

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

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.

Friday, June 29, 1984

NEAL R. GROSS
COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVENUE, N.W.
WASHINGTON, D.C. 20005

CCR
3
Meet.
146
V.2

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

PARTICIPANTS:

U. S. COMMISSION ON CIVIL RIGHTS:

EDWARD RUTLEDGE Regional Director

ADVISORY COMMITTEE MEMBERS:

West Virginia:

DONALD PITTS Co-Chairman
DR. ANCELLA R. BICKLEY
JAMES B. McINTYRE
HOWARD D. KENNEY

Virginia:

REV. CURTIS HARRIS Co-Chairman
DR. ANTHONY L. AZORES
DOUGLAS J. WILCOX

District of Columbia:

WALTER E. WASHINGTON
DR. MARJORIE H. PARKER

Maryland:

DR. H. D. WHITTINGTON
SOL DEL ANDE EATON
JOHN B. FERRON

Pennsylvania:

DAVID K. WATKINS
MIN J. DE COLLINGWOOD

1 PARTICIPANTS: (Continued)2 Delaware:

3 HORACIO D. LEWIS
4 WILLIAM CONNER
5 EMILY MORRIS

6

7 FEDERAL OFFICIALS:

8 DEWEY E. DODDS OCR/Dept. of Education
9 PAUL F. CUSHING OCR/Dept. of HHS
10 JOEL HARNICK Dept. of HUD

11

12 STATE OFFICIALS:

13 HOWARD D. KENNEY West Virginia Human Rights Comm.

14

15 LOCAL OFFICIALS:

16 JOHN B. FERRON Baltimore Comm. Relations Comm.
17 STEPHEN LEVINSON Alexandria Human Rights Comm.
18 ALAN DEAN Montgomery County (Md) Human
19 Relations Commission

20

21

22

23

24

25

26

27

28

29

A G E N D A

	<u>PAGE</u>
1	
2	
3	Call to Order - Donald Pitts, Co-Chairman 5
4	Summary of Presentations 5
5	Comments - Steve Levinson 63
6	Comments by Rev. Curtis Harris, Co-Chairman 67
7	Drafting of Letter to Commission 67
8	Comments by Suzanne Crowell & Bobby Owens 106 on Report Procedures
9	
10	Drafting of Second Letter to Commission 135
11	Adjournment 163
12	
13	
14	
15	
16	
17	
18	
19	
20	
21	
22	
23	
24	
25	

P R O C E E D I N G S

(9:20 a.m.)

1
2
3 MR. PITTS: My name is Donald Pitts, Chairperson
4 of the West Virginia SAC, and I am co-chairing your meet-
5 ing this morning, according to the instructions you re-
6 ceived on yesterday afternoon, with Rev. Curtis Harris,
7 from the Virginia SAC.

8 This morning the first session will deal quickly
9 with the summary of presentations from yesterday. I have
10 no comments, other than to say that yesterday was somewhat
11 disappointing and tragic, and I am a little tired of the
12 warmed over soup that we heard most of the morning. And,
13 perhaps, we can go forward now and resolve one of the
14 issues with which we are faced in these trying times.

15 We have sitting with us Mr. Ferron, Mr. Dean and
16 Mr. Dodds, and they were panelists yesterday. And we
17 are going to call on Mr. Dodds, because I believe he has
18 to get along quite early this morning, we are going to
19 go to him first.

20 Mr. Dodds.

21 MR. DODDS: I was just going to say that yester-
22 day was interesting.

23 (Laughter)

24 MR. DODDS: My task, I guess, this morning is in
25 about five-minutes to summarize everything that five or

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVENUE, N.W.

WASHINGTON, D.C. 20005

1 six of us took a good look hour and a half to say yester-
2 day, or something like that. And I will try to kind of
3 pull together a couple of threads that I came from all of
4 us and some that were implied, if not stated specifically.

5 There is no question, there is a change in
6 emphasis, but you knew that long before yesterday, but I
7 sure it was emphasized yesterday. The change in emphasis
8 for all of us, I think, in terms of what we are going to
9 do and the way that we are going to do it. Actually, all
10 of us are still operating, and operating full speed. We
11 have, most of us, have as much staff as we had prior to
12 this Administration coming in, close to it. And have
13 people out in the field doing compliance reviews, and doing
14 investigations, and resolving problems.

15 I think the differences that have happened over
16 the years, I think when I first got in it, a long time ago,
17 way back in the '60s, we were considered more of an
18 advocacy kind of role that we played, and we did go out
19 and meet much more with the interest groups, the NAACP --
20 we never went anywhere without talking to the NAACP person.
21 And we were expected to be that kind of agency in the
22 early years.

23 Then I think we got to the point where the emphasis
24 was made to us, no, you absolutely are not advocates, you
25 have got to be impartial in this whole thing, you have got

NEAL R. GROSS
COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVENUE, N.W.
WASHINGTON, D.C. 20005

1 to be objective, you have got to go in and look at it in
2 terms of an objective investigator, to determine what needs
3 to be done in these areas.

4 And now I think it has shifted a little bit in
5 the other direction, in terms of still being the impartial
6 investigator, yes, but at the same time to think more in
7 terms of what can we do to assist the recipient coming into
8 compliance. And I think you heard from almost everyone
9 at this table yesterday something about a voluntary kind
10 of agency that goes out and meets with recipients; technical
11 assistance being emphasized. Practically everyone of us
12 said we are expanding our technical assistance responsi-
13 bilities.

