entertain your  
22 questions. So, if you have questions, mark down your  
23 question and also indicate to whom you want to address the  
24 question.

25 Next, we have Paul Cushing, to my right, who is

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1 the Regional Manager, Office for Civil Rights, U. S. Depart-  
2 ment of Health and Human Services. No, no, I'm sorry, I  
3 have Joel Harnick -- I'm sorry, Systemic Equal Opportunity  
4 Specialist and Special Assistant to the Compliance Director,  
5 Office of Regional Fair Housing and Equal Opportunity, U.S.  
6 Department of Housing and Urban Development. I am just  
7 wondering if he is able to carry business cards.

8 (Laughter)

9 MR. FISHER: His business card must be a 5-by-6.

10 MR. HARNICK: The answer to that question is, no,  
11 I don't have any business cards. I end up having to write  
12 it out on a tablet, generally.

13 Thank you for that introduction.

14 First, let me say I bring you greetings from our  
15 Regional Administrator, Kenneth J. Penlacen (phonetic),  
16 and regrets from our Regional Director for Fair Housing  
17 and Equal Opportunity, John Caine, because he could not be  
18 here during this conference, since he is on a much-deserved  
19 vacation, somewhere on a remote beach and sent me on this  
20 mission.

21 So, I communicate his regrets and his hope that  
22 this is a successful conference.

23 I would like to take a few minutes and give you  
24 an overview of the responsibilities that the Regional Office  
25 of Fair Housing and Equal Opportunity has. We are the

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1 enforcement arm for key civil rights legislation. Section  
2 504 of the Rehabilitation Act of 1973, which bars dis-  
3 crimination based on handicap, in federally assisted pro-  
4 grams; Section 109 of Title I of the Housing and Community  
5 Development Act, which deals with non-discrimination in  
6 any program funded with block grant funds. Title VI of the  
7 Civil Rights Act of 1968, which deals with non-discrimination  
8 in programs receiving federal financial assistance. And  
9 Title VIII of the Civil Rights Act of 1968, otherwise known  
10 as the Federal Fair Housing Act, which prohibits discrimi-  
11 nation based on race, color, religion, sex and national  
12 origin in the sale, rental and financing of housing.

13 Just for your edification, I brought with me a  
14 chart delineating the laws that we administer, and I left  
15 it on the pass-out table. So, if you would like, I believe  
16 I have enough there for all of you, and if not, if you will  
17 let me know if you didn't get one, I will make sure that  
18 you do get one. I have some more with me.

19 Primarily, we undertake the investigation and  
20 conciliation of those individual complaints, as well as  
21 compliance reviews. In the case of Title VIII complaints,  
22 we are obligated to refer all complaints originating in  
23 state and local jurisdictions which have laws that are  
24 considered by my department to be substantially equivalent  
25 to the federal law.

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1           In effect, we are a 100-percent deferral agency,  
2 because all of the states within our region have laws  
3 considered substantially equivalent, as well as many local  
4 jurisdictions.

5           Now, these state and local agencies which are  
6 considered by the Department to be substantially equivalent,  
7 participate in the Fair Housing Assistance Program, where  
8 my department provides funds to those agencies in process-  
9 ing the federal complaints. I am sure that all of our  
10 regions are similar, in terms of our jurisdictions, but  
11 let me just outline the states for you.

12           Pennsylvania, Delaware, Maryland, Virginia, West  
13 Virginia, and the District of Columbia. Only when HUD  
14 recalls a complaint from the state or local agency do we  
15 actually begin the effort to investigate and conciliate a  
16 matter, if the allegation is supported by the evidence.  
17 Other than that, we maintain a monitoring role in terms of  
18 assuring that the state or local agency is processing the  
19 case in a quality manner, in terms of their investigation,  
20 and conciliation efforts, as well as looking at timeliness.

21           We all recognize that when housing is an issue,  
22 expeditious processing of that complaint is crucial in  
23 providing remedy, if the allegation is supported.

24           I would like to say that it is a common perception  
25 now, I have heard it recently, and I have heard it time and

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1 time again, that discrimination in housing is no longer a  
2 problem, or at least it isn't the problem it once was.  
3 But, in fact, discrimination is as pervasive as it ever  
4 was, albeit, more subtle. And evidence of that is a  
5 publication which I suggest you obtain, it is just -- it  
6 is a publication which came out from HUD in April of 1984,  
7 which is entitled "Recent Evidence of Discrimination in  
8 Housing".

9 It refers to an earlier study that HUD conducted  
10 in 1977, for the Housing Market Practices Survey. It was  
11 a study that was done primarily by the National Committee  
12 Against Discrimination in Housing, to study how pervasive  
13 discrimination was. And it, in effect, was a study in  
14 three major cities throughout this country involving test-  
15 ing of real estate offices and apartment buildings.

16 The conclusion of this study was that a minority  
17 had a 72-percent chance of being discriminated against in  
18 the rental of housing, and a 48-percent chance in the sale  
19 of housing, if they visited four offices in their search  
20 for housing. And that's significant.

21 But recent evidence indicates that at in at least  
22 one of these cities that was studied in '77, there has been  
23 a dramatic increase. Now, you know, I am not saying over-  
24 all there has been a dramatic increase, but at least in  
25 some of these cities we have seen an increase, not a

1 decrease. And we all recognize that when we couple decreas-  
2 ing staff and decreasing resources, with increasing case  
3 loads, we are left to do more with less.

4 In spite of these problems that we in the govern-  
5 ment all face, regarding dwindling resources, I am proud  
6 to say that our enforcement effort is solid and runs hand-  
7 in-hand with our ever increasing efforts to educate and  
8 provide technical assistance. We work closely with state  
9 and local agencies in developing their capabilities to  
10 investigate and conciliate fair housing cases; we work with  
11 fair housing organizations, such as Housing Opportunities,  
12 Made Equal in Richmond, Virginia; Metropolitan Washington  
13 Planning and Housing Association, here in the District;  
14 Baltimore Neighborhoods, Incorporated in Baltimore, just  
15 to name a few. We work with advocacy groups such as the  
16 National Committee Against Discrimination in Housing; and  
17 the Washington Lawyers' Committee for Civil Rights Under  
18 Law.

19 We work with housing consumer groups to make  
20 sure that they are aware of their rights, in terms of the  
21 federal Fair Housing Act, and with the housing industry,  
22 and housing providers, to enhance their efforts to volun-  
23 tarily comply with the law.

24 As a result of this two-fold approach, that is  
25 strong enforcement and increased technical assistance,

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1 we feel in Region Three that we have developed a compre-  
2 hensive strategy to civil rights that is preventive and  
3 positive. And we have had concrete results from this  
4 approach.

5 Where we have given technical assistance, includ-  
6 ing formal training, to responding groups such as various  
7 boards of realtors throughout the state and local areas,  
8 in our region, apartment developers associations. We have  
9 experienced voluntary compliance and as a result of  
10 voluntary compliance, a decrease in the incidents of  
11 discrimination, an expansion of academic curriculums to  
12 include fair housing issues, and the willingness on the  
13 part of the industry to not only educate themselves, but  
14 to police themselves.

15 We see our effort to educate and train, to en-  
16 hance voluntary compliance efforts as having a significant  
17 impact on reducing the incidents of discrimination, and  
18 providing greater access to housing. Crucial to the success  
19 of our enforcement effort is the passage of legislation  
20 now pending to amend Title VIII, to make it stronger.

21 Presently, there are two major bills pending,  
22 the Administration's Bill and the Kennedy-Mathias Bill.  
23 The thrust of these bills is to give Title VIII the teeth  
24 it needs to provide an incentive to resolve the matters  
25 that are filed with our office through conciliation.

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1 Presently, my department is powerless to obtain remedy  
2 in a matter filed by a complainant, if conciliation efforts  
3 fail and conciliation efforts are voluntary efforts. The  
4 only other option that the Secretary has is that in the  
5 case of a pattern and practice matter, or institutional  
6 case, we can refer to the Department of Justice with a  
7 recommendation that they file a Pattern and Practice suit,  
8 but that is all we can do.

9 The pending bills would give us additional teeth,  
10 in terms of having further ability to either be heard in  
11 front of administrative law judges, or to refer all matters  
12 to the Department of Justice. And we feel that that would  
13 certainly provide us with an incentive to have all of the  
14 parties seriously consider conciliation as an alternative  
15 to litigation.

16 Let me turn my attention now to talking about  
17 our interface, as someone said earlier a bureaucratic  
18 term, with state and local agencies, as well as federal  
19 agencies that we deal with.

20 Since we are a 100-percent referral agency, we  
21 are constantly in contact with state and local human  
22 relations commissions, in terms of our monitoring responsi-  
23 bilities. We meet constantly with the executive directors,  
24 the commissioners, as well as the staff, in terms of joint  
25 meetings, in terms of training and so on, to enhance

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1 their abilities, as well as our knowledge and abilities  
2 to fulfill our responsibilities. So, we have a constant  
3 dialogue with those state and local agencies.

4 I would like to see more meetings with some of  
5 the federal regulatory agencies that we deal with, pri-  
6 marily the regulatory agencies that deal with financial  
7 institutions, because part of my responsibilities as the  
8 chief of Systemic Operation, is to investigate pattern  
9 and practice allegations which, to a large extent, deal  
10 with financial discrimination. So, I would like to have  
11 more interface with those regulatory agencies.

12 But other than that, we have a pretty good  
13 relationship with the agencies that we deal with, although  
14 I may be enlightened to learn that the relationship isn't  
15 as good as I think. Because I see in the room many of  
16 the executive directors of the agencies that we deal with.

17 I will stop there, and welcome any questions, or  
18 comments that you may have later.

19 MR. FISHER: Thank you, Joel. I think it may be  
20 a good idea if we sent that book you referred to to the  
21 staff director of the Commission, who apparently in her  
22 dream world is under the illusion that discrimination is  
23 decreasing, and almost non-existent. So, that may be a  
24 nice enlightening for her.

25 MS. RATTLE: Did you bring other copies with

1 you?

2 MR. HARNICK: I did not, I had a hard time getting  
3 this. I tell you what, let me give you the publication  
4 number and let me tell you what department in HUD to contact  
5 to get it. It is publication No. 786, put out by the  
6 Policy, Development and Research at the HUD central office,  
7 at 7th and D, and it is on the fifth floor.

8 I will tell you what, I have a phone number back  
9 in my office. Let me give you my phone number, and you call,  
10 and then I can give you the name of the person to contact  
11 there, as well as the phone number.

12 It is called "Recent Evidence on Discrimination  
13 in Housing" April '84, hot off the press.

14 MR. FLOYD: Did you say you were going to leave  
15 that one?

16 MR. WATKINS: Be specific, or he will tell you  
17 it is 1884.

18 MR. KENNEY: Can we just give you our names, and  
19 you can mail copies out?

20 MR. HARNICK: I don't have access to copies, that's  
21 why I say, if you communicate with PDNR, they would be  
22 able to provide that mailing. I don't have copies, other  
23 than this one.

24 My phone number is area code 215-597-2642.

25 MR. RUTLEDGE: We will take care of that.

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1 MS. STAFFORD: We have over on the publications  
2 table a form that says X-number of X-reports, with an  
3 address, so if anybody is interested in that, fill out one  
4 of the forms.

5 MR. HARNICK: If you do that, and communicate with  
6 me, I will make sure that I give them the names and have  
7 them mail it to you.

8 MR. RUTLEDGE: We will give you the names of all  
9 our advisory committee members, and then you can send it to  
10 all of them -- we don't want to discriminate against them.

11 MR. FISHER: Thank you, Joel.

12 Now, let me see if I can get this thing right,  
13 to my immediate left we have Bob Greaux, the Assistant  
14 Regional Administrator, the Office of Federal Contract  
15 Compliance Programs, of the U. S. Department of Labor.

16 MR. GREAUX: Good afternoon,

17 It is a pleasure to be here this afternoon and  
18 get acquainted with you in your conference. It is a  
19 pleasure for a number of reasons, one I get to meet a lot  
20 of people I have been trying to meet for a long time, all  
21 very busy people. The second reason is I am glad to be  
22 here because there was a rumor that a nail had been driven  
23 into the coffin of affirmative action sometime ago. I want  
24 you to know that affirmative action is alive and well,

25 I am, as are most of my colleagues, a policy

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1 implémentor, rather than a policymaker, therefore, I will  
2 speak from the dual prospective of a person who has to  
3 administer regulations and manage the program. I will try  
4 to give you some of the nuts and bolts issues that go with  
5 running the program today. I will try to follow the recom-  
6 mendations in the guidelines, as set forth in our sheet.

7           As you may be aware, the Office of Federal Contract  
8 Compliance Programs, OFCCP, enforces an executive order  
9 and two congressional acts. The Executive Order is 11246,  
10 Section 503, of the Rehabilitation Act of 1973, and Section  
11 402 of the Vietnam Era Readjustment Act of 1974. These  
12 statutes prohibit discrimination in employment decisions  
13 against minorities, women, veterans and handicapped workers.

14           In addition, and just as important, the law  
15 requires government contractors to take affirmative action  
16 to recruit, employ and promote covered group members. As  
17 an aside, somebody said this morning, sue us, take us to  
18 court.

19           I want you to know that we have been sued many  
20 times by many groups. We also operate under a couple of  
21 court consent decrees, one in trucking and one in higher  
22 education called the Women's Equity Action League.

23           Those who sign contracts with federal agencies  
24 represent an enormous share of the nation's job market, and  
25 also represent an awesome responsibility to OFCCP, all told

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1 some 350,000 employees across the country are doing com-  
2 bined business in a program last year of over \$100 billion.  
3 And employ a workforce of nearly 40 million people.

4           Employers are covered under our program if they  
5 have a contract of at least \$2500 they are covered under  
6 the handicapped regs; a contract of at least \$10,000 if  
7 they are covered under the veterans regs; \$10,000 also  
8 covers contractors for executive order of construction;  
9 \$50,000 and 50 employees mandates that an employer must  
10 establish a written affirmative action program.

11           During the past fiscal year -- I will give you  
12 overall for the country and then I will come back for  
13 specifics. OFCCP conducted over 4,000 compliance agreements  
14 with government contractors, we also completed over 2,000  
15 complaint investigations. We also reduced our complaint  
16 backlog, by the way, from over 2,300.

17           What did we find during these investigations?  
18 During the course of the review we found that most govern-  
19 ment contracts were not abiding by all of the Labor  
20 Department requirements. Of the 4,000 compliance reviews,  
21 over 60 percent of the contractors were found to be in non-  
22 compliance. As far as the complaint investigations, we  
23 determined of the 2,300 cases, 28 percent, almost one-third,  
24 revealed violations. For the year the Department obtained  
25 settlement of a grand total of over \$13 million, which was

1 paid to approximately 9,000 identified victims of discrimin-  
2 ation. There were no de-barments during the year, over  
3 17 administrative complaints were filed for enforcement.  
4 That was the broad picture.

5 In Region III we had a lot of accomplishments,  
6 as I said, we are also managers and we have program plans  
7 to accomplish. For the first time in this history of the  
8 program, Region III accomplished the program plans. This  
9 was due mainly to the institution of a new case management  
10 system where we tracked the average hours, through to  
11 completion and we also tracked how much time the solicitor's  
12 office takes with cases.

13 By the way, the increase in quantity did not come  
14 at the expense of quality. The region overwhelmingly passed  
15 a stringent accountability review conducted by the national  
16 office. Furthermore, financial settlements in Region III  
17 in the form of back pay increased over 1,000 percent from  
18 \$46,000 in fiscal year '82 to nearly \$500,000 in fiscal  
19 year '83.

20 Now, as you can see, when we determine the  
21 contractors are deficient in their obligations, we require  
22 appropriate corrective action, primarily through conciliation  
23 agreements. Fortunately, most of our cases in which we  
24 found violations were successfully negotiated, instead of  
25 going through the conciliation process, before going to

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1 enforcement.

2           However, we see our role as more than simply  
3 equal employment opportunity police persons. The bottom  
4 line of our mission is jobs for covered group members.  
5 Therefore, we recognize our responsibility to work cooper-  
6 atively with contractors to assist in the compliance pro-  
7 cess. We do this by our involvement with liaison groups,  
8 offering technical assistance on an individual basis and  
9 conducting seminars.