14 Now, I don't think it is bad, and I think it is
15 something that we can and should do. I think originally --
16 and well I will go ahead and say it anyway, originally I
17 think that there was a real concern about resolving the
18 problems themselves. And I think originally the recipients
19 generally, when it was Title VI, back in the early days,
20 we didn't believe in what we were doing anyway. So, we
21 had to take the advocacy kind of role, and we worked at
22 that.

23 Then, I think as Title IX and then 504 came on to
24 the scene, there was a different attitude on the part of
25 recipients. And now, I think generally, and I think this

NEAL R. GROSS
COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVENUE, N.W.
WASHINGTON, D.C. 20005

1 is true, I think, generally, recipients want to come in to
2 compliance. And if we can go out and show them where they
3 are in violation, they are more than willing to negotiate,
4 except in rare instances.

5 And so I think this whole TA approach is not a
6 bad approach at all, and I think we are accomplishing a
7 lot of things with it. But I think all of us are trying,
8 in our different ways, in education especially, we are
9 doing what we call "early complaint resolution". And then
10 we are doing a pre-letter of findings negotiation. And
11 those things -- I wasn't sure how they would work, the
12 pre-letter of findings, and negotiations has worked well,
13 and I think this is kind of a typical thing that has
14 happened in enforcement agencies, almost across the board.
15 Where we are going in, trying to remove some of the
16 adversarial kind of relationship, and go in to a much more
17 conciliatory and cooperative relationship.

18 Now, I think we will never be able to remove the
19 adversarial relationship altogether, but I think we can
20 alleviate it some, and we have had good success in con-
21 ciliation and cooperation.

22 Where you all fit in to all of this, as far as
23 what we are doing is concerned, I think is really trying
24 to help us, in terms of the relationships that go on out
25 there. We don't have much contact with many of you anymore,

NEAL R. GROSS
COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVENUE, N.W.
WASHINGTON, D.C. 20005

1 and I think we should have a lot more contact with you. I
2 think all of us, when we are out doing investigations,
3 should at least touch base with you, while we are going in
4 to see if there is anything that you can tell us about
5 things. And that is where I think where all of us, too,
6 have set up relationships, especially with the state
7 commissions on exchange of information. And maybe we
8 can expand that a little bit.

9 So, I think that all of us really are trying to
10 be more, what, conciliatory, rather than controversial
11 and adversarial. And I think it is working, and it is
12 working much better, I think, than you would think, after
13 what you heard yesterday morning. And it is, it is working
14 much better than that, as far as the actual implementation
15 of the laws.

16 I think I will just stop there.

17 MR. PITTS: We certainly thank you for your
18 wrap-up of what you saw yesterday, and how you feel in
19 your recommendation on how you think we should inter-
20 face more, be in touch more and communicate more. And
21 perhaps there are areas where there has been a lack of
22 communication.

23 MR. DODDS: Could I add just one sentence? The
24 other thing that I thought ought to be pointed out is the
25 change in the area of our responsibility, several brought

1 out the fact that most of our work now is in 504, in the
2 area of handicapped. Very few complaints on race anymore,
3 and a few more maybe on sex discrimination in some areas.
4 But about 50 percent of our work is in handicapped, and I
5 think that is something that we need to think about and
6 wonder why that is happening, because I think that there
7 are those who would interpret that to mean that discrimin-
8 ation has been eliminated, as far as race is concerned,
9 and we know very well that it hasn't.

10 And I think that is something that you, as SACs
11 should be considering, too.

12 MR. RUTLEDGE: Mr. Chairman, I would just like to
13 explain a couple of panels that might have been cut short,
14 that since we were playing this by ear, since yesterday
15 afternoon and determining how we would handle today, I
16 did not designate or ask anyone of these panels, except
17 Dewey Dodds, knowing that he would have to leave in the
18 morning, whether he would show up.

19 And, of course, Joel Harnick is here to comment
20 later, if he would like to, from the federal panel. But
21 what we have here are people who have just been seated
22 up there without being instructed on what their role was,
23 so if they were to read the instructions, however, they
24 would know that city, state, county, federal participants
25 would be called upon to present their summary comments, or

1 anything they wanted to say, during this session.

2 MR. PITTS: Thank you, sir.

3 MR. WATKINS: Could I suggest something, and just
4 offer it up for discussion? Actually, the comments yester-
5 day were pretty much summary comments, and I didn't get
6 much of a chance for dialogue, as a result of the time --
7 it was very quick and they made short presentations, and
8 we really didn't get to discuss much. Rather than have
9 them go back over what they said yesterday, could we just
10 open the meeting up and get some questions answered, and
11 that sort of thing?

12 MR. RUTLEDGE: I will leave that to the chair.

13 MR. WATKINS: Mr. Chair?

14 MR. PITTS: I will entertain a motion.

15 MR. FERRON: Second.

16 MR. PITTS: The motion is moved and seconded.

17 MR. WATKINS: You guys are buying the lunch, right?

18 MR. PITTS: We will then receive questions.

19 MR. WATKINS: Before a federal representative
20 gets away, the subject that we did not -- a subject of
21 some interest in our state SAC, in Pennsylvania, in fact,
22 we started and did the preliminary work for a project to
23 investigate the impact on -- we narrowed it down to
24 minority contract compliance, but the issue was really
25 what effect the shifting and the change in the way the

1 federal funds are administered through the block grant
2 program, down to the local agencies. I thought that since
3 we have folks up here who are from federal agencies, state
4 agencies and from the county agency, we were concerned with
5 how, for instance, the federal agency, which is responsi-
6 ble for administering the funds in the first place, having
7 been put in the position of having to turn those funds over
8 to the state government in the form of a block grant, and
9 the state government, ostensibly under the responsibility
10 of the governor, then has the responsibility to administer.