10           We just recently had a seminar in Pittsburgh for  
11 construction contractors. All of this is in line with the  
12 objectives of the agency for 1984. The objectives for the  
13 two classifications internal management reform and the  
14 encouragement of external voluntary compliance -- internal-  
15 ly, I already mentioned the case management system. And  
16 we are also becoming very computerized with our employee  
17 management information systems, we track our work. We are  
18 studying, coming up with quality standards for our offices,  
19 as well as management staff. We are studying the issue of  
20 complexity, how long it should take to do an adequate  
21 investigation. In fact, we are being studied to death,  
22 as you are well aware, with the attitude of doing more with  
23 less. We have to find ways to be more productive and get  
24 the same job done with less resources.

25           Externally we realize that we could not possibly

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1 . conduct reviews on 350,000 contractors, therefore, we must  
2 come up with some methodology to assure that contractors  
3 are conducting affirmative action whether or not we review  
4 them that year.

5           Additionally, to do away with a perceived  
6 adversarial relationship between ourselves and the contract  
7 community, our former director, initiated what is called  
8 liaison with concept, where top-level management meets with  
9 groups of contractors to settle issues in a non-confronta-  
10 tional manner. Although our group concept has been criticized,  
11 by many, in the last three years the number has grown to  
12 over 200. And we are trying to work with other groups of  
13 agencies in the region. I have been in Philadelphia for  
14 about 16 months now and during that time I have taken on a  
15 crusade to meet with as many groups as I can.

16           I have taken the initiative to speak out, plan  
17 and meet with other federal agencies. As I said, I have  
18 only got the opportunity to meet with some of you today,  
19 but that is the tragedy, but it shows how much I work.

20           MR. WATKINS: It sounds like something from Star  
21 Trek, to seek out and find.

22           MR. GREUX: In the final analysis, affirmative  
23 action represents much more than just a statistic, it must  
24 be a commitment taken seriously by contractors to do what  
25 is right. Equal opportunity is the law of the land and

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1 while we know we have a long way to go to achieve complete  
2 equality, there are, indeed, signs of progress. I would  
3 not go so far as to say, or ask the question is there less  
4 discrimination today, than there was in 1948, when the  
5 Commission was legal.

6 We have gone a long way down the path to alleviate  
7 the problem, but what is misunderstood by many people at  
8 many levels is that Executive Order is 19 years old; 19  
9 years ago a battle was fought to get minorities and women  
10 in the door. Over those 19 years we have changed our  
11 emphasis in response to our successes and our failures,  
12 and also our opponents.

13 As we moved up the job ladder from service workers  
14 and laborers and crafts people, to technicians, people who  
15 gave way grudgingly, when we got to professionals and  
16 efficient managers, it was a full-scale war. Also, as you  
17 may be aware, 19 years ago, the contractor either had or  
18 didn't have any, and we were the judge.

19 Over that same period of time there has grown in  
20 this country an affirmative action, equal employment op-  
21 portunity industry in certain groups, making a lot of money  
22 at the backs of discriminatees.

23 We, at OFCCP, continue to improve our enforcement  
24 product, and to enforcement the regulations as written. One  
25 of the things that we have to consider is that we don't have

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1 a permanent director at this point in time. We had a lot  
2 of vacancies at higher levels, we have five regional  
3 administrator vacancies, we have some proposed regs that  
4 come up from the Carter Administration that were never  
5 implemented, and the new administration has tried to  
6 implement some new regulations which have not taken place.

7 And there is a perception, internally and external-  
8 ly, as I said before, that affirmative action is dead. So  
9 when we go visit contractors to do our compliance review,  
10 they say why are you guys still around?

11 I also want to tell you that some companies,  
12 very few, have dismantled their entire internal EEO  
13 system. It is getting worse for the compliance officer,  
14 it is getting worse of the EEO manager industry and it is  
15 getting worse, in some respects, for constituent groups.

16 I won't be around tomorrow, so you can ask me  
17 questions today.

18 MR. FISHER: Okay, thank you very much, Bob.

19 And now we have Paul, am I correct? Paul Cushing,  
20 Regional Manager Office for Civil Rights, U.S. Department  
21 of Health and Human Services.

22 My good friend, Bob, kind of slipped in on me,  
23 but I do want to question you. We want to see if we  
24 can keep your remarks limited to 10-minutes, maybe 12 at  
25 the most, so we can get the whole agenda in this afternoon.

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1 MR. CUSHING: Good afternoon, everybody. I am  
2 the representative of the Office for Civil Rights in the  
3 Department of Health and Human Services.

4 Up until 1980, we were part of the HEW, until  
5 an act of Congress split the agency, and you now get to  
6 deal with both Dewey and I, instead of just Dewey at the  
7 time.

8 My discussion with you this afternoon will  
9 generally follow the outline that was suggested by Ed's  
10 staff, the regional staff of the Commission. The OCR's  
11 responsibilities that we have cover four major jurisdictions,  
12 Title VI of the Civil Rights Act of '64; Section 504;  
13 the Rehabilitation Act of 1973; the Age Discrimination  
14 Act of 1975; and the Community Assurance Provisions of the  
15 Hill-Burton Act. That is a less known and probably some-  
16 what obscure piece of legislation in civil rights law,  
17 but it can be a very effective tool to use in getting  
18 access to health care services, and we will talk about  
19 that a little bit later in a little bit more detail.

20 The current directions and priorities of our  
21 agency occurred, some of it, mirrored by some of my  
22 peers in some of the other federal agencies, with both  
23 HUD and the Department of Labor. The emphasis in OCR and  
24 Health and Human Services for the last two years has been  
25 a thrust toward voluntary compliance, with an attempt to

1 try and create an atmosphere where there is less confronta-  
2 tion between federal agencies and the recipients of federal  
3 funds. And we have tried to do that in a couple of ways,  
4 I think the priorities are reflective in our organization  
5 now. We have two basic divisions, one is called Voluntary  
6 Compliance and Outreach; and the other division, of course,  
7 is the traditional one of Investigation.

8 The staff in investigations are responsible for  
9 investigating the complaints that come in to the office,  
10 conducting compliance reviews, and conducting another  
11 animal we call project review, which I will explain in a  
12 little bit.

13 Let's spend a little bit of time, first, on the  
14 voluntary compliance and outreach effort. We begin to  
15 try and change the emphasis of the office from strictly  
16 an investigatory agency, into one that has an orientation  
17 that is more inter-governmental and more project oriented.  
18 Currently, this year we have undertaken a number of pro-  
19 jects in the voluntary compliance office that have a few  
20 target populations as the specific interest.

21 In Pennsylvania we have a project with the State  
22 Aging Office, where we will be developing through the  
23 state agency a series of training programs for all the  
24 triple-A's, which are the area aging agencies, they are  
25 the actual agency that are pretty close to the point of

1 the delivery service to seniors. The purpose of this is to  
2 begin to try the staff, to get them to understand what  
3 their responsibilities are in these various civil rights  
4 statutes. And, also, to begin to inform their constituents,  
5 the people who come to the nutrition site, the senior  
6 citizens centers, to know what their rights are. Seniors  
7 probably have a greater scope of protection under civil  
8 rights law than any other class of people in this country,  
9 and yet, they are one of the few who really exercise their  
10 rights by either going through the complaint process, or  
11 going and trying to negotiate some arrangements with pro-  
12 viders of services.

13           The second area that we have undertaken initiative  
14 is the area of refugees, focusing attention on their access  
15 to health care delivery. In early July, we are going to  
16 be hosting a meeting in Pennsylvania, and in Philadelphia,  
17 with the Department of Welfare and the Department of Health,  
18 with various organizations and constituency groups of  
19 refugees to see if we can have an agreement to establish a  
20 language or translator back in the Philadelphia area, that  
21 hospitals and health care providers can tap in to when a  
22 person with limited speaking -- limited English ability,  
23 comes in to their emergency room, or comes in to acute care  
24 in a hospital setting.

25           Another area that we have begun to focus on is

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1 what we call, for lack of a better term, networking. We  
2 have a couple staff in the voluntary compliance office  
3 who are specialized in particular areas. One gentleman  
4 has spent a considerable amount of time in the last year  
5 making contacts and working out understandings with all of  
6 the states' NAACP chapters throughout the region. We have  
7 also undertaken an initiative where we have signed agree-  
8 ments with four of the five state Human Relation Commissions  
9 in our region -- and I see Howard Kenney and Dave Glenn  
10 from Maryland, and Howard from West Virginia, and Homer  
11 from Pennsylvania, all signed agreements with us.

12 The basis for those is to share some information,  
13 as far as what our case load is, what the recipients that  
14 we are investigating, so we don't have a duplication of  
15 effort, where we have areas where we may be able to do a  
16 team approach, or being to share information that is helpful  
17 in one another's investigation. That is basically the  
18 essence of the agreement.

19 We have undertaken some initiatives with minority  
20 groups that have what we call cross-jurisdictional, or  
21 multi-jurisdictional. Two years ago we initiated some  
22 contracts for three programs in the region, what is called  
23 the Developmental Disability Advocacy Network and Yetta  
24 Galiber is the director of the one here in Washington. The  
25 contracts, one in Maryland, one in West Virginia, and one

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1 here in the District. The purpose was to establish a  
2 minority outreach program with particular target populations.  
3 In Maryland it is for the urban black population; here in  
4 the District it is for the Hispanic population, and in  
5 West Virginia it is for the rural black population.

6 The project was focused in an area of a little  
7 down that probably only Mr. Pitts knows, it is called Oak  
8 Hills, outside of Beckley. The purpose of that project  
9 which found that the DEDAN program over the years was a  
10 traditionally white, middle-class program. And the con-  
11 cept here was to begin to inform the minority communities,  
12 particularly those who were eligible, of developmental  
13 disability services that they had a protection under civil  
14 rights law, that they had a protection under the advocacy  
15 programs that DEDAN offered, and we wanted to see them be-  
16 come a part of that.

17 Some of the other results that we have had, in  
18 terms of the voluntary compliance and outreach activity,  
19 in Philadelphia there is a small Catholic hospital in the  
20 Kensington section called St. Mary's. St. Mary's was  
21 proposing to close four of their six OB-GYN clinics that  
22 serviced the predominantly Hispanic population in the  
23 Kensington-Fishtown area. Working with the mayor's office  
24 for Hispanic Concerns, we were able to negotiate an agree-  
25 ment with the hospital not to close this down, and they are

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1 still open today.

2 One of the inter-governmental aspects of our  
3 activity, each of the major state agencies that receive  
4 funding from our department -- regionally it is the welfare  
5 department and the health department; in some states they  
6 have an umbrella agency, such as here in the District, it  
7 is the Human Services Agency, or Human Services Administra-  
8 tion.

9 They have compliance officers who are responsible  
10 for state enforcement, or state monitoring compliance with  
11 federal laws by the particular state agencies.

12 We have begun to sponsor semi-annual forums with  
13 the staff persons, so we can at least make sure that their  
14 understanding of policy is consistent and that we have some  
15 interchange of ideas, in some of the problems that they  
16 are having. And it has also been a help to us in some of  
17 our planning activities, we preparing our annual operating  
18 plans for the following year.

19 I am going to go into the investigative side for  
20 a bit. Before I came down here I read the report that  
21 the Commission did last year on federal enforcement. Our  
22 agency took a particular pounding in that report for an  
23 activity that was called "Project Review". The Commission  
24 staff felt that the reviews were somewhat surface, and not  
25 of particular substance.

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1           The concept of a project review is different from  
2 a compliance review. And what we have attempted to do is  
3 take a single issue, focus on a single type of recipient  
4 and work where types of recipients are clustered, and get  
5 in and get out within about a 60-65 day period. We have  
6 chosen compliance with Section 504 and our first target  
7 population has been hospitals.

8           In the last 18 months we have conducted reviews  
9 of 120 hospitals in Region III, in various clusters through-  
10 out Pennsylvania, Delaware and West Virginia. We are now  
11 starting to initiate reviews in the state of Virginia.

12           The purpose of these reviews has been to get the  
13 administrators of the hospitals to begin to become aware  
14 that there is such a thing as Section 504, and the require-  
15 ment for compliance with the non-discrimination provisions  
16 of that law, and that they have certain responsibilities  
17 to particular segments of the population, the disabled  
18 persons.

19           We have been able to establish a change rate of  
20 over 90-percent where we have gone into facilities and  
21 found that while they may be physically accessible, there  
22 have been absolutely no provisions for providing services  
23 for hearing impaired, or visually impaired persons. They  
24 have no concept of providing services, and what the  
25 difficulties might be in providing services to a hearing

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1 impaired person, particularly in a traumatic or emergency  
2 setting.

3           And I think that we stand on that success in  
4 terms of the quality of -- the level of the quality of the  
5 service the hearing impaired, or visually impaired person  
6 has increased significantly since that. And, I also believe  
7 that we have significantly raised the understanding and  
8 the prospective that hospital administrators have now  
9 toward providing services to disabled persons; where before,  
10 as disabled people will tell you, the medical profession,  
11 as a group, is probably the worse perpetrators of dis-  
12 crimination based on disability. It has taken a consider-  
13 able amount of training and orientation to begin to get  
14 them to understand that when someone goes in to be treated  
15 for a heart condition, the fact that they are in a wheel-  
16 chair because they are paraplegic really has nothing to do  
17 with the heart condition, they are there for treatment of  
18 the coronary, and not treatment of the fact that they  
19 can't walk.

20           We have heard enough horror stories over the  
21 years about people who go in for emergency care with an  
22 existing disability and the intern in that emergency room  
23 is damned determined that he is going to treat that dis-  
24 ability and that person will walk out of there, even though  
25 they are bleeding from a gash in the head.

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1           Those are the kinds of things that we have tried  
2 to focus on in project reviews, in terms of dealing with  
3 health care facilities and the services to disabled persons.

4           In terms of complaints, let me just give you some  
5 statistics of what our complaint section looks like for this  
6 year. So far we have received 161 complaints this year,  
7 56-percent of those fall within the area of Section 504.  
8 What skews that our a little bit is the recent ConRail  
9 case where we have reopened all of the old Tregarer  
10 (phonetic) cases. We were prohibited from investigating  
11 complaints of employment in the Fourth District, which  
12 included a number of the states in this region, Maryland,  
13 Virginia and West Virginia. Those cases have now been  
14 reopened on the basis of the Deron Decision, and we are  
15 starting to investigate them now.

16           About 18-20 percent of our complaints fall within  
17 Title VI, and the other 4 percent kind of drop out between  
18 age discrimination and the community assurance provisions  
19 of Hill-Burton.

20           We have conducted so far this year 21 compliance  
21 reviews. Again, there has been a heavy emphasis in look-  
22 ing at health care facilities, and particularly hospitals.  
23 And our reviews have focused on three jurisdictions, 504,  
24 Title VI and Hill-Burton.

25           I mentioned the community assurance provisions of

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1 Hill-Burton before. I will explain them to you very briefly,  
2 any facility, any health care facility that had received  
3 a loan, a grant or contract through the Hill-Burton funding  
4 program, which was a health facility construction program,  
5 signed an assurance that; number one, for 20 years they  
6 would provide a certain percentage of uncompensated care.  
7 Some of those facilities the uncompensated care provisions  
8 have expired.

9 That provision is monitored by the Public Health  
10 Service. The second agreement that they signed was the  
11 Community Assurance Agreement. The Community Assurance  
12 Agreement says that they will not deny emergency services  
13 or emergency care to any person who walks into that  
14 hospital, regardless of race, creed, national origin, or  
15 ability to pay.

16 It also specifies that any hospital that has  
17 received Hill-Burton money has to participate in Title  
18 XVIII and XIX, which is Medicare and Medicaid. It is a  
19 little known provision of the Hill-Burton law that has  
20 not really been enforced over the years, and we are begin-  
21 ning some initiate using the project review approach to  
22 increase our surveillance of compliance with Hill-Burton.

23 We have conducted hospital reviews in the suburban  
24 Philadelphia area and in the Roanoke area of Virginia, and  
25 we have found that the policies are there, but not necessarily

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1 the operating procedures.

2 We are also going to extend our reviews for  
3 hospitals between now and the end of September into a  
4 number of hospitals in Richmond, Virginia.

5 Two other areas that are ongoing right now,  
6 where we are conducting compliance reviews is the mental  
7 health programs in the state of Virginia, and also the  
8 social service program that is operated out of the Depart-  
9 ment of Welfare in Virginia, the one that would be funded  
10 by the social services block grant.