11 In Pennsylvania, those funds have to be allocated
12 by the state legislature, to the local county governments,
13 and at one time the DHRC, the Human Relations Commission
14 of Pennsylvania, had the responsibility for contract
15 compliance of those funds, and lately it is the result of
16 some in-fighting in the state government -- that's at
17 least temporarily been assigned to an administrative
18 division in the state government.

19 But beyond that, it goes down to the county and
20 who controls how those funds, either community block grants
21 or educational block grants, or whatever. So, the service
22 of block grants is distributed locally -- how do the
23 various levels of government work together to maintain the
24 compliance control of that money, as it goes on down
25 through the system, and is being distributed, in some cases

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVENUE, N.W.

WASHINGTON, D.C. 20005

1 at a very local level?

2 I don't know who to direct that to. To start
3 with the federal agency, and maybe work all the way down.

4 MR. DODDS: Joel, do you deal with contracts?
5 We don't deal with contracts. I can talk about the block
6 grant, as far as education is concerned, in about two
7 minutes. We don't do anything with it, as far as the
8 enforcement agency is concerned.

9 This whole bit -- we talked here about what I
10 should be saying about Grove City, but that is part of
11 the problem in Grove City, the pinpointing the money.
12 And the position that we have been taking, though the
13 actual position of OCR, is not out yet, they are still
14 talking in terms of how they are going to interpret Grove
15 City in all of these areas.

16 But one of the ways we are interpreting it right
17 now is that block grant gives us the authority to go in
18 there and do the whole system. Now, it maybe when we
19 finally get down to actually trying to terminate somebody's
20 money, we are going to have to go into the block grant
21 and see where that particular money went, in the school.

22 If it went only to a special ed program, then we
23 may not be able to deal with any other parts of the school
24 program. We don't know that yet. And a lot is going to
25 depend on what happens with this legislation that is out

1 there now, the Civil Rights Act of '84.

2 But there is no real relationship between us and
3 the granting agency. Now, it used to be with the ESA
4 money, that with ESA we had to approve it, prior to the
5 actual receipt of the money by the school system. And, of
6 course, there isn't any ESA anymore -- it is Chapter I
7 money, but we don't go through the same process we used
8 to go through in giving the clearance before they got it.

9 So, there is very little relationship between
10 the granting agency and the enforcement agency. And we
11 are still waiting for final guidance as to just what that
12 means, when we go in there, and how we treat the block
13 grant money.

14 I can't say much more than that.

15 MR. HARNICK: I find myself at a loss, because
16 my experience with the department has been, for the most
17 part, in Title VIII, not in Title VI-109. I do know that
18 the way we used to handle it -- I was in a major review,
19 Title VI-109 review when I first became a member of the
20 department, way back in the City of Philadelphia. And
21 I do know that we looked at all departments, if the city
22 was the recipient we looked at all of the departments, in
23 terms of their compliance with the broad agreements, and
24 so on, that they had signed off on.

25 And I believe at that time, you know, it was a

NEAL R. GROSS
COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVENUE, N.W.
WASHINGTON, D.C. 20005

1 sanctioning of funds and so forth, in terms of funding
2 certain areas, and non-compliance, rather than target a
3 specific agency receiving funds, where we found a problem.

4 MR. WATKINS: Well, does that sort of relationship
5 still exist, or is it not -- in terms of the legislation,
6 the responsibility is still there at the federal level?
7 It seems to be turned over and passed on down the line,
8 is there a point at which we are losing it, I guess is the
9 question?

10 That is what we were going to research, and may
11 yet, when we get around to it.

12 MR. KENNEY: One of the problems that we tried to
13 deal with with the whole block grant funds has been trying
14 to get a handle on the civil rights responsibilities and
15 who is going to be responsible for carrying that out.

16 And what has happened is we have sort of been
17 deluged with a lot of paperwork from some of these agencies
18 saying "this is our program" and the federal agencies have
19 reviewed it and agree with it, and so forth. It is just
20 difficult because we are dealing with so many different
21 folks who, in the past, did not carry out civil rights
22 responsibilities, and now it has been thrust upon them,
23 and you are asking the politicians to be civil rights
24 compliance people. And the politicians just aren't civil
25 rights compliance people, in my estimation.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVENUE, N.W.

WASHINGTON, D.C. 20005

1 MR.. RUTLEDGE: Could I ask a question from anybody
2 who is here? As I understand it, affirmative action was
3 the responsibility of the Pennsylvania Human Rights Com-
4 mission, and then suddenly an executive order, or a
5 memorandum came down from the governor's office assigning
6 you to some official within the governor's office, taking
7 that responsibility, or apparently taking that responsibil-
8 ity away from the Pennsylvania Human Rights Commission,
9 and almost claiming, as I read the accounts and as I
10 recall what was in the accounts in the newspapers and then
11 from conversations I have held since reading those accounts,
12 that the claim was that the Human Rights Commission wasn't
13 doing an effective job on affirmative action, and suddenly
14 they were looking at a lot of things.

15 The other side of what I learned was that actually
16 the Human Rights Commission began looking at the affirmative
17 action program of the state agencies and of the state
18 itself, and that that had some political implications
19 and ramifications.

20 If anybody can enlighten us, off the record or
21 on the record, on that, I think it would be very helpful.

22 MR. WATKINS: I don't know anymore than you just
23 said, that is my understanding of it. You know, there are
24 some logical conclusions that can be drawn -- you cut the
25 funding for an agency, you de-staff the agency, and then

1 you accuse it of not doing its job, and take the work from
2 it and give it to somebody else. That might be one way to
3 look at it, I don't know.