11 We have plans for the early part of 1985, fiscal  
12 year 1985 to review the DEDAN program in West Virginia,  
13 the mental health program in West Virginia and the Aging  
14 Programs in Delaware and Maryland. That will give you a  
15 little scope at this point of where we see ourselves going  
16 in '85.

17 I think you will see somewhat of a de-emphasis  
18 in our agency on hospitals over the next year because we  
19 have made such a heavy concentration in the last 18 months.  
20 We are going to begin to move into more systemic reviews  
21 in terms of looking at a state agency and trying to trace  
22 the services right down to the local area, that will  
23 include focusing on social services, welfare and probably  
24 mental health.

25 One last point, in terms of coordination with

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1 some of the other agencies. Dewey is down the hall from  
2 me, so our coordination is relatively easy. Bob is about  
3 five floors away and we have exchanged letters, but this  
4 is the first time that we have had the opportunity to meet  
5 one another. So, I am not sure what that says for the  
6 coordination, other than we do respond to each other's  
7 letters fairly timely.

8 One other thing that I would like to add, I think  
9 part of the scope of inter-governmental relations, certainly  
10 extends to the state advisory committee in each of our  
11 states. And I have met a number of you in other capacities,  
12 over the last year and a half. I would like to extend the  
13 invitation to you to either come to Philadelphia to meet  
14 with us, or we would be happy, if either the voluntary  
15 compliance division director, whose name is Joe Lowenstein,  
16 is in your area, or I. We would be glad to spend an  
17 evening with you and hear you out on what some of your  
18 concerns are as they relate to agencies that our department  
19 funds.

20 So, it is an open door. And it is nice to meet  
21 the rest of you today, and I appreciate being here.

22 I have to go back to Philadelphia tonight, I  
23 will be here tomorrow, until about 1:00 o'clock.

24 MR. FISHER: Thank you, Paul.

25 Our final panelist is Dewey Dodds, Regional

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1 Director, Office of Civil Rights, U. S. Department of  
2 Education.

3 MR. DODDS: I don't know about this stuff of  
4 being last.

5 MR. FISHER: We sayed the best for last.

6 MR. DODDS: You sayed the best for last, but the  
7 time is pretty well used up and everybody is still anxious  
8 to go back there and get a drink. So, I will cut mine as  
9 short as I can, in the whole process.

10 We all deal with Title VI, we all deal with 504,  
11 we all deal with age in one way, or another, and then each  
12 of us has some little area that we deal with that nobody  
13 else deals with. Mine is Title IX, and you heard all about  
14 Title IX this morning. And that is where -- I could just  
15 sum up our whole -- what, the impediments to the aspiration  
16 of the office, getting some clarification on Title IX in  
17 Grove City.

18 We, in the Department of Education, do the same  
19 things that everybody else does, we do complaints, we do  
20 compliance review, we offer technical assistance. And I  
21 add my offer to Paul's, in terms of meeting with you. We  
22 would really like to meet with some of you. There was a  
23 time whenever we didn't go into a school district to do a  
24 review, that we didn't make some contact with the SAC people,  
25 or even initiated the review. That has kind of fallen out

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1 over the years. And I think it would be good for us to  
2 restore that kind of relationship again.

3 We operate, primarily, as the result of the Adams  
4 Order, and I think you have heard of that. The Adams versus  
5 whoever -- whoever happens to be Secretary of Education at  
6 the time. It started back in '72 and the Plaintiffs have  
7 kept it hot right through, every couple of years they go in  
8 and ask the Judge to find the Secretary of Education, who-  
9 ever it might be, in contempt of court. And Judge Pratt  
10 gives a new order, and we follow that order. And really  
11 are doing most of our work as a result of what Judge Pratt  
12 tells us to do, in terms of timeframes and so forth.

13 We have made some real accomplishments as a  
14 result of all of that. The most recent order came down --  
15 and we keep getting this backlog developed -- the most  
16 recent order says you have got to finish this backlog and  
17 you have got to take some action on these things.

18 Well, actually we completed nationwide 761 cases,  
19 I think it was, that were backlogged, not really very back-  
20 logged. But I think one of the things that may be sur-  
21 prising to you is that 18 cases we referred to the Department  
22 of Justice with a recommendation that they take them to  
23 court; and 27 cases were offered opportunities for  
24 administrative hearings.

25 Now, we haven't offered administrative hearings

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1 for a long time. And as a result of this order, and our  
2 Assistant Secretary had sent letters to 27 different  
3 recipients, educational recipients, and they are in various  
4 stages of the administrative hearing procedure now.

5 I think that I will just stop there, because you  
6 have heard everything that is going on, as far as the  
7 general approach, in terms of technical assistance, that is  
8 in our agency, too. I am anxious and real pleased that  
9 we had this opportunity, I said to Ed earlier that this is  
10 the time that we get a chance to see each other, who are  
11 all interested in the same kinds of things.

12 Paul mentioned the fact of the three of us in  
13 the same building, this is the first time that the three  
14 of us have sat together at anything. And I am sure it is  
15 not going to be the last time that we do. But, amazingly  
16 enough, all of us up here deal with different constituents,  
17 there is no real great overlap between what we do. Bob  
18 deals with the contractors, and Paul deals with hospitals  
19 and welfare agencies, I deal with educators.

20 So, we really don't -- and then the HUD people  
21 deal with all of the stuff that is down there, but never  
22 the same people that we deal with in the process. So,  
23 there is need for us to know each other and know what we  
24 are doing but I don't think there is a whole lot of  
25 opportunity for real coordination of our programs, as far

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1 as who we are dealing with out there. We still have to  
2 all exist, and we all have to come out and see all of you  
3 all the time.

4 But let me stop there, and I will be back tomorrow  
5 morning, if we need to discuss Title IX a little further,  
6 or the Grove City decision,-- Grove City is in our region.

7 MR. FISHER: Before we break for coffee, I think  
8 it makes sense if we entertain whatever questions you may  
9 have of this panel. And following the coffeebreak, we  
10 will reconvene the next panel, which will represent the  
11 state perspective.

12 So, do we have any questions of any of the panel  
13 first?

14 REV. HARRIS: Mr. Dewey Dodd, what is the time-  
15 frame for developing investigation and getting a report  
16 out after a complaint is filed?

17 MR. DODD: The timeframe is that from the time  
18 we get a complaint, we have 15 days to acknowledge it,  
19 90 days to investigate it, 90 days to negotiate a settle-  
20 ment and 30 days to get it in to hearing; a total of  
21 195 days. We meet that about 50 percent of the time.  
22 About half of our cases are complex enough that we just  
23 can't meet that timeframe.

24 But usually we don't get that letter of findings  
25 out in 90 days. Usually, in the great majority of them,

1 we have them resolved within the 195 days, probably as  
2 many as 85 percent are finally resolved within 195 days.

3 REV. HARRIS: Thank you.

4 MR. FERRON: Mr. Harnick, you talked about the  
5 recent evidence of discrimination in public housing. I  
6 assume you have read it, and are quite familiar with its  
7 content.

8 MR. HARNICK: I have read it, yes, to answer your  
9 question.

10 MR. FERRON: My question is does the publication  
11 or do any other investigation or information you have  
12 within your department address the issue of public high-  
13 rise housing? And I have a follow-up to that question.

14 MR. HARNICK: Well, the publication that I refer  
15 to does not specifically address public high-rise housing,  
16 no.

17 MR. FERRON: The reason I raise that question  
18 is the public high-rise housing complexes, and I am  
19 speaking specifically of Baltimore City -- everyone knows  
20 about New York -- but it seems to be an open forum of  
21 racial ghetto life. And it appears that if no one has  
22 taken a look at that, maybe creatively we could look upon  
23 this as a form of racial discrimination and isolation, and  
24 also class discrimination and isolation. And I would sub-  
25 mit that to you and your agency to address, if funds are

1 available.

2 MR. HARNICK: We recognize your concern, in fact,  
3 it is one of our thrusts this fiscal year and the next  
4 fiscal year to deal specifically with the issue of  
5 segregated housing markets, with respect to public housing.  
6 And our efforts to integrate and provide for access for  
7 people to interact with one another and desegregate that  
8 public housing. We are making an effort to do that, both  
9 through Title VI avenues, in terms of reviewing PHAs  
10 receiving federal funds and so on, and requiring them to  
11 develop the kind of guidelines necessary to desegregate.  
12 And, also through Title VIII, when we receive specific  
13 complaints alleging disparate treatment in terms of trying  
14 to get access to public housing.

15 I can't be specific, only to tell you that this  
16 is a priority with us.

17 MR. FERRON: Because it is no secret that many  
18 studies have documented the psychological-physical impact  
19 that crowding and tight places have on people -- youngsters  
20 and everyone else. And it is just a severe situation,  
21 that I feel appears to be open up, I am not pinpointing  
22 your agency, because city-to-city and respective juris-  
23 dictions have to approve the form and style of the  
24 type of housing that is put up. It is a serious situation.

25 MR. FISHER: Yes.

1 MS. GALIBER: Paul, it is nice to see you again.  
2 You mentioned the projects that were funded  
3 through your office and the developmentally disabled  
4 administration, those projects were funded for two years,  
5 and then the new administration dropped them. And I would  
6 suggest that the discrimination against ethnic minorities,  
7 developmentally disabled persons continue. And I am  
8 wondering what your agency is going to do about this,  
9 because it was just dropped, after much data had been  
10 gathered.

11 MR. CUSHING: We have done two reviews so far  
12 this year, in Pennsylvania and Virginia, in terms of the  
13 outreach that they have had. And the review in Pennsylvania  
14 has concluded and we have worked out an agreement with  
15 the state that the state of Pennsylvania DECAN program  
16 is going to begin to initiate an outreach program through  
17 their own resources.

18 I can't speak for the Virginia one yet, because  
19 we are not finished it.

20 In terms of what is coming up in the next year,  
21 there is a recommendation coming in from the work groups  
22 to try and see if we can find some funding from other  
23 agencies within our department, to at least extend, con-  
24 tinue, or take a mutation of that program that we had a  
25 few years ago, and start again, so we don't lose the

1 momentum that we had there.

2 MS. GALIBER: But the problem is when they come  
3 up with their own resources they are just nothing, \$80,000  
4 for the whole state of Pennsylvania.

5 MR. CUSHING: Rob from Peter to pay Paul, I  
6 understand.

7 MS. GALIBER: I just don't get the feeling that  
8 that would do the job.

9 MR. CUSHING: What we found in Pennsylvania was  
10 that there was no outreach to that, it was sort of going  
11 from zero to maybe five on a scale of 15. So, we are  
12 starting some movement in that direction. I don't know  
13 what it looks like in Virginia yet.

14 MR. FLOYD: I want to ask Bob, if you will re-  
15 call the operating engineers and contractors were ordered  
16 under Leon Higgenbothen's order to come up with affirmative  
17 action, and so forth, as to the right of minority con-  
18 tractors -- they were able to get out from under that  
19 suit. So, therefore they do not have to comply with the  
20 requirement, although the union does.

21 My question is we are now finding that many of  
22 the contractors are simply disregarding the goals that  
23 were previously established as it relates to the hiring on  
24 the various projects. Is OFCCP going to resume their  
25 compliance reviews of those contractors?

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1 MR. GREUX: Believe, it or not, we never stopped.  
2 One of the things that did happen was we had to get some  
3 interpretation of the policy on whether or not the con-  
4 tractors' good faith efforts obligations could be handled  
5 by a third agency. They were saying that as long as the  
6 they belonged to the association and the association gets  
7 the good stuff. We had to wait for a long time to get a  
8 decision on that. We now have a decision on that, you  
9 cannot rely on a third party in the association for the  
10 good faith effort. We are now continuing to conduct  
11 reviews on the construction industry.

12 We are also encountering very stiff opposition  
13 to contractors signing opposition agreements.

14 MR. FLOYD: If we have some contractors that  
15 we would like you to review, how would we set up the  
16 process whereby we could get them on your list, and  
17 ultimately under review?

18 MR. GREUX: The public answer is you can't.

19 (Laughter)

20 MR. GREUX: The other answer is I will talk  
21 to you afterwards.

22 MR. FISHER: Any other questions?

23 MR. GREUX: One of the problems with that is  
24 (inaudible).

25 DR. AZORES: I have a short question, this is

1 directed to Mr. Haywood. I understand that one of the  
2 areas that you are involved with is immigration, my first  
3 question is does this function overlap or duplicate the  
4 function of the INS?

5 MR. HAYWOOD: I don't know how many of you heard  
6 his question, does what we do in immigration overlap INS?  
7 And the answer is no, it is a different program altogether.  
8 We work with second entry persons, that is persons who are  
9 sent to us from a first post, after having come into the  
10 country. It is a second relocation kind of thing.

11 DR. AZORES: Is this only true with the national-  
12 ities that you mentioned, or can other --

13 MR. HAYWOOD: Our program is only with Cubans  
14 and Haitians.

15 DR. AZORES: That is what I am trying to say,  
16 I want to find out, because that is a form of discrimination,  
17 because that condition exists with the other nationals who  
18 seek entry in the United States, why don't you take  
19 jurisdiction over them? Why is it limited to just --

20 MR. HAYWOOD: Just to Cubans and Haitians?  
21 They have come into the country at a port, of port of  
22 entry, and who are sent from that point of entry and re-  
23 settled throughout the country, particularly in the Middle-  
24 Atlantic region.

25 Now, in answer to your question, I will say I



1 don't know why we don't have others.

2 DR. AZORES: My second question -- thank you,  
3 sir. My second question is addressed to the second speaker,  
4 Joel Harnick. You mentioned about federally funded pro-  
5 grams, I just want to find out if you are aware of any  
6 federally funded program which makes a requirement of  
7 being an American citizen in order to qualify, or be  
8 eligible to participate in this federally funded program?

9 MR. HARNICK: My immediate response is no. My  
10 particular responsibility is enforcement of Title VIII,  
11 and I haven't had occasion to --

12 DR. AZORES: You are not aware of any federally  
13 funded program that requires the participant to be an  
14 American citizen?

15 MR. HARNICK: Not specifically, no.

16 DR. AZORES: I have been approached by some  
17 minorities who say that they are being denied, and if they  
18 are that is no reason, because we are also taxpayers, and  
19 they are spending our money that we contribute.

20 MR. HARNICK: Well, see, Title VIII says any  
21 person, it doesn't say any citizen.

22 DR. AZORES: Then the person referred to can be  
23 American citizen, or just a permanent resident?

24 MR. HARNICK: Correct.

25 DR. AZORES: Thank you, sir.

1 My next questions are addressed to Mr. Greaux.  
2 This concerns the affirmative action program, can you  
3 please tell us if any of the public announcements of  
4 decisions of the Commission on Civil Rights, or any court  
5 decision has in anyway affected or impacted your affirma-  
6 tive action program?

7 MR. GREAUX: No, it hasn't. The question was  
8 any decision of the courts affected us in affirmative action?  
9 I deal with policy, I would have to go off the record.

10 (Discussion off the record)

11 MR. FISHER: We are running a little bit behind  
12 schedule, so I would like to take this opportunity to  
13 thank the distinguished panelist for coming down and shar-  
14 ing their knowledge and expertise with us. And we do hope  
15 that those of you who can will stay with us through the  
16 duration of the conference.

17 So, now, let's take a break. It is 20 after,  
18 let's reconvene at 3:30 with the next panel.

19 (Applause.)

20 MS. EATON: At this time I have the pleasure to  
21 introduce to you the second panel, which consists of the  
22 state officials from the Human Relations Commissions in the  
23 Mid-Atlantic Region, who will continue discussions on  
24 current issues, recent accomplishments. That is a lot to  
25 say in 10 minutes, but I promise you that this panel will

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1 be just as exciting and full of surprises, and all of those  
2 good things as the first panel was.

3 I am going to ask that this group here speak last,  
4 and give you a chance to ask you more questions. So, I  
5 want to get your consent and agreement, and we will have  
6 more time for questions.

7 I will ask the members of this panel if you can  
8 keep your comments to about 10 minutes, and we will start  
9 with Mr. Homer Floyd, who is the Executive Director of the  
10 Pennsylvania Human Relations Commission.

11 MR. FLOYD: Thank you.

12 I welcome the opportunity to make a presentation  
13 before this group. Our climate is a difficult one for the  
14 cause of human rights and civil rights, and I think most  
15 of us recognized that before we came here today. I have  
16 seen nothing here today to make it any easier on us, as it  
17 relates to what we are faced with at the state level.

18 The conflicting voices, the conflicting definitions  
19 of what constitutes discrimination, the conflicting notions  
20 of appropriate remedies as it relates to discrimination,  
21 all make it infinitely more difficult for us at the state  
22 and local level to enforce our own authority and jurisdiction.

23 We are finding that we have to reargue cases  
24 that we -- and issues that we thought were long since  
25 forgotten, issues such as numerical goals and timetables

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1 as it relates to affirmative action. This is coming up  
2 again, we won that battle in our state courts, but yet  
3 we are seeing the same issues being raised again.

4 We thought the federal government had, too,  
5 unfortunately.

6 So, when you look at the climate, we see a great  
7 deal of conservatism, a great deal of mischief-making  
8 that is going on in the work place that I think we have to  
9 at least express some concern about.

10 The Pennsylvania Human Relations Commission, like  
11 many of you at the local, state and federal level, are  
12 trying to operate in the context of diminishing resources  
13 that are being available to us. We have had the primary  
14 focus of our operation, law enforcement and to enforce the  
15 statutes that we administer, which are laws which prohibit  
16 discrimination in employment; in housing; public accom-  
17 modations and also in the field of education. We deal  
18 with age discrimination, as well as race, religion, color  
19 and national origin, age, sex, ancestor, handicap, and  
20 disability are the major areas of our jurisdiction.

21 Whereas in 1977-78 we had a total of 204 staff  
22 people, and 2,034 new complaints, together with 3,000  
23 that carried over from the previous year, we have sub-  
24 stantially increased that now. For this coming year we  
25 will have 3,900 new complaints filed with our agency, as

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1 well as roughly 3400 that we will close. In addition to  
2 14,000 informal complaints that our agency has to deal with.  
3 Whereas we had a high staff of several years ago of 218  
4 to deal with these problems, we now have a staff of 162.  
5 So, we see the resources are shrinking.

6 We have been able to up our case production, but  
7 at the same time, our new complaints have increased 50  
8 percent and our staff have been reduced 20 percent. Some  
9 of you are experiencing the same kind of problems.

10 I do want to mention though that roughly 90 per-  
11 cent of our complaints are employment discrimination cases.  
12 Housing would be the next, public accommodations and  
13 education. In addition to the traditional areas of employ-  
14 ment discrimination, and housing discrimination, and  
15 public accommodations, we also have school desegregation.  
16 And we have been involved in desegregating 26 schools in  
17 the Commonwealth of Pennsylvania. And Pittsburgh is in  
18 its second year, in the desegregation plan and doing fairly  
19 well; Philadelphia, September embarks upon its amended  
20 voluntary desegregation program, and has three years to  
21 show progress under the desegregation, or else we go back  
22 to court.

23 We also are involved, to some extent, in dealing  
24 with areas of community tension, which have a state task  
25 force responding to matters of community tension. And we

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1 work with the Justice Department and we have our own state  
2 agencies that have a task force and we network in regard  
3 to housing, tension that occurs and a variety of other kinds  
4 of problems. And we find that when minority families move  
5 into otherwise all-white neighborhoods now in some instance,  
6 in Pennsylvania --and I don't know what your experience is  
7 in some of the other states -- but we have instances in  
8 which neighbors are just trying to run them out.

9 We have people who are saying that we have moved  
10 for the third time, to get away from these folks, and we  
11 can't move anymore. So, therefore, if we can scare them  
12 out, they do it.-- large cinder blocks through people's  
13 windows, crosses burned on their lawns, and a variety of  
14 other harassment tactics.

15 We have that kind of stuff that does go on in  
16 our state of Pennsylvania, so we have a tension task force  
17 that responds to these issues.

18 In terms of the last fiscal year, out of 40 per-  
19 cent of the cases we found some evidence of discrimination  
20 and were able to settle. In terms of salaries, back pay  
21 and other benefits, we were able to achieve in those settled  
22 cases \$2,300,000 for persons who were the victims of job  
23 discrimination.

24 In addition to cases that we can't settle, since  
25 July of 1983, we have approved 117 cases for hearings. We

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1 were able to -- out of that group, we have been able to  
2 settle 89. Once we post it for hearing and it was clear  
3 that we were going to litigation, 89 of the respondents  
4 agreed to settle the case and we have been able to work it  
5 out.

6 We have 80 pending from previous decisions. We  
7 filed 17 cases in court, we have 16 court decisions since  
8 July 1st, and we still have 21 cases pending in court. We  
9 think that our litigation is very active. We have a staff  
10 of 14 attorneys, and that does help us get in to court,  
11 and they are on our staff, as opposed to the Attorney  
12 General's staff. So, as a result that helps to give us a  
13 little more flexibility in the kinds of issues that we can  
14 take to our, if we did not have the control of the staff.

15 We are dealing with a lot of issues in court  
16 right now, some of which we have some good court decisions  
17 on. And, unfortunately, with our efforts to expedite the  
18 time, I won't go into any great detail on what they are.  
19 We are working with the federal agencies, and one of the  
20 things that we value the most about our relationship with  
21 the Office of Civil Rights and Education and Health, as  
22 well as with HUD and EEOC, is the data-sharing aspect of  
23 the agreement.

24 It is very important to have data, not only that  
25 what we can collect, but also the additional data that the

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1 federal government has. The importance of that is that it  
2 enhances your case, even if you are going to use your own  
3 jurisdiction, your own authority for whatever it is you  
4 are going to do, it enhances the case.

5 Also, we find that in some instances with the  
6 federal agencies being involved, some respondents are much  
7 more willing to discuss settlement and work a problem out,  
8 as opposed to continuing to persist and resist. But these  
9 are some of the areas that we are involved in.

10 And, perhaps, a little later, if you have any  
11 specific questions about some of the thing that we are  
12 doing, we will be able to talk to you about them.

13 Thank you very much.

14 MS. EATON: Thank you, Mr. Floyd.

15 And now Mr. Howard Kenney. He is the Executive  
16 Director from West Virginia Human Rights Commission.

17 MR. KENNEY: Thank you.

18 It is a pleasure to come and share a part of  
19 West Virginia with you, since many of us around this table  
20 know very little about West Virginia, other than maybe how  
21 close is it to Richmond. And we find of get offended at  
22 those kinds of statements --

23 (Laughter)

24 MR. CONNER: Is that an infringement of your  
25 civil rights, Mr. Kenney?



1 MR. KENNEY: Close, close, and it is a social  
2 issue, also.

3 (Laughter)

4 MR. WATKINS: When you say university, you mean  
5 the one in Morgantown.

6 MR. KENNEY: Right.

7 I guess the thing I want to share with you today,  
8 and let me say that our agency is very similar to how Homer  
9 described his agency, so I am not going to repeat the  
10 fact that we cover the same areas employment, housing,  
11 public accommodations and those kinds of issues. But I  
12 will tell you that we are a small agency, we only take in  
13 approximately 800-and some complaints each year, as opposed  
14 to Homer's close to having 4,000 complaints filed every  
15 year.

16 We have a backlog, like Homer has in Pennsylvania,  
17 and I am sure Maryland has a backlog. So, we have all of  
18 those problems, but I think what kind of magnified our  
19 problems recently has been a suit filed against us, an  
20 mandamus action, which was recently filed in our Supreme  
21 Court, which says that we are not doing what we are  
22 supposed to be. And what we are supposed to do is to  
23 process cases throughout our system and bring them to some  
24 kind of resolution.

25 Some people, at least five, feel that we are not

1 processing their cases as far as they think we should be  
2 processing them. And so we know that we are going to lose  
3 that battle, we just hope the court goes a little easy on  
4 us when they begin to make that kind of decision.

5 I am sure many of the fellow agencies have  
6 experienced this, I am not sure how many state agencies  
7 or cities agencies throughout the country have had  
8 mandamus actions filed against them. But this is something  
9 that we will certainly benefit from and hopefully, on the  
10 tailend our legislature will be responsive.

11 But let me tell you, I don't think our legislature  
12 is going to be very responsive to this mandamus action.  
13 If the court says that we must process cases within a  
14 specified period of time, and bring them to some kind of  
15 resolution, and if it is conciliation and whether or not  
16 there is going to be an administrative hearing, that is  
17 going to be really tough on us. And it is going to require  
18 a tremendous amount of staff to accomplish that function.  
19 We have approximately 20-state funded employees, we were  
20 at a high of 53 in 1976. And as I told some people earlier,  
21 during lunch, when our present governor came in to office,  
22 one of his primary goals was to keep state government from  
23 growing.

24 And I can say that he has accomplished that goal.  
25 Not only is our agency hurting, all state agencies within

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1 West Virginia are suffering from the reduction in many cases.

2           And another thing, two years ago, we faced severe  
3 economic depression and the governor forced these cutbacks,  
4 as high as 13 percent, which reduced our staff down to  
5 about 14 people.

6           So, we have had all of these difficulties in  
7 trying to accomplish and do the things that we are mandated  
8 to do. So now we are faced with a court decision telling  
9 us that we are not doing what we are supposed to. And the  
10 Supreme Court is going to make a decision and the legisla-  
11 ture is going to say, you know, go fly a kite.

12           I talked with a state senator the other day, and  
13 he said, either they will give you the funds to do what  
14 your mandate is, or they will ignore you, as they have  
15 ignored other state agencies that have had similar actions  
16 brought against them, or they will just do away with the  
17 Commission altogether.

18           So, we have to worry about whether or not the  
19 agency is going to be wiped off the books. And this is  
20 something that concerns us quite a bit and we have done  
21 quite a bit of work in this area in trying to prepare for  
22 the case and to overcome -- or at least to give the court  
23 some of our flavor as to what we need, and we are projected  
24 out over a five-year period. We will need approximately  
25 170 staff people to accomplish what we think the mandamus

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1 is asking us to do. And if they will allow us to go over  
(2 a five-year period, and bring staff on in an orderly fashion  
3 by 1989 we should be able to get our backlog and other  
4 cases down to about 600.

5 Now, our backlog of cases is running approximately,  
6 in round numbers, 1700. So, we are going through a period  
7 that is uncomfortable for us and it puts us in the position  
8 of having to expend our resources dealing with this court  
9 action that is being brought against us. And it is taking  
10 those resources away from the complaint processing.

11 I will end right there and I can deal with  
12 questions later on.

13 MS. EATON: Thank you, Mr. Kenney.

14 Our next speaker is David Glenn, Executive Director  
15 of the Maryland Commission on Human Relations.

16 MR. GLENN: Madam chairman, I am going to start  
17 off just like the others, our coverage in Maryland, in  
18 terms of the legislative laws that we administer is roughly  
19 the same as Pennsylvania and West Virginia, all of the  
20 states have roughly the same areas, so I won't go into that.

21 But let me just start off on the point that Howard  
22 ended on, and Homer also mentioned. When I took over as  
23 Director of the Commission back, almost six years ago,  
24 we had a backlog at that time of somewhere near 1,000 cases,  
25 Having nothing to do with my involvement in the agency, we

1 reduced that backlog in about two and a half years to zero,  
2 I am talking about the backlog now. We were able to slide  
3 along with the staff that we have, we have in Maryland a  
4 population of about 4 million. Homer's state of Pennsylvania,  
5 I guess is what, two and a half times the size of our state,  
6 and we have a staff of 70.

7 We were taking in somewhere in the neighborhood  
8 of 70 to 100 complaints a month for the last several years.  
9 Last year our complaint load went through the ceiling, we  
10 are taking in now about 170 complaints a month, this year  
11 we will take in 2,000. Our inventory at this very moment  
12 is 1800, as compared to his, what, 3900? He is two and  
13 a half times the size of our state. And we are going into  
14 a backlog situation, after having come out of one about  
15 three years ago.

16 Five of my commissioners were in the governor's  
17 office yesterday raising hell about our situation, and I  
18 merely want to say that we have a mandamus action against  
19 us that is a little bit different from yours, brought by  
20 elements in the handicapped community. And I am sorry  
21 to say to you, but I have to say to you very honestly,  
22 I think we are guilty. And I am not unhappy with the  
23 mandamus action, because I think what will happen is that  
24 -- I don't know the political climate in West Virginia,  
25 but as far as Maryland is concerned, I think given the

1 possibilities in terms of the court action, if it happens  
2 the way I hope it happens, and I am sort of at opposite  
3 ends of the spectrum, philosophically, I think that will  
4 motivate our legislature perhaps to give us the resources  
5 we need.

6 In order to function fairly effectively, realistically,  
7 isäilly, in terms of today's fiscal realities, we ought to  
8 have a staff somewhere around 120 in Maryland; we ought to  
9 have about three offices around the state, we now have  
10 two. And as I said, we have 70 people.

11 So, if the court action goes the way that I hope  
12 it goes, we may be able, through the political climate in  
13 the state, to better our circumstances, and through other  
14 things that are taking place in Maryland in the political  
15 context, -- I don't mean to imply by that that we have --  
16 I don't want you to go away from here with the inference  
17 that we have an enlightened legislature. If you have such  
18 an inference, you are entirely incorrect. But I do think  
19 with certain types of pressure, under certain types of  
20 circumstances, that we can, perhaps, benefit.

21 Let me in a very quick way, however, just hit on  
22 two or three things that we are doing that might be of  
23 interest to you. We have initiated in our agency an  
24 affirmative action program. Our commissioner's started  
25 pressuring the staff about a sophisticated affirmative

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1 action approach about two and a half, or three years ago.  
2 After we talked a while, the staff did some reflecting and  
3 we came back and suggested to the Commissioner that we  
4 initiate an affirmative action program in the state govern-  
5 ment itself.

6 I suppose, like in every other state, the state  
7 government of Maryland is the largest employer in the state.  
8 Our state government is about 60,000. And the picture in  
9 the various agencies, prior to the time the government was  
10 reorganized, about 12 or 13 years ago, there were roughly  
11 250 state agencies. They have been reorganized now, into  
12 12 or 13 secretariats, and there are still a number of  
13 independent agencies. The picture is much what any of you  
14 would guess, so I won't go into any detail as to what the  
15 picture is.

16 We started off -- our staff was more comfortable  
17 dealing with the complaint process, than dealing with  
18 affirmative action. It is a whole different ballgame, as  
19 all of you, perhaps, know. So, I was delighted when we  
20 had an opportunity to start off with one of the smallest  
21 agencies in the state government, an agency that was under  
22 attack from a number of different elements in the civil  
23 rights movement, namely our Lottery Agency; a small agency,  
24 110 people.

25 And we initiated an effort in that agency, we set

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1 out an agreement which, from our perspective, was an  
2 excellent agreement, consistent with all of the existing  
3 federal court decisions, Weber, et cetera. And we were  
4 about to sign the agreement a year ago, when all of a sudden  
5 -- and I am briefing the situation -- the governor stepped  
6 in, he didn't like the goals and timetables. And he  
7 initiated his own plan, which was totally inconsistent with  
8 Baake, whereby he set aside a number of jobs for minorities  
9 and females, and that plan that he initiated which did away  
10 with our efforts, is in effect in Maryland. At least we  
11 had that impact.

12 We are now going through systematically, the  
13 entire state government in Maryland, we are on our fourth  
14 agency now. And we are doing it in an organized systemized  
15 way. One of the biggest agencies in government, and I am  
16 sure it is true in your state, too, the Department of  
17 Transportation; the Maryland Department of Transportation  
18 has 10,000 employees, with a lot of bucks, including a lot  
19 of federal dollars, as you know. We have gone through a  
20 assessments and taxation, Transportation, the next agency  
21 that we are hitting is licensing and regulation. And it  
22 has caused a political furor in the state, and yet we  
23 are still floating, because of the situation that I spoke  
24 of earlier. I will not develop that situation any further,  
25 you may want to ask me some questions.