4 The curious thing to us in the state agency was
5 that this happened not that long after we met with the
6 Executive Director of the Governor's Human Resources
7 Committee, or a subcommittee made up of the various heads,
8 or some of the heads of the state agencies that report to
9 the governor. And several of us met with this individual,
10 talked with him about the responsibility for contract
11 compliance, and had representatives of the DHRC with us,
12 drew up our plans for the investigation, and about two
13 weeks later in the paper it was announced that contract
14 compliance responsibility had been shifted from DHRC to
15 the administration division, or whatever it is called --
16 agency in the government.

17 MR. FERRON: We have had the experience in
18 Baltimore, back in '77 or '78, our agency had the responsi-
19 bility for conducting A-95 reviews, along with the state
20 agency, but we also had the primary responsibility of
21 conducting contract compliance for city government. ORS,
22 around that time conducted an extensive survey, a study
23 of Baltimore City and were threatening to withdraw \$28
24 million from the City of Baltimore. The responsibility to
25 conduct those contract compliance reviews was of such

1 magnitude, that with the limited staff that we had at that
2 time, that we were not doing an effective job, and we got
3 special funding from the city government for additional
4 staff, which was still insufficient.

5 And I am, frankly, convinced that as a result of
6 that, we stepped on some political toes, coupled with the
7 pressure from ORS, the administration issues an executive
8 order establishing an affirmative action plan for the
9 City of Baltimore and took the responsibility of contract
10 compliance from our agency and placed it in the Office of
11 the City Solicitor, which is an administration body, it is
12 really government, it is not independent of the administra-
13 tion, as is the Community Relations Commission.

14 MR. WATKINS: I was incorrect on one statement,
15 and I pulled the article to make sure -- it is within the
16 administration department in Pennsylvania, we have a
17 Department of Affirmative Action, and that is who ultimately
18 received responsibility for contract compliance when it
19 was taken away from the DHRC.

20 MS. COLLINGWOOD: I have met with the Director
21 of Affirmative Action, and what she is doing is she is
22 taking a very systematic approach, a very bureaucratic
23 approach. I think, perhaps, my office plans to work with
24 her. And I think maybe what we ought to do is bring her
25 to one of our SAC meetings. But her opinion is that the

1 Human Relations Commission was overloaded, in terms of
2 work, and so on and so forth.

3 MR. PITTS: Well, perhaps that might be something
4 that the Pennsylvania SAC can take care of at its SAC
5 meeting, and let us move on. If you don't mind.

6 MR. WATKINS: We live doing our wandering out
7 here.

8 MR. PITTS: We don't mind that.

9 MS. EATON: Since the SACs are kind of being re-
10 organized, or from whatever we heard yesterday, is there
11 any advice or any suggestion that we have from persons on
12 the panel on what issues we should concentrate on? I
13 know it is a big bag, unemployment, affirmative action --
14 the same old stuff we have been dealing with -- are there
15 any suggestions you have for something we should look into,
16 or how can we work, especially with the people on the
17 Human Relations Commission?

18 I would like to hear from the State of Maryland,
19 what are the things that are bugging your office that we
20 should know about.

21 MR. DEAN: I think one of the things that we are
22 missing is the lack of communications, the interaction
23 between what is happening with the Human Relations Com-
24 mission and the SAC. There should be more interaction
25 there because we have had a series of meetings with aging,

1 on night, and the blacks one night, and the Hispanics one
2 night for the purpose of having them explain to us what
3 they perceive their problems to be.

4 Where we have come to is a very awkward position
5 for us right now -- we started off 15-20 years ago being
6 very patient, thinking we will work within the system and
7 things will work for us. We have now gotten to a place
8 where it is a perception problem, the feds are telling us
9 they are doing all kinds of great things for us, we know
10 damned well they aren't -- we are going backwards and we
11 are tired of going backwards.

12 I think what we are facing is people are becoming
13 very angry and very upset about what we perceive to be the
14 real world right now. It is not as good as people say it
15 is, and we are not alluding ourselves that we are there --
16 we are nowhere near that, in fact, we are further behind
17 now than we were many years ago.

18 And this is what I think that the SACs should be
19 aware of, keeping in touch with the Commission. We can
20 make you aware of what we perceive as the trends, where
21 we see things going, and we will be glad to share this with
22 the SACs, so that you will have an idea of what the real
23 world is like, and not what people tell you it is like.

24 This reminds me of a situation in Chicago several
25 years ago when Mayor Daley walked along the lake front with

1 the archbishop, and the archbishop's hat flew off and went
2 out in the lake. Daley walked out, picked it up and brought
3 it back and gave it to the archbishop.

4 The next day the newspapers said "Daley can't
5 swim". That's what we have, it is a perception problem.

6 (Laughter)

7 MR. DEAN: So, I have a lot of problem dealing
8 with exactly what I am hearing and what is actually happen-
9 ing. And I hope there is a greater interaction.

10 REV. HARRIS: May I raise a question, Mr. Chairman,
11 relative to -- it is my understanding that the emphasis is
12 on conciliation and we have also begun to -- we are in the
13 appointment process of persons on the various committees,
14 like the committees to administer the block grant program
15 -- we have reached into the old line civil rights organi-
16 zations to get certain leaders out, put them on the
17 committees.

18 And what we see now is quiet walk among the civil
19 rights organizations, no one talks about an adversarial
20 relationship, no one knows really the advocate. Everybody
21 is objective.

22 I want to know from these persons here if you see
23 that as a hinderance to furtherance of your administration
24 in the areas, in the various jobs?