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1 I wanted to also mention the fact, Homer talked  
2 about a task force that he has on hate and violence.  
3 Several years ago John Ferron, who is with the city, and  
4 a number of us got together because we were concerned about  
5 the increase in what we call hate group activities in the  
6 State of Maryland, KluxKlux Klan, Nazi Party, et cetera,  
7 we have three different Klan organizations in Maryland  
8 operating, or we did. And we looked as a matter of fact  
9 at the Pennsylvania task force situation, but in any event,  
10 we got the governor of Maryland to establish a task force  
11 on hate and violence. And task force is composed completely  
12 of agency heads of state government, who have in some way,  
13 or another, regardless of how slight, some relationship to  
14 this problem. That would be my agency, the state police,  
15 the Department of Education, the Board of Higher Education,  
16 the Youth Commission,-- there are about 12 or 13 agencies  
17 that make up this task force. And we were meeting monthly,  
18 very seriously, and about a year and a half, or two years  
19 ago, we started checking around the 50 states, and we found  
20 out that we were far in front of other states in terms of  
21 our concern about the problem, in terms of our collection  
22 of data, the load that we were putting on the academic  
23 community, the police, et cetera, and as a result we recom-  
24 mended to the governor that the State of Maryland set up a  
25 national institute on hate and violence, just for the

1 purposes of this discussion, I would say in this field it  
2 would be much like the Center on Disease Control in Atlanta  
3 is for the medical field.

4 John Ferron, as a matter of fact, is an incorporator,  
5 and we are in the process now of looking at the possibility  
6 -- not the possibility, but of developing a board of  
7 directors, we are looking at people like Jimmy Carter,  
8 Ben Civiletti, who was the former Attorney General in the  
9 Carter Administration, and it will be an institute that  
10 will serve a number of purpose. It will be for the  
11 collection of data, a place where research can be done,  
12 where academics can get together, where police departments,  
13 educators, human relations professionals and others can  
14 do training, et cetera.

15 Again, I will not develop that any further. But  
16 it is an interesting project, and we hope to have it off  
17 the ground -- maybe John can comment in a minute, as to  
18 where we stand with respect to establishing the board of  
19 directors.

20 Finally, let me say, just in the last couple of  
21 days -- we had a very, very bad experience in the legisla-  
22 ture the last two years, notwithstanding a somewhat positive  
23 comment I made earlier. One of the problems we had, was  
24 -- with our public accommodations legislation in Maryland,  
25 which typically has one of these laundry lists of these

1 various places that are covered. And we wanted to broaden  
2 it really to say that anyplace which holds itself out as  
3 offering services to the public, is a place of public  
4 accommodation, it is just that simple.

5 We got in a hornets nest in the legislature,  
6 apparently not because of the racial implications and the  
7 ethnic implications, or relating to sex implications, but  
8 the handicapped issue. And we had a bill in this past  
9 session which was sent over to summer study, and we just  
10 had a hearing, as a matter of fact which Ed Rutledge  
11 attended on Tuesday. For the first time we have seen the  
12 ugly possibility in our state of protected classes being  
13 against each other, in this case the handicapped community  
14 against the interests of the ethnic protected classes  
15 because the legislature was somewhat willing to pass a  
16 piece of legislation which would give full rights to the  
17 ethnic protected classes, but would put limitations, both  
18 in terms of coverage and remedy, on the handicapped.

19 So, we are fighting that problem at the moment,  
20 and we don't know where that is going to come out, but it  
21 has very negative possibilities, as I said, in terms of  
22 relationships between protected classes, under our law.

23 With that, I will stop, so we can stay within our  
24 10-minute limit.

25 MS. EATON: Thank you, David.

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1           At this point I would like to take questions from  
2 the floor, but first I would like to say that the state of  
3 Maryland is, what, 350 --

4           MR. GLENN: 250 -- wait a minute, 350th

5           MS. EATON: It is their 350th birthday, and I came  
6 to live in the State of Maryland 17 years ago, and I should  
7 say that, like the Virginia Slims, we have come a long way,  
8 baby, a long way, and there is still a whole lot to be done.  
9 But the reason I am making this comment is because our SAC  
10 has been very instrumental in some of these things, because  
11 we work together, we share our concerns, we share our  
12 successes. This is one of the reasons why I see these  
13 SACs as being so important.

14           And this morning I was kind of disillusioned  
15 that we are getting into discussions and things, rather  
16 than really asking the real question, what is going to  
17 happen to us, period. So, I hope that in the next two  
18 days we get that cleared up somehow.

19           But I am not going to take the time -- I am going  
20 to take one question on this side, and one question on the  
21 other side.

22           Can I take the lady first?

23           MS. COOPER: I would just like to know from all  
24 three of you what is the relationship between the state  
25 agency, local commission and local agencies?

1           MR. GLENN: That's very good. I had a note here  
2 to mention that in Maryland, as far as I know, John and  
3 Allen are here, but as far as I know, we have an excellent  
4 relationship with the local agencies. We have an association  
5 tion called the Maryland Association of Human Relations  
6 Agencies, it has been in existence now for two years. I  
7 have been the chairperson for the last couple of years, and  
8 we relate very well to that medium, but outside of that  
9 we have three really good big commissions in Maryland,  
10 Montgomery County, Baltimore and P. G. County. We have  
11 smaller commissions in Hartford County, Howard County, and  
12 we relate very well, and we exchange information.

13           MS. COOPER: I think more specifically, I wanted  
14 to know what is the legislative, statutory or legal  
15 authority? If a person files in Montgomery County, is  
16 that a dual filing with you?

17           MR. GLENN: Yes, it is not -- well, what we do,  
18 we will take the date of their filing, just as if they  
19 had come into our office. There was a bill in the  
20 legislature last year which was a very negative bill, to  
21 make us defer back to local agencies and communities that  
22 had local commissions. We fought that very hard, and we  
23 were able to defeat it, because we thought the purposes  
24 were very, very negative. They were concerned -- a lot of  
25 these local governments in Maryland have been very unhappy

1 with the state agency because we have numerous complaints  
2 against them, particularly in the police and fire depart-  
3 ments. We are getting a growing number of complaints  
4 brought by females relative to volunteer fire departments.

5 So, they wanted to take that authority away from  
6 us and the legislature turned them down.

7 MR. KENNEY: Our relationship with local agencies  
8 is quite good, in that we do have such a sharing, and also  
9 a deferral process. The deferral is so different than  
10 that with EEOC, or with HUD. What happens -- and since we  
11 are sort of the biggest thing in the state, and we can get  
12 down to some of our local agencies, you are talking about  
13 one person -- and you are dealing with some very strong  
14 and very conservative city council people. And so to  
15 protect that individual's right, whoever may file the  
16 complaint with the local agency, we also have them file  
17 with our agency. But we let the local agency conduct the  
18 investigation; if they run into any problems, then we will  
19 pick up on the case.

20 MR. FLOYD: In Pennsylvania, the Philadelphia  
21 Commission, the Pittsburgh Commission, and Erie can operate  
22 on the same principle as several of the other local agencies,  
23 and that is that a complainant has the choice of the forum.  
24 If a complainant wants to file with the local commission,  
25 we encourage them to go ahead and file with the local

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1 commission, and as such, we will refrain from any action  
2 with respect to that complaint.

3           On the other hand, if they file with the state  
4 agency, we will receive it and go ahead and investigate  
5 the complaint, and then the city will withhold any involve-  
6 ment. But generally, when they come to our office, like  
7 in Philadelphia, we will mention the Philadelphia Commission,  
8 and oftentimes they will then go over to the Philadelphia  
9 Commission. But in some instances they don't want to, and  
10 then they file with the state agency, and the state agency  
11 processes it.

12           But we don't have a deferral relationship.

13           MS. EATON: Is the question related to this?

14           MR. LEVINSON: Yes. Suppose a person comes to  
15 your office, files a charge and doesn't want to go to  
16 Philadelphia, for whatever reason, is there a notice  
17 process that Philadelphia is aware of charges that you have,  
18 that you are investigating within the city?

19           MR. FLOYD: There is not an official notice pro-  
20 cess. There was a period of time in which periodically  
21 our staff would get together to review data, and so forth,  
22 as to what has taken place. I don't recall that having  
23 taken place within the last year and a half, or so. But  
24 there is that process that we have had in operation for a  
25 while, to share information.

1 MS. EATON: Mr. Watkins?

2 MR. WATKINS: The same question, Homer and Howard,  
3 do you voluntarily defer? Or you say you don't defer to  
4 the locals. Do you defer to any of the locals? My concern  
5 is related to the backlog that both of you have indicated  
6 you have.

7 MR. FLOYD: That is, obviously, a reason to notify  
8 them of their rights under the local statutes, and we do  
9 that. But, again, the complainant would have their own  
10 authority. We have a provision in our state statute that  
11 the complainant has to swear that they have initiated no  
12 other action. And so, therefore, we interpret that to be  
13 if they had already filed with the local agency, then we  
14 wouldn't get involved.

15 On the other hand, if they file with us, then the  
16 local agency wouldn't get involved.

17 MR. FERRON: And the state --

18 MR. KENNEY: The same thing, but if you file with  
19 the state on June 1, you file with the city on June 2. We  
20 will maintain jurisdiction, if there are any problems that  
21 develop on the local level. We can maintain jurisdiction,  
22 but we will allow the city to go in and conduct their  
23 investigation.

24 MR. FERRON: Do you have a formal deferral pro-  
25 cess?



1 MR. KENNEY: No, there is no formal deferral pro-  
2 cess, it is just an agreement. And we have staff people  
3 assigned to each city that work very closely with them on  
4 the complaints they file and to share that kind of informa-  
5 tion.

6 MR. WATKINS: I want to ask a quick technical  
7 question relating to this. How do you define a case as  
8 backlog, is that a complaint or an established prima facie  
9 case, or is it just that somebody come and said I have  
10 been discriminated against, and that establishes as one  
11 of those 1800 in your backlog?

12 MR. KENNEY: How do you define a backlog? Are  
13 you talking about how do you define a backlog, or how do  
14 you define a complaint?

15 MR. WATKINS: When does a complaint become part  
16 of the backlog?

17 MR. GLENN: I guess when it is so many days old,  
18 so many months old. Is that the way you do it, Homer?

19 DR. PARKER: When it is officially filed, is that  
20 what you count from?

21 MR. FLOYD: We have an active case list, the last  
22 time I looked at our it was 3500 cases. Now, all of those  
23 cases are not necessarily the backlog, some of them could  
24 have just been filed the day before, the week before, or  
25 the month before. Basically, when you are talking about

1 something over six months, it is getting into a period of  
2 time you consider is a backlog.

3 MR. WATKINS: Another question I wanted to ask  
4 which was -- and this is one of those "be careful what  
5 you want, you might get it". If there was a single thing  
6 you could do to change the legislation which governs the  
7 functioning of your agency, what would it be, to make you  
8 more effective at the state level?

9 MR. ELOYD: There are a number of things that I  
10 would recommend for streamlining our statutes, and making  
11 clear the authority, so you don't have to argue about  
12 certain kinds of things. Many employers now, with a great  
13 deal of sophistication, they send everything to their  
14 council, and you have to argue about not only relevancy of  
15 data, but sometimes you have to argue about whether they  
16 want to give you the data at all, or not. And one of the  
17 things that respondents have been able to do is slow the  
18 process down to the point that if they can get a case to  
19 the point of six months, they know it becomes much more  
20 difficult for you to investigate, even they go ahead and  
21 cooperate at that point -- the data gets stale, people  
22 die, retire, or otherwise are unavailable. And it make  
23 it extremely difficult.

24 And I think there are certain kinds of things that  
25 are in our statute -- or our statute, at any rate, that

1 would streamline the process a little bit, and would help  
2 us make it more clear, with respect to the data that we  
3 are entitled.

4 MR. KENNEY: While we are talking about this wish  
5 list, tying in with what Homer said, and agreeing with  
6 what he said about these changes and streamlining the laws  
7 and procedures, and making it more clear. I would say  
8 what we tried to do this past session with the legislature,  
9 and that was to have the respondents pay for the costs for  
10 hearings.

11 If you take a case to an administrative hearing,  
12 it sets the cost to the respondent, so they don't play  
13 those games of delaying. And respondents know the game  
14 well, they hire attorneys, they hire big firms and they  
15 know the tricks of the trade, and they will delay, delay  
16 and delay. That's the name of the game.

17 And so we can assess the costs back to them, and  
18 we may eliminate these delays.

19 MR. WATKINS: On all of them?

20 MR. KENNEY: Only where the complaint prevails.

21 MR. WATKINS: Can you file an appeal?

22 MR. KENNEY: Yes.

23 MR. GLENN: In Maryland, we do two or three things,  
24 first of all, our law doesn't cover education at the moment,  
25 and I would like to have it do so. Secondly, we put in a

1 bill a couple of years ago to allow the Commission to be  
2 active in all areas of human relations problems. The  
3 legislature absolutely just saw red on that one, and we  
4 were not able to get that through.

5 MR. WATKINS: It would have reduced your backlog.

6 MR. GLENN: We are talking about dealing with  
7 things such as hate-violence, and that sort of thing.  
8 In addition, we do not have, or are not allowed to give  
9 monetary awards or make monetary awards in public accom-  
10 modations, and housing.

11 MS. EATON: I would --

12 MR. LEWIS: Pennsylvania is probably the only  
13 city that has a Human Relations Commission responsible for  
14 desegregation of schools. I wonder just how this stand --  
15 you have jurisdiction?

16 MR. FLOYD: Yes, and we have it incidently, not  
17 because it is written into the statute, that the Human  
18 Relations Commission shall be an unlawful practice  
19 to have segregation in the schools. Our statute in public  
20 accommodations says that places of public accommodation  
21 are open to the public, there shall be no discrimination.  
22 And later on in the statute it says, discrimination, also,  
23 includes segregation. And places of public accommodation  
24 in the definition section of what is a place of public  
25 accommodation, also includes schools, colleges, superintendent

1 of public instruction, state agencies, and so forth. So,  
2 as a result, the court ended up interpreting our statute  
3 as under places of public accommodations discrimination  
4 includes segregation so, therefore, the racial composition  
5 of school districts, in the classrooms and in the school,  
6 could be interpreted, if segregation exists, a violation  
7 of the statute.

8 Now, we have been at this for a while. That  
9 decision came down in, I believe, it was September of 1968.  
10 We have been trying to desegregate schools in Pennsylvania  
11 since that time. We have accomplished the task completely  
12 in 23 school districts; we initially took the 17 worst in  
13 which we said that any school district that has one  
14 building that 80 percent black or more, should submit a  
15 plan for desegregation.

16 After we dealt with those 17 school districts,  
17 we came back and defined further to say any school district  
18 that has any school building that is 50 percent black, or  
19 more, submit desegregation plans. And we had to -- I think  
20 we have gone to the Supreme Court 10 or 12 times, with  
21 various school districts, in order to ultimately -- I  
22 think we won at least seven court decisions against  
23 Philadelphia, alone, before we finally ended up with a  
24 voluntary plan that isn't -- well, it isn't the best of  
25 plans, and we don't think it is going to do what is it,

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1 is supposed to do, but we are sitting back and waiting to  
2 see.

3 But, essentially, we think that because of our  
4 involvement in school desegregation in Pennsylvania, there  
5 has only been one court decision whereby other school  
6 districts have had to go to federal court, or have been  
7 taken to federal court, in order to deal with desegregation,  
8 largely because we have been able to do it at the state  
9 level. And we think it has been fairly effective, with the  
10 exception of probably Philadelphia, and to some extent,  
11 Pittsburgh.

12 MS. EATON: Okay, thank you, gentlemen, for a  
13 wonderful panel this afternoon. I will ask you to please  
14 stay for the third panel, which will be the selected local  
15 officials from county, and city Human Relations Commissions.  
16 I think our people here deserve a good round of applause.

17 (Applause)

18 MR. LEWIS: Moving right along, my name is Horaçio  
19 Lewis, I am sorry that Dr. Mary Berry couldn't be here  
20 this afternoon to present the other side of the issue.

21 We have today some very important people in local  
22 and county government, city and county government, who will  
23 continue to add some additional light on the entire area  
24 of civil rights, social conditions and how they agency is  
25 addressing these concerns.

1 First of all, I would like you to meet them, and  
2 I will start at my right and go to my left and ask them  
3 to, perhaps, make a comment within four minutes, or less,  
4 if you want to get out of here by dinnertime. So, we will  
5 ask them to do that and leave the additional time for dis-  
6 cussion.

7 Maudine Cooper, is the Executive Director, D. C.  
8 Office of Human Relations, and she is right here -- Human  
9 Rights, I'm sorry.

10 Alan Dean is Executive Secretary, Montgomery  
11 County Human Relations Commission.

12 John Ferron is Executive Director of Baltimore  
13 Community Relations Commission, and Dr. Leah Gaskin Fitchue  
14 is Executive Director of Philadelphia Human Relations  
15 Commission.

16 So, why don't we just move right along and start  
17 with Mr. Ferron -- I'm sorry, I missed Mr. Stephen  
18 Levinson, Executive Director, Alexandria Human Rights  
19 Commission.

20 And it was suggested if we proceeded in the order  
21 that they are listed, it might be easier to follow. So,  
22 why don't we do that -- Maudine Cooper.

23 MS. COOPER: I will try to stick to four minutes.  
24 I don't wear a watch, so if somebody has a watch on --  
25 my office, which is the D. C. Office of Human Rights.

1 And let me just set the record straight, we are, for pur-  
2 poses of civil rights enforcement, a state agency, not a  
3 local agency. We have all of the responsibilities that the  
4 previous persons mentioned in terms of their state agencies,  
5 as well as the responsibilities that the local agencies have.  
6 We are it.

7 We do have, however, a commission on civil rights  
8 which only hears probable cause private sector cases, that  
9 we would refer to them because we cannot conciliate them,  
10 and that is the purpose of our Commission on Human Rights.  
11 But the Office of Human Rights has a broader responsibility  
12 than any of those that you have also heard. Instead of  
13 additional Title VII bases for filing the complaint, we  
14 have 15 bases on which we can file a complaint of dis-  
15 crimination.

16 I have a small handout -- I don't like to lug a  
17 lot of handouts with me, but if you are interested, we will  
18 get them to you.

19 We cover the areas that you have heard of, employ-  
20 ment, housing, public accommodations, educational institu-  
21 tions. However, I will say to any persons who are  
22 interested, we have, again, the strongest law in the  
23 country; enforceable, maybe; practical, maybe; 50 people  
24 on a budget of \$1.5 million, impossible.

25 We also have the responsibility for federal

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1 financial institutions, are they, in fact, discriminating.  
2 My office is suppose to develop affirmative action guide-  
3 lines for those agencies. I am the EEO officers for the  
4 District of Columbia, I have responsibility for the 40,000  
5 employees within the District.

6 We have contract compliance responsibility, all  
7 affirmative action plans are to be reviewed by my office,  
8 prior to the letting of a contract over \$10,000 in the  
9 District of Columbia.

10 We have the same kind of anti-tension activity,  
11 that is we are supposed to go our and determine whether  
12 or not there is a reason to hold a hearing and/or inter-  
13 vene because of a preceived tension within the community.

14 When I sum up the responsibilities of my office  
15 what I say is we have the same responsibilities that OCR,  
16 the Office of Civil Rights, within the Department of  
17 Education, Health and Human Services; Office of Federal  
18 Contract Compliance; HUD -- I mean, you name it, and we  
19 have it.

20 My office has something I find very interesting,  
21 that is a posting requirement. People say who cares about  
22 whether a poster is up? Well, the law says every entity  
23 that does business with the District of Columbia is supposed  
24 to have a poster up. We have a total of seven posters.  
25 I would dare say that there is none upstairs, and there

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1 should be one. And we are in the process of making sure  
2 that they are put up. As I say, we have seven; they are  
3 inexpensive, one is in Spanish, three are being translated  
4 to be printed in Spanish. And we are negotiating an agree-  
5 ment with the Consumer and Regulatory Affairs Department  
6 to make sure that anyone who gets a license in the District  
7 of Columbia will, in fact, commit, sign a certification  
8 that they will post the posters.

9           Posters do not, in and of themselves bring about  
10 equal opportunity, but they do sensitize the managers that  
11 people are, in fact, discriminating against people -- they  
12 can look up there and see a number to call. When they  
13 turn people away, they can, in fact, look up there and  
14 determine what number to call.

15           My office is also under a consent decree -- and I  
16 believe it was Mr. Dean, who said they were glad they had  
17 the consent decree. We are glad we have the consent decree. We  
18 were not doing what we were supposed to with reference to  
19 contract compliance, as it relates to construction. Our  
20 law, our executive order says that 42 percent of all of  
21 those who work in contracts let by the District of Columbia  
22 are supposed to be minorities, and we were not mandating  
23 that, we were not following that. Now, we have to.

24           And as a result of that -- and I took strong issue  
25 with the young man from OFCCP -- we have to publish once a

1 month a document that gives a review of every single con-  
2 tract in the District. This is our first publication, the  
3 second one came out today. They are in my office, if any  
4 of you are interested in seeing them. And we are looking  
5 at the utilization of D. C. government projects.

6 In addition, we also have in the District a law  
7 that says 51 percent of all of the contract -- 51 percent  
8 of all of the proceeds, if you are working on contracts,  
9 they are supposed to be D. C. residents. We don't have  
10 any enforcement responsibility, but we do, in fact, collect  
11 the data.

12 My notion is, and I guess it is a philosophical  
13 difference that I share with some of the previous speakers,  
14 we cannot do all that we want to do in the area of limits.  
15 -- within the area of limits. You can't have all of the  
16 money and all of the budgets that you want, but what we  
17 can do is look for ways of doing more with what we have.

18 I have instituted an internship program in many  
19 areas, housing has one where students get credit for doing  
20 all kinds of things. And believe me, even in terms of  
21 collecting the data and developing the charts, they can  
22 do that, and they do that for us.

23 The summer youth program has six students come  
24 in and intern in our office. We don't know what is in  
25 all of these file cabinets in my offices, and we are going

1 to go back and survey and find out, and tell us what is in  
2 all of these cabinets.

3 The point is, yes, I don't have all of the money  
4 that I want; yes, the law is very, very broad, but I just  
5 believe that with some of these resources we can do what  
6 I have already done, which is to eliminate the backlog  
7 that we have.

8 My office receives about 30-40 complaints a month,  
9 we process between 30-40 complaints a month. We always  
10 carry a case load of about 400 cases. And my goals has  
11 been to reduce that backlog, and we are in the process of  
12 doing that. The backlog, as I have described it for pur-  
13 poses of internal management, is any case, private sector  
14 case that is 120 days old. The government rules say 180  
15 days old, now that is not the traditional EEOC definition,  
16 they cling to a year. But even so, we try to make sure  
17 that those cases get out, that there is a quality investi-  
18 gation, that the complainants are, in fact, recipients of  
19 the highest form or all due process that we can, in fact,  
20 provide; that they are, in fact, pleased with the reception  
21 they have in our office, even to the point of having in-take  
22 evaluation forms; even to the point of having evaluation  
23 forms when they come in contact with our enforcement  
24 division.

25 Those forms come back to me, they do not go to

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1 the investigator, or to the supervisor. And I am the one  
2 who gets those in my hand and understands whether or not  
3 that person was pleased or displeased with the services  
4 they receive in our office.

5 So, I don't know if my four minutes are up, but  
6 I assume they are up. But at any rate, I will respond to  
7 any questions you may have.

8 MR. LEWIS: Okay, we will hold the questions  
9 until the completion of the panel's discussion.

10 Alan Dean.

11 MR. DEAN: We are dealing with a very different  
12 climate, than we were back 15-16 years ago. There is a  
13 tremendous diversity in our population now. We have a lot  
14 more Asians, more Hispanics, we have more handicapped  
15 people that are more vocal and more visible. We have a  
16 tremendous decrease in sensitivity to minorities and to  
17 protected classes, and this makes more work for us. We  
18 also have a great more hostility exhibited toward minorities  
19 and the protected classes, and it is what I guess we could  
20 call the "meanness mania", and people can get away with it,  
21 which people have been doing, so they feel free to a lot  
22 more things now than they ever have done before.

23 What we have found happening is that there has  
24 been an increase in the number of complaints that we have  
25 been receiving, with the number increasing, we have also

1 found that we have had to make more happen with the limited  
2 number of people that we do have. So, we have an innovative  
3 type compliance director who has made us close more com-  
4 plaints than we have in a long time. There is a stream-  
5 line process that we are using, we have a more involved  
6 in-take process, to eliminate a lot of the frivolous type  
7 of complaints. So, we only deal with complaints that are  
8 legitimate, bona fide complaints, and not just a whim some-  
9 one may have.

10 We have also extended our real estate reporting  
11 regulations to the extent that we have a person who does  
12 this full-time now. Any owner of 25 or more units in the  
13 county must report to us on a regular basis the composition  
14 of their apartments, the composition of their work force.

15 We also have established within the county a sub-  
16 committee on housing which helps us coordinate all of the  
17 housing efforts that are going on.

18 And, oddly enough, in the area of complaints that  
19 we are receiving, especially in employment, we had as many  
20 as 76 percent of our complaints based on race; now we find  
21 that that has been reduced to about 27 percent. And the  
22 largest percentage now is coming from complaints based on  
23 handicapped and on sex.

24 We also have two individuals that have made a  
25 tremendous difference in the diversity of complaints that

1 we are receiving. We have a Hispanic outreach person, and  
2 an Indonesian outreach person. What this means is we are  
3 getting more complaints from these areas than we ever have  
4 before.

5 As a cultural thing, they would not come forward  
6 and say that they had been discriminated against, and now  
7 more and more of them are coming forward.

8 We also have our brochures and handbooks printed  
9 in not only English and Spanish, but in the three Indo-  
10 Chinese languages, and it is now being done in Korean.

11 For the purpose of handicappeds, all of our material  
12 is done in Braille, we also have it on cassettes, so it will  
13 be available to anyone who is handicapped, either visually  
14 or the hearing impaired.

15 In order to deal with the growing number of  
16 complaints that have come out is the reporting of hostility  
17 that has taken place, such as the hate-violence type of  
18 things. Last year there was a decrease, but with that  
19 decrease came a more violent type of activity, more assaults,  
20 more vandalism, more death threats, pipe bombings and so  
21 forth.

22 Since there was a law passed saying it was --  
23 instead of a misdemeanor, it was now a real crime to burn  
24 a cross, we have had a limited number of cross burnings.  
25 To get around that, the people we have apprehended have

1 been apprehended for cross placing and not cross burning.  
2 There is much, much more violence than we ever had before,  
3 in fact, one of the recent cases that made the newspaper  
4 was two young white youths that started out one evening and  
5 said, "We are going to kill us a nigger tonight", and they  
6 shot the first black person they saw. It happened to be a  
7 man walking along an all-black area in Rockville.

8 This man's hospital bills have now come to some-  
9 thing like \$40,000 and he is still on his way to recovery.  
10 The two young men were apprehended, they were sentenced and  
11 did receive long sentences.

12 We have a Memorandum of Understanding with the  
13 police department which enables us to share the information  
14 they get on hate-violent activities, and we share with  
15 them a limited amount of stuff.

16 We have established what we call our network of  
17 teens and the network of neighbors, and in order for people  
18 to actually function effectively as a network coordinator,  
19 we have a training manual and give them a training course,  
20 that they have to complete before they can actually go out  
21 and talk to people.

22 The victims we have handbook, a little brochure  
23 that we developed, which is called "Handling Hate-Violence"  
24 and it is a resource book for people who are victims that  
25 we give to them on a regular basis.

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1           Rather than go on anymore, I think I have used up  
2 my four-minutes,-- we have had an increase in public  
3 accommodations, and a tremendous increase in housing com-  
4 plaints. And this is because, I think, of our outreach  
5 efforts.

6           MR. LEWIS: Thank you, Mr. Dean.

7           John Ferron.

8           MR. FERRON: The Baltimore Community Relations  
9 Commission, also covers the same jurisdictions that have  
10 been articulated already, except that we do not have  
11 provisions in our law covering housing. Last year a group  
12 of us, met in Baltimore, when I made a comment regarding  
13 the layoffs and the reductions in budgets. And I experienced  
14 a considerable amount of heat in that my position was that  
15 that was one of the best things that happened in our agency.

16           We had a staff person, for example, four years  
17 ago who was identified as one of the top production persons  
18 on the staff. And could handle the more sophisticated  
19 cases more efficiently than any other staff person.

20           I did some research and found out for an entire  
21 year that person had completed one case. I was in the  
22 process of directing the division chief to terminate him --  
23 as a matter of fact, I still had the memo that I was going  
24 to send to the division chief, he left the next day, the  
25 person was terminated.

1           An interesting thing has happened, increased train-  
2 ing, reduction of staff, the concern about the reduction of  
3 staff and layoffs has resulted in a more efficient and  
4 productive staff. We don't have a case load, and we, as  
5 civil rights professionals and administrators ought to  
6 really take a hard look -- and I don't mean to indict, but  
7 we need to take a hard look at our production people and  
8 staff persons, to make sure that we are getting the best  
9 product that we can get from them, for the public dollars  
10 that are put in to run our agencies.

11           We have emphasized training with the Community  
12 Relations Commission, and it has paid off. We have utilized  
13 the training conducted by IOR, EEOC, internal training.  
14 As a matter of fact, a few years ago 18 of our staff persons  
15 went through six months of extensive training conducted  
16 MATC, Middle Atlantic Training Corporation, for human  
17 rights training, and inter-group relations training. And  
18 I submit to you, and I feel comfortable in suggesting that  
19 our community relations division staff persons are probably  
20 some of the finest and professionally trained staff persons  
21 of any other local agency in the nation.

22           We conduct training with the Baltimore City Police  
23 Department, we have reinstated that, the policeman's  
24 role in the community.

25           I think one of the most important things that we,

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1 as professionals, and administrators, can do is to reach out  
2 unilaterally and involve ourselves in the activities of the  
3 larger community. An example of that is I, for example,  
4 serve on the Affirmative Action Committee of the United Way,  
5 the Family and Children Society, the Judicial Nominating  
6 Commission, boards of Towson State University.

7 And without coming across as coercive or threaten-  
8 ing, I, frankly, have seen the positive results of minorit-  
9 ies and women serving on boards and institutions, in  
10 sensitizing the top folks, and the policymakers in bringing  
11 in more minorities and females. It has worked.

12 The highlights -- some may consider them lowlights  
13 -- of the Commission of the past year: we have submitted  
14 to the Administration two bills, one a housing bill. The  
15 housing bill that we submitted was the result of our having  
16 conducted a national survey of all of the human rights  
17 agencies, and gleaning the best from all of them and  
18 submitting it to the Administration the Omnibus Housing  
19 Bill for introduction. It has not been formally introduced,  
20 maybe it is too strong, it probably is for the politicians.

21 Secondly, as a result of our lobbying, through  
22 elected officials, the gay community in the City of  
23 Baltimore was successful in persuading our Commission to  
24 introduce in the Baltimore City Council a gay rights bill,  
25 City Council Bill 187. This is right on the heels of

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1 Alan Dean's experience in Montgomery County. And I talked  
2 with Alan about it and gained some information from him.  
3 But, in any event, I had different feelings regarding the  
4 introduction of that bill.

5 On the one hand, a number of persons have taken  
6 the position that it is a moral issue. My response to that  
7 is that we look upon it as a civil rights issue, we do not  
8 enforce moral matters.

9 Another position taken was to the effect that  
10 gays, unlike any other, the traditional minorities, have  
11 a choice. A black person, a female, any other minority  
12 is born a black person or a female, and that unlike any  
13 other group, gays should not be included in civil rights  
14 bills. These are the arguments that have been used, because  
15 the effect of it would be to water down the effectiveness  
16 of the human rights agencies, to the detriment of the  
17 traditional persons that they were established to assist,  
18 given the reduction in staff and the reduction in funding.

19 This is the second time the bill has been intro-  
20 duced at the Baltimore City Council, and although I may have  
21 had some philosophical concerns about the bill, when I  
22 went over to testify -- and by the way, I was the only  
23 city official to testify on that bill. If I had any con-  
24 cerns, my concerns were addressed when I saw the masses of  
25 persons, and I literally mean masses of persons who had

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1 these red and white labels on their lapel in an attempt to  
2 intimidate and threaten folks. They were filled with hate  
3 and venom, and it reminded me of what I read about pre-Nazi  
4 and Nazi Germany. The hate was intense and is intense, al-  
5 though originally there was an overwhelming -- or I should  
6 say a significant majority of persons in the Council who  
7 were supportive of that bill, it appears that it will not  
8 come out of committee. The chair of that committee made  
9 a commitment to bring it out, but he has determined that  
10 since he does not feel that he has a majority in the council  
11 to pass it, it probably will not bring it out.

12 I think it is an affront on the council and the  
13 community, because I see it as a civil rights issues,  
14 especially given our involvement in the City of Baltimore  
15 and the State of Maryland with COVE, the Coalition Opposed  
16 to Violence and Extremism, the Governor's Task Force on  
17 Violence and Extremism, and now the National Institute on  
18 Violence and Extremism.