25 MR. DODDS: I think what Homer Floyd said yesterday

1 at one point yesterday morning, in terms of you have got to
 2 look at the history, and this is what is not happening now.
 3 The assumption now is everybody is in compliance and wants
 4 to stay in compliance, and that everybody is on an equal
 5 footing and ready to go right now.

6 And Homer was making it pretty clear that we really
 7 have to look behind all of that. And I think that is some
 8 of the emphasis that needs to be coming from some of you
 9 out there.

10 MR. HARNICK: I would like to make a comment about
 11 our effort to provide technical assistance, I am talking
 12 about obtaining voluntary compliance in the real estate
 13 industry, that we deal with.

14 I have been in civil rights for more than 20
 15 years, I used to be seen as an advocate and I feel I still
 16 am. Quite frankly, I don't think we are ever going to
 17 deal with the case load that we have. In fact, discrimin-
 18 ation is going on in this country -- on a case-by-case
 19 basis, it just don't work. It doesn't work even when we
 20 do things systemically, institutionally, we deal with it
 21 in time and practice cases, we are not going to change, to
 22 a great extent, the amount of discrimination going on on
 23 a case-by-case basis.

24 However, I find that in dealing with the industry,
 25 the real estate industry, namely the boards of realtors

1 and apartment developers, to a great extent I believe that
2 the amount of discrimination going on is really as a result
3 of an absence of knowledge about what we are about.

4 I mean, we have symposiums, 16 years celebrating
5 the passing of Title VIII, and every year we try to
6 educate people through these conferences, and so on. And
7 time and time again, I hear the most basic questions being
8 asked of me, such as "Can I steer people?" "Can I identify
9 racial neighborhood" when they ask about moving into white
10 neighborhoods, or black neighborhood. The answer is no,
11 you can't.

12 And what happens when NAR, the National Association
13 of Realtors, and Bill North and Tom Spoor (phonetic) or
14 those people begin to pass the word down to the grass root
15 brokers, what happens? Where is the communication?

16 Because there is obviously a lack of communication
17 among those people that we are dealing with, as respondents.
18 And I find that, quite frankly I didn't believe it until
19 I started going out -- these people are like sponges, they
20 really want to know what the law covers. The reason is
21 because when I go out and do these technical assistance
22 seminars we talk about the culpability, we talk about the
23 Phillips versus Butler case, where it cost somebody
24 \$300,000 because they didn't comply with the law.

25 And if you happen to be the broker that that person

NEAL R. GROSS
COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVENUE, N.W.
WASHINGTON, D.C. 20005

1 walks in on, can you afford to pay that kind of money?

2 Can you sustain yourself after that?

3 The answer is no. And suddenly people wake up
4 and they hear what you are saying. And I tell you, it is
5 enlightening to hear and interact with these brokers, and
6 the dialogue for hours and hours and hours, because then
7 they begin to ask the kind of questions that they were
8 always afraid to ask, because you represent the government
9 and they represent the potential responding group.

10 We want to cut through that adversarial view that
11 the industry has of us, so that we can provide greater
12 access to the housing market, for the people that we serve,
13 the citizens. And we find it works.

14 But at the same time, we have not shirked our
15 responsibility in terms of enforcement. In fact, Title
16 VIII provides, mandates that the secretary call conferences
17 and provide as much education as the industry is willing
18 to absorb, in addition to fulfilling our responsibilities
19 to enforce Title VIII and Title VI.

20 MR. PITTS: I think that the import of the
21 question still has not been touched upon. I think to make
22 it very plain, the question is who shall plea the cause of
23 the oppressed? And that if there is no advocate, then
24 there is no pleading of cause.

25 MR. HARNICK: Well, I, for one, can say that my

1 department is the enforcement agency, and we are not con-
2 sidered to be an advocacy agency. Advocacy for fair
3 housing.

4 MR. DEAN: I think most human relations commissions
5 are being forced into that role, whether they want to be,
6 or not. What we see happening is a lot of people, with
7 the diversity of the new groups that are coming into the
8 country, and the almost complacency that is coming about
9 from older groups that are here -- we are forced to adopt
10 a new approach to how we feel with discrimination.

11 Therefore, if we are going out, we have an out-
12 reach person for the agency, an outreach person for the
13 Hispanic community, so that we can get these groups in
14 that weren't there before. We have people going to the
15 black community on a regular basis, we have people that
16 deal with the handicapped on a regular basis, so we
17 know exactly what their rights are -- let them know what
18 their rights are, tell them to help us kick butts, because
19 it is not happening.

20 We have more and more people who are handicapped,
21 that are women, that are aged, that are Hispanics -- we
22 are going out and getting them now, making them aware of
23 how they are being dumped on, but the subtle, I guess,
24 form of discrimination that is going on now, people walk
25 away smiling and say, "Boy I really have it good", they

NEAL R. GROSS
COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVENUE, N.W.
WASHINGTON, D.C. 20005

1 have been had and they don't even know it. So, we are
2 making them aware of the fact "you have not been had".

3 Our brochures no longer say "If the following
4 things have happened to you, file a discrimination claim".
5 We say, "These are examples of what can happen to you that
6 would make you file a discrimination complaint".

7 On a regular basis we talk to people in the
8 industry; on a monthly basis, we talk to people in employ-
9 ment, we talk to people in the housing industry, the real
10 estate people and make them aware, so they know what the
11 hell is going on, it is not a surprise for them.

12 Last year we set a new record in granting money
13 to people for damages for discrimination. It is not going
14 to get better, it is going to get worse. And we have to
15 assume that role of doing something for people who really
16 hurt.