19 I feel that Baltimore, the State of Maryland, and  
20 the Governor's office, along with the State Commission,  
21 should be commended for their efforts in the State of  
22 Maryland.

23 In answer to Dave Glenn's question, I feel quite  
24 privileged and honored that I am one of the incorporators  
25 of the board. As a matter of fact, yesterday we interviewed

1 the first two applicants, and I am announcing that formally  
2 now, if you didn't see it in the Washington Post, or in  
3 the local newspapers -- I am formally announcing now that  
4 the Institute is in the process of advertising for an  
5 executive director for the National Institute. We are  
6 going to close that out by July 15th. We hope to have  
7 made our decision around that time. We are currently  
8 interviewing for a consultant to serve for 90-days, to  
9 put things in place, staff it, do some research and so  
10 forth.

11 We feel quite comfortable, at least I feel quite  
12 comfortable as the director of the commission, that we are  
13 getting the biggest bang for the dollar. And I feel that  
14 we, as professionals, need to take a hard look at what we  
15 are able to glean from our respective staffs for the  
16 public dollar.

17 I don't know how much time I have spent, but I  
18 am open to questions.

19 MR. LEWIS: Thank you, Mr. Ferron.

20 Dr. Fitchue.

21 DR. FITCHUE: First of all, let me say that I  
22 am delighted to have the opportunity to be here, to meet  
23 most of you, as I have been on my job less than two months,  
24 less than three months, and I am having a good time.

25 MR. FERRON: Take advantage of it.

1 MR. CONNER: Different strokes for different folks.

2 DR. FITCHUE: The honeymoon period. Well, I hope  
3 it lasts, but I really am very -- I am delighted to have  
4 the opportunity to try to share with you just a few high-  
5 lights. I feel as if some of you may know more about this  
6 than I do, since Mr. Farmer has been a part of our Com-  
7 mission, and most of you know him, for 17 years. He is  
8 now, by the way, serving as a member of our Commission.  
9 Someone asked if he had severed his relationship completely,  
10 and after spending 17 years on a task that would be im-  
11 possible. So, he is still working very closely with us,  
12 and serving in that stead.

13 I know I am supposed to speak for four minutes,  
14 I suspect that I am going to go a little over that, because  
15 I do want to share just a few points with you. And I am  
16 in the position of not knowing what you know, and I am  
17 also in the position of not knowing enough about enough  
18 other agencies to understand the unique factors of the  
19 Philadelphia Commission. But I am feeling obliged to share  
20 some information with you today, and if I take five and  
21 a half minutes, I hope you will let that be attributed to  
22 my newness, and the next time around --

23 MR. LEWIS: The next time three.

24 DR. FITCHUE: I will give it back next time around.

25 One of the pieces of information that I am most

1 impressed with is the fact that we, as an agency, have our  
2 power because we are mandated by the Philadelphia Commission  
3 on Human Relations, and I understand -- and if this is  
4 incorrect, this is aggoōd place to have it challenged here  
5 -- I understand that we are unique in that regard, in that  
6 we are the only such commission in the nation expressedly  
7 prescribed by a municipal charter, which means that we have  
8 the same statutes that the water department, the police  
9 department, or other such entities do.

10 We are similar to your organization, Ms. Cooper,  
11 in that we have a budget of about \$1.2 million, and some  
12 50 employees. Related to that, our activities operate under  
13 two umbrellas intèrnally; one is community relations and  
14 the other is compliãnce.

15 In the area of community relations, we work very  
16 closely with other city agencies that are responsible for  
17 monitoring tension, as well are promoting inter-group  
18 relations. And we have recently been responsible for  
19 encouraging the organization of what is called the Inter-  
20 Agency Intervention TaskForce, and we are, therefore, work-  
21 ing with all major city agencies that deal with such matters,  
22 as well as the police department. And we feel that that  
23 is going to be an effective arrangement for us.

24 We, additionally have, what we believe is another  
25 unique entity, in that we have what is called the "disputed



1 resolution program". We have not heard of other such  
2 programs, although the name is different, the content maybe  
3 similar.

4 We receive cases from the District Attorney's  
5 office, when neighbors and people at the community level  
6 are unable to resolve matters of conflict which do not  
7 warrant serious legal investigation. And we handle those  
8 in our dispute resolution program, and it is working out  
9 to be one of the finest innovations that we have added to  
10 the agency in recent years.

11 In the Compliance Division, we address those  
12 issues that all of you have referred to earlier today, as  
13 it relates to the matter of discrimination on the range  
14 of characteristics that cover all of our functions. In  
15 our Compliance Division we process about 625 cases a year,  
16 and our case load is increasing. Among persons with  
17 employment complaints, and that is the greatest number of  
18 complaints that we have in that area, this past year 168  
19 shared benefit values in excess of \$400,000.

20 Another major concern of our Compliance Division  
21 is that of affirmative action, and that is going to be a  
22 major new focus for us with the current administration.  
23 And we are responsible in that division for making certain  
24 that companies holding public contracts to provide goods  
25 and services to the city government and school districts

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1 are effective equal employment employers.

2 We also have traditionally had a housing unit. We  
3 are in need of much energy in that division at this time,  
4 and we are assessing what our present focus will be -- I  
5 see Joe smiling there, you know better than I do where we  
6 are in terms of this particular issue. We have the need  
7 for a housing program, but like all other agencies, we have  
8 suffered in terms of budget and personnel cuts.

9 But the Commission itself is committed to develop-  
10 ing a housing program, and a year from now we will have  
11 something that we can be articulate about.

12 Additionally, I think in terms of our areas, what  
13 is probably, in addition to the areas of community re-  
14 lations and compliance, and the activities that we have  
15 in there, what is probably the most exciting aspect about  
16 the commission at this time is that we have in the city  
17 of Philadelphia a new mayor who called for a reorganization  
18 of the commission.

19 And in January, it was his decision that the  
20 commission would operate according to a different format.  
21 For the past 17 years Mr. Farmer has served as the  
22 Executive Director, and the Chairperson of the Commission,  
23 now in the presence of the Goode Administration, we have  
24 a chairperson in the person of Revl James Allen, and I am  
25 serving in the Executive Director's stead.

1           Someone asked during the break if I liked that  
2 format of not being both chairperson and executive director,  
3 and as much as I enjoy the power, I said, "Yes, I do", in  
4 the sense that given the political nature of this job and  
5 what we have to do, it is good to have somebody else to  
6 lead out in terms of policy issues, and to move in situations  
7 where it might be more problematic for me to do on occasion.  
8 And, in effect, you have two people, as long as the chair-  
9 person and the executive director are operating collectively,  
10 you have two people moving on the same task, rather than  
11 one.

12           So, I am very pleased with that current arrange-  
13 ment. I should say that in addition to the Commission  
14 having a new executive director, we also have seven new  
15 commissioners. Someone also asked me earlier if that was  
16 problematic, and I said, "No, because it appears that we  
17 have this rich opportunity of newness before us, and most  
18 of the commission members have not served with the com-  
19 mission in any capacity, so we are at the starting point  
20 of a new mayor, a new executive director, and for the most  
21 part, in the commission".

22           We recently held an recognition of wanting to  
23 take this charge and move appropriately, we recently held  
24 a retreat in which all commission members attended and all  
25 staff persons. At that time people had an opportunity to

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1 indicate what directions they would like to see the Com-  
2 mission take over the coming year.

3           Since that time each unit of the agency has been  
4 involved in a priority studying process, and we now have  
5 priorities for most of our program units, for both program  
6 content as well as staff training. We have, in support of  
7 the need to handle this new management format, structured  
8 a new staff training program where we will be developing  
9 very specific staff training over the year. And I will  
10 be in touch with you about your success regarding your  
11 particular agencies, because that is very much what we are  
12 interested in.

13           In addition to the personnel nourishment that we  
14 are seeking, we are also looking at how we function as a  
15 system in both compliance and in community relations. And  
16 we will be meeting with people from federal agencies, as it  
17 relates to our compliance division, to see if we can  
18 sharpen the process by which we put that product together  
19 from in-take to case closing. And we are hopeful that by  
20 the end of the year we will have an internal system in place  
21 in both our community relations division and compliance  
22 division, so that we will be more effective monitors of  
23 our own process and product.

24           I think, in addition to those areas of activity,  
25 I would like to say that we enjoy -- as far as I know, since

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1 I haven't met all of the people we work with, but today  
2 we enjoy a fine relationship with the various agencies  
3 that relate to us. Mr. Floyd and I have already talked  
4 about the matters that he mentioned earlier, when he said  
5 a year and a half ago our staffs used to get together; we  
6 decided that we are going to go back to that, and revisit  
7 the process, as well as to meet with other people who are  
8 here.

9 We are unable to do the job we have to do alone,  
10 and we are always eager to operate in a collective fashion  
11 with any other agency that is attempting to do what we  
12 are all charged to do collectively.

13 In addition to meeting people and having them  
14 become familiar with the members of the commission, we  
15 are also interested in the degree to which we can revisit  
16 certain procedures of federal agencies. Sometimes when I  
17 say to the staff, "Why do we do it that way?" They say,  
18 "That's the way they want it done".

19 Well, at the local level, that is not always  
20 applicable. We would like to have the opportunity to  
21 explore some creativity or some reconsideration, in terms  
22 of some of those instances. Now, as a new person, I might  
23 be tremendously optimistic, but we are going to raise some  
24 of those questions anyway, to see what might be possible  
25 in that regard.

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1 Thank you.

2 MR. LEWIS: Six point two minutes. Thank you,  
3 Leah.

4 Mr. Levinson.

5 MR. LEVINSON: I suppose the honeymoon lasts for  
6 a while. When I testified before the Senate on the re-  
7 authorization of the Civil Rights Commission I was the  
8 35th and last speaker, which had the advantage of allowing  
9 me to put my statement in the record, and spend the next  
10 20 minutes correcting all of the misconceptions from  
11 Senator Hatch all day long.

12 (Laughter)

13 MR. LEVINSON: I am not sure, particularly in  
14 four minutes, whether a lot in terms of jurisdiction and  
15 structure is particularly beneficial, especially after the  
16 day you have had. But let me, on the one hand, try for  
17 a minute to carry out the charge that Ed Rutledge gave to  
18 us, and take a little bit of a different focus.

19 I am somewhat different than, I guess, all of the  
20 people on this panel and the previous panel, I have a  
21 much smaller commission, and I am in Virginia, which is  
22 one of only four states in the country that does not have  
23 a state Human Rights Commission. We are working on that,  
24 we have a bill in the House and in the Senate, we got  
25 carried over last year, we have some expectations, depending

1 on what Governor Robb does about being successful in next  
2 spring.

3           There are only two commissions in Virginia,  
4 Alexandria and Fairfax County, there is a commission in  
5 Richmond, but it is a smaller commission that deals with  
6 city cases, involving the city government of Richmond.  
7 Alexandria is a 706 agency, deferral agency from the EOC,  
8 I have an application pending for substantial equivalency  
9 and expect a contract with HUD one year soon.

10           Our case loads -- you are hearing numbers of 1800  
11 to 3500, and our case load -- we are a small city of  
12 100,000 people; our formal case load averages about 200-250  
13 complaints a year, our informal complaints run to about  
14 600-700. I have two staff, investigative staff and I  
15 have three attorneys that volunteer more than they like to  
16 assist.

17           Our cases run about 50 percent race related, 50  
18 percent based on sex. Almost a quarter of my case load in  
19 the last year were allegations and charges for sexual  
20 harassment, a significant increase. And we have a signifi-  
21 cant increase in our refugee population, in Alexandria,  
22 Arlington, Northern Virginia was an impacted area where a  
23 significant number of refugees have come in the last few  
24 years, and that impacts on schools, that impacts on every-  
25 thing else.

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1           We have been involved not clearly on the level of  
2   Homer in Pennsylvania, but we have been involved in our  
3   school redistricting, racial imbalance; over the last six  
4   months that process is finally over, we have a system that  
5   started busing in 1978 -- I'm sorry, 1973, and through  
6   population changes and demographic changes, schools that  
7   were balanced no longer are balanced. So, we have done  
8   away with a lot of the busing.

9           During the past year we have recovered almost  
10   \$60,000; and, again, when you hear the figures, that doesn't  
11   compare in the sense of a state commission, or a commission  
12   as large as the size of Philadelphia, or maybe D. C. For  
13   us that is a significant amount of money, and I think it  
14   is significant from a different perspective. I think all  
15   of us are aware, Alan said the climate has changed.

16           I have been in this business for 10 years, and  
17   formerly as a Human Rights administrator, and go back longer  
18   than that in terms of civil rights work; and clearly  
19   attitudes -- behavior has changed. I am not sure a whole  
20   lot of attitudes have changed. I am not one of the persons  
21   who believes in change in the attitudes, and I am not going  
22   to live long enough, and I don't have the expertise, nor  
23   the money -- I can change behavior. And we have had a lot  
24   of changes in behavior, but the last three or four years,  
25   particularly the current administration, we have had a

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1 significant retrenchment, whether it be on issues of women,  
2 race related issues,

3 I am sorry I missed the presentation by Ms. Chavez  
4 this morning, I have heard her several times in the past  
5 and would have liked to have been here to participate in  
6 that discussion. But I think it is important for all of  
7 us, those of us who are perpetually human rights profession-  
8 als, in terms of our agencies, and those of us who are  
9 involved in volunteer capacities, to not only focus --  
10 we are all overworked, we are all underpaid, we all have  
11 case loads and backlogs, and issues and councils to respond  
12 to. But we have to spend some time looking at a larger  
13 picture. I spend a great deal of my time on behalf of  
14 NAHRA, which is the National Association of Human Rights  
15 Workers of America -- I have for about 10 years. And I  
16 spend quite a bit of time for them writing responses to  
17 items in the Federal Register. I spend a great deal of  
18 my time working with the leadership of the Conference on  
19 Civil Rights, testifying before Congress during the  
20 Grove City legislation, Civil Rights Commission, and those  
21 kinds of issues have allowed people, and the positions  
22 taken by this administration, and others -- I don't want  
23 to make this a partisan issue, but we have to deal with  
24 the reality right now.

25 There is no fear, there is no more fear of saying

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1 things or doing things, there is no fear of peer pressure,  
2 there is no fear in a legislative sense of retribution from  
3 the voters, in the sense that you are not going to be re-  
4 elected. I am having discussions, or arguments with people  
5 that I thought -- on issues that I thought were settled  
6 10 or 15 years ago. All of a sudden they are issues  
7 again.

8           And they are issues because if they don't want to  
9 deal with Steve Levinson, if they don't want to deal with  
10 Maudine Cooper, if they don't want to deal with Alan Dean,  
11 or the enforcement agency, there was a perception at one  
12 time that, all right, if I don't deal with them, I may go  
13 to public hearing, but at some point the federal govern-  
14 ment was going to get involved; at some point there was  
15 going to be a larger hammer.

16           There is absolutely no fear anymore. And there is  
17 no reason for them, respondents -- and I speak for my  
18 office, and I would be interested to hear the others, but  
19 respondents are taking a very hard line. They are much,  
20 much less amicable and less willing to listen and to dis-  
21 cuss possible mediation of complaints. They are willing  
22 to let it go to hearing, they are willing to take the  
23 adverse publicity, they are willing to drag it out as long  
24 as they can.

25           There is no fear anymore of that larger hammer

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1 of somebody else coming in. And that is significant, that  
2 is something that we all need to look at.

3 Attitudes when the administration takes certain  
4 positions, whether it is Grove City, whether it is the  
5 Memphis -- I have spent half of the last 10 days answering  
6 questions about the Memphis case, and what is it going to  
7 mean to the city, and people calling up City Hall saying  
8 they should do away with their affirmative action plan.  
9 And positions taken by various administration officials on  
10 what they perceive to be the scope of that decision.

11 We all have an obligation to respond to that, and  
12 we all have an obligation to be up front and forward about  
13 that, and hopefully, take positions that don't quite agree  
14 with some that are coming from the city that we are in.

15 It seems to me that we have a larger obligation  
16 than to be case processors and make sure that this day-to-  
17 day activity -- we are dealing with individuals, I solve  
18 three, four-five hundred, a thousand cases a year, that's  
19 nice. I can take some credit and I will get my increment  
20 raise and my statistics and my annual quota will be pub-  
21 lished and it will look fine. The fact is, there are 5,000  
22 more people out there in line who are trying to get some  
23 service.