17 MR. PITTS: Any response from the panel?

18 MR. FERRON: I would like to respond. I agree, and
19 am supportive of everything that has been said up to this
20 point. Outreach does, indeed, help. I believe though
21 that if your agency's history is similar to the history of
22 our agency, I would take the position that we have made
23 a major strategic mistake in focusing in on business and
24 industry as the culprit, as the sole culprit.

25 I think there has been a void in our approach to

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVENUE, N.W.

WASHINGTON, D.C. 20005

1 addressing some of the major problems and causes of dis-
2 crimination in the work place. And it was touched on
3 yesterday, and I regret that we didn't have time to develop
4 it when Steve Levinson was in a dialögue regarding the
5 Leadership Conference on Civil Rights. He touched on
6 organized labor.

7 And I believe that in spite of the myth, or the
8 stereotype of organized labor having traditionally been
9 a friend and supporter of civil rights, that it has truly
10 been a stumbling block. And I don't hear many folks saying
11 that, not that I want to project myself as a hero, or any-
12 thing like that. But having had substantive personal
13 experience with organized labor, I am convinced that unless
14 and until we take a hard look at organized labor, in terms
15 of the building trades, the skilled crafts and so forth,
16 that you are not going to touch it. You are not going to
17 address those real problems in the work place.

18 I believe it is accurate what the National
19 administration is saying about the massive increase in
20 employment. But if we look at the statistics, the massive
21 increase in employment is impacting favorably on the white
22 male, wherein the black male is truly experiencing, I think,
23 some of the worst experiences he has had in the past 15-20
24 years.

25 And that is the thing I want to talk to you about,

NEAL R. GROSS
COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVENUE, N.W.
WASHINGTON, D.C. 20005

1 Sol. Although we addressed some issues that we wanted to
2 handle in the Maryland SAC, I really want to look at this.

3 I would like to get some comments -- maybe I am
4 out there in left field by myself.

5 MR. WATKINS: I will make myself real unpopular,
6 because I am an employer -- there are other employers here,
7 but my sole responsibility is participation in the employ-
8 ment process for industry.

9 The most serious difficult NLRB and the EEOC
10 charts that I have had to deal with since I have been in-
11 volved in industry was related to the use of contractors.
12 Now, we have our own relationship with organized labor
13 and have internal locals of the ACTWU, and in that sense
14 affirmative action and EEO compliance within our industry
15 has not been difficult. The ACTWU is not difficult to
16 deal with, but the building and trade locals involved, the
17 contractors get their people through -- you know, they
18 have a relationship, you are all familiar with the hiring
19 hall relationship that contractors have.

20 And the most serious and most difficult discrimin-
21 ation to overcome that I have ever run into was the kind
22 of discrimination that was going on through that hiring
23 hall, through their training, through their apprenticeship
24 and journeyman training programs, and that sort of thing.

25 It then becomes a problem -- to speak to it more

NEAL R. GROSS
COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVENUE, N.W.
WASHINGTON, D.C. 20005

1 generally, not just in the organized labor sphere, but in
2 the work force in general, the employer -- the famously
3 referred to respondent in all of these conversations, has
4 been given legal responsibility for compliance, but an
5 employer is somewhat like the government, in the sense that
6 it has an internal constituency which is its work force,
7 over which it doesn't have absolute authority, fortunately.
8 We have all types of other legislation to govern what an
9 employer can and can't do, and what an employer has an
10 obligation to do.

11 And I think that you are bringing up a very good
12 issue when you say that you need to go beyond the employer,
13 per se; the little group of the ownership, or whatever,
14 the business, the stockholders and the employed-management,
15 or in a private corporation, the owners, you need to go
16 beyond that to penetrate where the real discrimination is
17 occurring. Because you not only have an obligation to
18 hire, I think as an employer once you have hired any one,
19 you have an obligation to provide them with an environment
20 which they can function and succeed.

21 And one of the stumbling blocks to maintaining
22 an effective EEO program is keeping people after you have
23 hired them. I want to address it more directly than that,
24 but you know that you run into problems in the work place
25 that are not so much employer-related, although the employer

1 is ultimately held responsible.

2 So, we have to go beyond just holding the employer
3 responsible and addressing how do you get in to the work
4 force, into the labor market, into organized labor and
5 into the non-organized work forces and deal with the pro-
6 blem in the work force itself.

7 MR. FERRON: That is complimentary to the position
8 that I have taken.

9 MR. PITTS: Doesn't this bring to focus --

10 MR. WATKINS: The only reason I said it was
11 difficult because it flies in the face of traditional
12 wisdom which is you hold the employer responsible for
13 everything that goes on within that, because you can get
14 a hand on the employer. And I am not knocking the culp-
15 ability of the employer, the employer has a hell of a lot
16 of responsibility and culpability. But he doesn't being
17 to have, or she doesn't begin to have the absolute auth-
18 ority that a lot of regulation tends to seem to invest
19 the employer with.

20 So, I am saying we are not reaching the roots of
21 the problem if we only go after the respondent, per se.

22 MR. PITTS: Doesn't this bring into focus the
23 need to really define what we are about in terms of whether
24 it is social, as was suggested in yesterday morning's
25 discussion, as opposed to civil rights?

1 Certainly if we cannot change the worker, who may
2 still be steeped in his racial attitudes, how then can we
3 change the overall picture? Because the attack is coming
4 from the work force, based on employees, rather than
5 employers, or even from both ends. We cannot change it,
6 if we just say that that whole scenario is not dealing with
7 civil rights, that is a social problem, so we can't deal
8 with that social problem.

9 Maybe some of you weren't here yesterday, but I
10 think those of us that were will understand now the focus
11 that I think we have to come to, that grips with the
12 problem in terms of the SACs, and our national people.