24 And it is a muddy issue, sure; it is a staff issue,  
25 sure; but it is an issue of what is going to be the policy

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1 of the various state and local governments, and what is  
2 going to be the perspective and the importance that they  
3 put on the quality of life in the city?

4           And it seems to me that we all have a responsi-  
5 bility to be those kind of advocates and take the tough  
6 positions. It is hard to take a complaint -- I get city  
7 employees, "I am going to sue my boss", it is not always  
8 comfortable when you are the one who has to file the  
9 complaint against that city manager, or that mayor, or that  
10 council, or that governor, or whatever the case may be.

11           Sure, we have an obligation to do that, but on a  
12 day-to-day basis, as John said, I think all of us -- if  
13 you look at a resume, or a list of activities, serve on a  
14 variety of United Ways, and boards and commissions and  
15 agencies. We have an obligation to bring that sensitivity  
16 out, we have an obligation to raise issues where they might  
17 not be raised, if we weren't there. There is not that  
18 many of us.

19           We were at a conference a few weeks ago, and in  
20 the same hotel was an optometrist convention of 15,000  
21 of them, coming out of the walls. Well, you go to a  
22 Human Rights convention -- and I am talking about Human  
23 Rights directors and professionals -- you may have 4-500  
24 in the entire country. We are a very small group of people,  
25 in a professional sense, not the moral commitment that we

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1 all have. And it seems to me that those of us that have  
2 made the commitment to become involved and made the commit-  
3 ment to serve on the state advisory committees, to do this  
4 professionally, have an obligation to constantly raise  
5 the sensitivities, raise issues and stop blaming the victim.

6 You can talk about meanness mania, you can talk  
7 about blaming the victim. And we really have a situation  
8 -- my four minutes were up a long time ago -- we really  
9 have a situation, and let me make one comment and then I  
10 will close.

11 I think, and I have had a lot of cooperation from  
12 the Virginia Advisory Committee to the Civil Rights Com-  
13 mission, a tremendous amount of technical assistance and  
14 support with our state bill, and a variety of other issues,  
15 and what I had hoped at some point is that the members of  
16 the various state advisory committees have more time --  
17 this is a very compact situation, I understand everybody  
18 is busy and I understand budgetary restraints, but it seems  
19 to me that it is imperative that the professionals, those  
20 of us who do this day in and day out, locally, state basis,  
21 need to be able to communicate with you at a much slower,  
22 more extended basis; to share with you some of the kinds  
23 of concerns that we have, that we can't raise, but that  
24 you as members of state advisory committees, and you in  
25 your various capacities can raise around the country.

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1 And I will stop there.

2 MR. LEWES: Thank you, Mr. Levinson.

3 I know the panelists, in the interest of time,  
4 have abbreviated their remarks in a very eloquent way, and  
5 may wish to add a word or two, as we take questions from  
6 the audience.

7 MR. WATKINS: Can I ask a quick question? You  
8 referred to something that was a matter of some dispute  
9 this morning. What was the position, if you can tell me,  
10 of the leadership conference?

11 MR. LEVINSON: The leadership conference, and I  
12 am one of a group of people drafting that, six people,  
13 drafting that legislation. So, obviously the legislation,  
14 though obviously not introduced under the -- the leader-  
15 ship conference would never introduce a bill under its own  
16 banner, but we are the people who drafted it, who spent  
17 hundreds of hours on the phone with thousands of phone  
18 calls to get the vote in the House you saw yesterday.  
19 And we will win in the Senate.

20 MR. WATKINS: There was an issue disputed, the  
21 dispute was over whether or not -- the Commission repre-  
22 sentatives here -- and somebody correct me here, if I get  
23 off-base -- but they were stating that the position of the  
24 Commission was the same as the leadership conference, which  
25 was to return -- (Laughter)

1 MS. COOPER: In my other life, as Vice President  
2 of the National Committee, I serve on the Executive Com-  
3 mittee, and I am not going to let Steve get away with this.  
4 My strong difficulty with the IGCRA is that they cannot  
5 take a position on affirmative action because they have  
6 so much labor union involvement, and also educational  
7 institutions on the executive committee, as well, in terms  
8 of abortion -- the leadership conference is a well-meaning  
9 group of folks. Steve does a lot of work under the banner  
10 of the leadership conference, when, in fact, it is the  
11 others who mean well and want to do the right thing.

12 DR. BICKLEY: The specific question we are trying  
13 to get an answer to -- this morning Ms. Chavez said that  
14 the position that she took, and that the Commission took  
15 in this case was the same position as the leadership con-  
16 ference.

17 MR. FLOYD: More specifically, when a program --  
18 when you identify a program where discrimination takes  
19 place, the cutoff of funds should only be from that program,  
20 as opposed to the entire institution. And she said the  
21 leadership conference took that position, and that is the  
22 same position as the U.S. Commission on Civil Rights is  
23 taking.

24 MR. LEVINSON: All right, number one, the leader-  
25 ship conference takes no position. The leadership

1 conference is an umbrella -- I won't answer the question,  
2 but let me just clarify something. The leadership confer-  
3 ence is an umbrella organization of 165-- 166 now civil  
4 rights groups, that does not take those kinds of positions.

5 We, through volunteer work, individually got to-  
6 gether and drafted what has become as the 1984 Civil  
7 Rights Act, or Grove City Legislation. That is not a  
8 leadership conference on civil rights position that was  
9 introduced properly and we had a role in making sure that  
10 it was put together.

11 The position taken by the United States Commission  
12 on Civil Rights, or at least what you say Ms. Chavez said  
13 this morning, and what the Administration clearly says is  
14 in exact opposition to the intent and purpose of the Grove  
15 City legislation. It is -- the position of the Commission  
16 and the position of this Administration, the reason they  
17 brought Grove City was that they feel that Title IX, age  
18 discrimination, whatever those in federal legislation want  
19 to talk about, that the funding should be program-specific.  
20 That was the ruling, in one sense, of Grove City. That is  
21 in exact -- we take the opposite position.

22 DR. PARKER: As members, as individuals.

23 MR. LEVINSON: The Grove City legislation says  
24 and we say that if an institution -- that the funding should  
25 be recipient-specific; if an institution receives funding,



1 and any program or activity of that institution is found to  
2 be discriminating, whether or not that program or activity  
3 had direct use of those federal funds, the institution  
4 will face a fund cutoff, until any program or activity  
5 within that institution stops discriminating.

6 The legislation, obviously, as far as we are con-  
7 cerned and the success we had in the House, was based on  
8 the premise that this legislation is not expansive, does  
9 not create new rights and remedies and jurisdictions for  
10 the federal government, but it is simply a restatement of  
11 current law and clear intent of Congress.

12 The Grove City legislation now pending in the  
13 Senate, from our perspective, and the arguments that we  
14 are making and trying to get the Senate to ratify, and  
15 follow the House is that it does nothing but restate the  
16 position that Congress has taken, as far back as 1968.

17 MR. WATKINS: So, it is status quo, anti-Grove  
18 City decision?

19 MR. LEVINSON: That's right.

20 DR. PARKER: I don't think there is any confusion  
21 in our mind as to what the various positions were. I think  
22 there was this technicality in the use of words, as to the  
23 fact that the Leadership Conference on Civil Rights, their  
24 position, which attorney Cooper has said, they are not  
25 officially on record as having a position.

1 DR. BICKLEY: But she specifically said this morn-  
2 ing that they were, specifically. It is in the record.

3 MR. LEVINSON: Well, again, that may have been a  
4 mis-statement, and I wasn't here, but let me say this,  
5 the leadership conference, because of the expertise and  
6 the presence of Ralph Neese, and the fact that members of  
7 the leadership conference obviously are those that are in  
8 the majority of testifying and promoting, and pushing  
9 pieces of legislation -- I think it is natural, although  
10 incorrect technically for her to say "We agree with the  
11 position of the Leadership Conference" on any issue.

12 MR. WATKINS: What she said anyway was, she said  
13 the status quo and it was program-specific. She said the  
14 legislation prior to Grove City was program-specific.

15 MR. LEVINSON: The point that needs to be made,  
16 leaving aside the leadership conference versus non-leader-  
17 ship conference -- the point that needs to be made, if a  
18 statement made this morning -- and I will say this as  
19 carefully as I know how -- if the statement made this  
20 morning was that the position of the Administration, or the  
21 position of the Commission is the same as the position  
22 taken in the Grove City legislation now pending, that's a  
23 lie.

24 Now, can I be anymore specific than that?

25 MS. COOPER: My point is -- and I have to admit

1 a party to this, at some point -- what we kind of loosely  
2 say is that we are running around under the umbrella of  
3 the leadership conference, as I think you kind of said,  
4 earlier. And we can go back to the transcript. It raises  
5 an inference that the leadership conference is doing all  
6 of these things in the name of the umbrella, when, in fact,  
7 the leadership conference takes very few positions, as an  
8 entity, on any issues.

9 So, what I suspect Ms. Chavez might have been  
10 talking about was because there was the appearance of  
11 pushing for the additional legislation, that therefore, the  
12 need for additional legislation, as the Justice Department  
13 argues, is recognized by the leadership conference. The  
14 fact that they push it means that the leadership conference  
15 is admitting that there is a gap in the law, and that is  
16 not true.

17 The individuals are simply saying "We want to  
18 make sure that the status quo is preserved, just as the  
19 status quo was not as you have deemed it to be. Therefore,  
20 you do, indeed, need legislation. If your position on  
21 Grove City is accurate, then you push legislation and let  
22 the Congress do the final arguing, and that's where they  
23 are".

24 But I got a little concerned about the notion  
25 that is being promulgated out here that they are doing all

1 of these things. The leadership conference is very, very  
2 broad now and Ralph is doing an incredible job trying to  
3 put that together. I mean, he is to be applauded for that,  
4 but you have so diverse interests now that someone has to  
5 go back at some point and decide whether or not the entity  
6 is the end-all, in terms of civil rights today.

7 MR. McINTYRE: Our concern is that we were misled  
8 by the staff director, in the presence of the Chairman and  
9 one of the members of the Commission who is a lawyer, that's  
10 my concern.

11 MR. FLOYD: Your issue is different than the issue  
12 that was brought this morning. You are perfectly correct  
13 in terms of the leadership conference, but I guess the point  
14 that we are raising -- and you get into trouble when you  
15 talk about status quo, and I think you confused us a little  
16 bit, Steve, that basically there was always the perception  
17 that if one program in an institution was discriminating,  
18 then the cutoff of funds applied to the entire institute.  
19 That was the perception.

20 The court said no. Okay, now, you had to go back  
21 and get new legislation to then deal with the question of  
22 the entire institution. When you say the status quo--  
23 return to the status quo, well, it was never that, according  
24 to the Supreme Court. We just interpreted it that way,  
25 and they never had an opportunity to deal with it.

1 MR. LEVINSON: No, I don't think that is correct,  
 2 Homer. I think what needs to be clear is that both the  
 3 intent of Congress -- evidenced by the amicus brief that  
 4 they filed, signed by 40 members of the House and 19 members  
 5 of the Senate, with the Supreme Court, and the implementa~~t~~  
 6 tion of all four statutes and regulation, up until Grove  
 7 City applied recipient specificity, not program specificity.

8 When I say status quo, what I am saying is prior  
 9 to Grove City, all four laws were enforced where an  
 10 institution was liable to fund cutoffs, when any program  
 11 or activity in that institution was found to be discrimin-  
 12 ating, irrespective of where the funds came from.

13 MR. CONNER: You are saying that was the  
 14 Administrative interpretation, not necessarily the law.

15 MR. FLOYD: The court never said that.

16 MR. LEVINSON: The Supreme Court never said it,  
 17 lower courts have enforced prior cutoffs. They have never  
 18 been appealed.

19 (Simultaneous discussion)

20 MR. LEVINSON: And I agree with you, but the fact  
 21 is that the issue is not who is the civil rights lobby  
 22 and what is LCCR, and anything else. If the statement  
 23 was made that the Administration, or any part of the  
 24 Administration is in agreement with the bill, or the  
 25 Civil Rights Lobby, in the interpretation of Grove City,

1 that is just simply untrue.

2 MR. LEWIS: Okay, why don't we leave this alone,  
3 maybe we can grab Levinson on the way out and get the  
4 real answer.

5 Are there any other questions, or any panel  
6 members who have any comments?

7 (No response)

8 MR. LEWIS: Thank you very much for your attention.  
9 Mr. Rutledge does have a couple of statements.

10 MR. RUTLEDGE: Before you leave, after discussing  
11 with several people here, and especially with Curtis Harris  
12 and Don Pitts, who will be chairing tomorrow's session, we  
13 have decided for the benefit of some of those who have to  
14 leave early, and in light of the fact that we have explored  
15 the issues as best we can, up to this point, the one  
16 regret that Mary Berry hasn't shown up, and this has  
17 created a serious gap. Maybe she can tomorrow morning,  
18 I don't know. We will try to get in touch with her, but  
19 we are notifying headquarters, in light of that situation  
20 we would like to adjourn the meeting at 1:00 o'clock.  
21 And then hold the two sessions that we were planning for  
22 tomorrow in one session, and have the commentaries made  
23 without assigning people to any particular role, and  
24 handled expeditiously, both by Don Pitts and Curtis Harris,  
25 as co-chairing the morning session.

1 I know that there is, in preparation, a letter to  
2 the Commission that will be discussed and circulated here  
3 tomorrow, written by a member of this group who will pre-  
4 sent it to this group. So, out of this can come some very  
5 concrete recommendations, as well as observations on where  
6 we want to proceed as advisory committees, in terms of our  
7 own activities in the coming year, and in our relationship,  
8 especially with local, state and federal agencies, which  
9 I feel has been one of the most disruptive aspects of this  
10 meeting today.

11 I certainly hope that those who participated on  
12 this panel feel the same way, and understand the closeness  
13 we feel towards each one of them. And that anything we  
14 have to say or think about is public and we will be glad  
15 to talk and think through things together.

16 Now, when one of the officials who was here --  
17 we want to dig a little further, I don't mind going off  
18 the record on occasion, as we did. I thought it was very  
19 illuminating at that particular point.

20 So, if there is any difference, please let me  
21 know, but if you agree that this is the way you want to  
22 proceed for tomorrow, from 9:00 to 1:00, let's be here  
23 promptly, and conclude promptly at 1:00 and cover everything  
24 that we could have anyhow. And we will notify headquarters  
25 if they want to come up here and talk some more with the

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1 Advisory Committee members, fine. And that will give you  
2 plenty of time to work out your departure procedures and  
3 stay on, and enjoy the Potomac. And I hope you have enjoyed  
4 the Post Office opening, and the gallery down there on  
5 Pennsylvania Avenue, and all of the other nice things that  
6 have happened.

7 MR. FERRON: The proposed draft letter, will it  
8 be in draft form for dissemination among all of us, so we  
9 can intelligently react to it?

10 MR. RUTLEDGE: Yes.

11 MR. FERRON: All of us will have a copy of it, so  
12 we --

13 MR. RUTLEDGE: You mean in my handwriting?

14 MR. FERRON: No, I don't want a letter read to  
15 me.

16 MR. RUTLEDGE: No, everybody will have a copy of  
17 it.

18 (Simultaneous discussion.)

19 MR. McINTYRE: Mr. Chairman, I move the program  
20 adjustment which has just been suggested be approved.

21 MR. LEWIS: All in favor say "Aye".

22 (Appause)

23 MR. LEWIS: We are adjourned.

24 (Whereupon, the meeting was adjourned at 5:30 p.m.  
25 to reconvene at 9:00 a.m., June 29, 1984)



C E R T I F I C A T E

This is to certify that the foregoing transcript

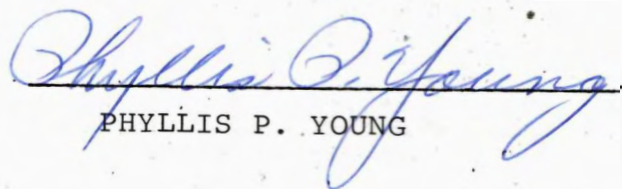
In the matter of: Regional Conference of U.S.  
Commission on Civil Rights  
Advisory Committee Members

Before: U.S. Commission on Civil Rights

Date: June 28, 1984

Place: Captain's Room  
Channel Inn  
650 Water Street, S.W.  
Washington, D.C.

represents the full and complete proceedings of the  
aforementioned matter, as reported and reduced to type-  
writing.

  
PHYLLIS P. YOUNG

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