13 We do not have an agenda that is giving us any
14 direction. And I think that this is a very important issue,
15 and certainly we must define what it means.

16 DR. BICKLEY: I think I would agree with you.
17 What we have done is almost rehash the past and where we
18 are now. And clearly, it seems to me that the strategy,
19 the tactics that we have used over the last 20-25 years
20 are not working anymore.

21 And I have not heard, except for the comments
22 that Bob Greaux made yesterday, I haven't heard us talking
23 much about what is new. And when I go back home and say
24 to people "Things haven't changed", they say, "You are
25 crazy, things have changed, we have this law, and we have

1 this law. And we have a black person who is doing this,
2 and a female governor in Kentucky. So, things have changed".

3 But when you consider that I really think that
4 the people that I deal with, the black communities that
5 I walk through in Huntington, West Virginia, with gapping
6 holes in the houses, or houses have been taken out, where
7 those that are there are falling apart, or people are
8 standing on the street corner, where there are no jobs,
9 where they are flunking out of schools, this says to me
10 that if there is not a massive social problem, a massive
11 upheaval in the United States in the next 10 or 15 years,
12 I will eat my hat, because it is coming. And we aren't
13 doing anything about it.

14 And we all know. I am so uncomfortable with all
15 of this. I don't know what to do, but it seems to me that
16 part of what we need to do is turn off that machine, close
17 the door, put our heads together and really brain storm
18 about something that will help us to solve this situation
19 that we know is out there.

20 MS. MORRIS: May I ask Mr. Dodd a question,
21 before he leaves?

22 Mr. Dodd, I wonder if you would explain the
23 government's policy, prior to Grove City, regarding
24 program-specific investigations, and also the specific
25 remedies -- this is before?

1 MR. DODDS: Prior to the Grove City decision?

2 Well, the position of the office has been, almost from the
3 beginning, that once money goes into an institution, then
4 we have the authority to go in and investigate the entire
5 institution.

6 Whenever we got a complaint about Title IX, in
7 an athletic program in a college, we went in to do the
8 investigation.

9 When the district courts moved against us, we
10 stopped doing investigations. But then went back into it
11 again.

12 But the position has been that any money that
13 goes in to an institution gives jurisdiction for the
14 entire institution. I think the problem that we have now
15 is interpreting what that money really is, you know, the
16 Grove City decision dealt with the student aid. And all
17 of this with Grove City began whether or not student aid
18 was federal financial assistance. And they ruled, yes,
19 it is federal financial assistance, but it only deals with
20 the admission's office.

21 Now, our interpretation before that once they
22 accepted the federal financial assistance for student aid,
23 that had an impact on the entire program. It affected
24 the kids who got student aid to go into the athletics
25 department, that got scholarships of some kind, or aid to

1 go in there, and it gave us the authority to go in. That's
2 is the way we were before.

3 Now, we are not sure where we are in the whole
4 situation. We are trying to look to see whether the work-
5 study program -- if there are kids in the athletic program
6 that have work-study money, does that then make them
7 susceptible to a review. We always did a review of the
8 entire institution.

9 Now, up until recently we haven't done much in
10 the way of terminating funds. We didn't really get con-
11 cerned about terminating funds until we were ready to go
12 into administrative hearing. I think the position then
13 was once we went into administrative hearing, then we could
14 only terminate funds in the area where there was actual
15 discrimination found.

16 MS. MORRIS: Was that before the remedy?

17 MR. DODDS: Yes, that was the position before,
18 but we never got involved with it because we never got
19 into administrative hearings.

20 But the great majority of cases that we took --
21 somewhere along the line we would negotiate a settlement.
22 So that really wasn't a major issue, but that was the
23 position. When we got to that position, then we had to
24 start stopping specific funds for specific programs, in
25 terms of termination of funds.

1 MR. McINTYRE: What was the purpose of Grove City?
2 I thought Grove City restricted the withholding of funds
3 to the particular division, or department.

4 MR. DODDS: That is the other side of the coin of
5 Grove City, that is what it did.

6 MR. McINTYRE: If that had been the practice all
7 along, why would anyone ever have challenged it?

8 MR. DODDS: Where it is at this point is not that,
9 but our authority to investigate. We can't even go in to
10 investigate, unless we can show that there is money going
11 to that specific program, that is the key to what is going
12 on right now.

13 MR. McINTYRE: In Grove City funds were withheld
14 from the entire institution, am I correct in that, or not?

15 MR. DODDS: Well, in Grove City, actually the
16 only money they got was student financial aid, that's all.
17 No money was ever withheld from them, in the whole time
18 there was no money withheld.

19 Their position was that they refused an assurance,
20 that is all that it was, and that began this whole process,
21 which ended up here in the Civil Rights Act of '84. And
22 that is where I hope it is going to end.

23 MS. MORRIS: Mr. Pitts, can you answer this, or
24 maybe somebody from the regional office can answer it?

25 Was this intended to be a public meeting?

1 MR. RUTLEDGE: Yes, every meeting we have.

2 MS. MORRIS: Is this lady a member of the press?

3 Where is the press?

4 MR. RUTLEDGE: There is no press.

5 MS. MORRIS: Is there any particular reason why
6 the press was not invited to this meeting?

7 MR. RUTLEDGE: The Federal Register notice was
8 sent out letting the public know about the meeting.-- there
9 was no notice letting the public know about the meeting.

10 MS. MORRIS: I want to comment on that, as we get
11 back to the gentleman who talked about organized labor.
12 It is interesting how much influence they have over this
13 latest Supreme Court ruling.

14 MR. RUTLEDGE: Excuse me, if this Committee, or
15 if this group here wants -- in other words, our advisory
16 committee representatives here want -- if you want to be
17 off the record for the rest of the conference, you just
18 take a vote and say so. This was made available so we
19 would have a transcript of the entire record, so that we
20 could go back and report it properly to the entire group
21 of members. This was just a group -- as I said earlier,
22 we couldn't invite everyone here, but the decision is up
23 to you. If you want this off the record, in the sense
24 that the steno doesn't continue, you certainly ought to
25 so vote.

1 MR. PITTS: I am not even going to call for such
2 a motion, because I believe this is a part of making history,
3 therefore, it must be recorded.

4 If man could only learn because of recorded events,
5 I think that is part of that learning process, by which we
6 must educate the moral and the national, that there be such
7 a possibility.

8 MR. RUTLEDGE: I just wanted it clear.

9 MR. DODDS: What he means, in short, I think we
10 ought to do it oftener.

11 MR. PITTS: You were making a question in terms
12 of the response from Mr. Ferron, I believe, concerning
13 the statement he had made.

14 MS. MORRIS: I was speaking to the influence that
15 organized labor had on this most recent Supreme Court
16 ruling, or decision, related to affirmative action, senior-
17 ity, and so forth. And it interests me even more to see
18 how Mr. Mondale is dealing with organized labor in this
19 whole matter, and I think that somehow we get caught up --
20 and I have no problems with being criticized, certainly.
21 But let us not be blinded by some of the things that are
22 going on nationally, as it relates to how the Democrats
23 and Republican leadership get together and agree on many
24 of the issues that we oppose.

25 I just want to throw that out, let us not get

1 hung up on these political parties and so forth. I see an
2 awful lot going on where they agree on many, many things,
3 it is just a matter of they choose to attract this particular
4 things. Let's not be fooled by it.

5 MR. PITTS: If we really wanted to take a good
6 look at the influence upon the court cases, we could go
7 to Weber, to Baake and see the influences of ethnic groups.
8 I believe that the Jews had a very material part in the
9 Baake Decision, and I believe that labor had a very, very
10 strong influence in the Weber case and some other cases.
11 So, we just don't have to stop and look at this influence
12 here, but that influence has been chipping away at the
13 foundation that was laid by so many of those that worked
14 and struggled so hard in the '60s and the '70s, and we
15 now come full face.

16 Are there any other questions?

17 MR. DEAN: Just a comment, we are losing sight of
18 the real cause of the frustration in the enforcement agenc-
19 ies right now. It is not the local things that are happen-
20 ing, it is the fact that there is an institutional --
21 a problem we call institutional racism that affects the
22 entire country, it starts at the top and it filters right
23 on down. And sometimes we feel very, very powerless be-
24 cause regardless or what you do at a local level, we cannot
25 change the system, we can only make a little dent in the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVENUE, N.W.

WASHINGTON, D.C. 20005

1 system. This becomes very frustrating and really drives
2 you up the wall at time, but if you keep on, one of these
3 days something good is going to happen.

4 If you look at every single institution in this
5 country, your churches, your schools, your government,
6 whatever it is, the structure is there, we cannot control
7 it and that is what is going to set the policy for us,
8 whether we want it to or not. And unless that changes,
9 nothing else is going to change, it is just going to keep
10 chipping away at it.

11 MR. PITTS: Let me take one question, and then
12 after this question, what I would like to do, if there is
13 anyone, any panelist who would like to make a very brief
14 comment, I would like to start moving to bring this session
15 to a close.

16 Is that all right?

17 MR. WILCOX: I would just like to make a comment,
18 and then ask a question. I have only been on the SAC for
19 four years, and I agree with what has been discussed here
20 this morning, but there is a new issue that I can see that
21 -- when we talk about the return to the status quo, and
22 all of the problems coming back again in the traditional
23 areas.

24 We have a whole brand new ballgame out there, we
25 have Vietnam vets, we have ladies, we have single parents.

NEAL R. GROSS
COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVENUE, N.W.
WASHINGTON, D.C. 20005

1 When we had a state-wide -- Rev. Curtis Harris may want
2 to comment on this -- when we had a state-wide conference
3 in Richmond a couple of months ago, for two days we had
4 people telling us all their problems, he was there. And
5 only two people talked about black-white issues. And for
6 two days -- well, I should say black-white confrontations.
7 And all of the others were in wheelchairs and they had
8 problems like "My wife can't go to the bathroom in a hotel
9 because the door isn't wide enough, she can't get out of
10 the wheelchair".

11 And I see -- you talk about an explosive situation,
12 I see a whole group of people who are being told "There
13 is a Civil Rights Commission, and they do care", when
14 really, I don't think they care. And the Commission, the
15 people we talked to yesterday, didn't show any interest,
16 didn't ever mention any of these people.

17 So, maybe they are concerned, but they certainly
18 didn't show it. So my question, or comment from you
19 gentlemen at the table are any of the agencies -- the
20 words come out "I am an enforcement agency", "I am on
21 call", "I am like a fireman, you tell me your problems,
22 and I help you" -- are any of you really concerned about
23 the great big mass of people who have not been a part of
24 the dialogue of civil rights, ever, but are now trying to
25 catch on to that and get some help? Are you -- I know you

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVENUE, N.W.

WASHINGTON, D.C. 20005

1 are concerned, but do you actively think about these people,
2 or modify your plans, or try to think in terms of expand-
3 ing your enforcement to include these people, or recommend
4 some kind of a change to what you are doing? Do you really
5 do that, because there are a lot of hurting people out
6 there?

7 MR. FERRON: Let me talk before Steve answers.

8 There are two groups you don't mention, the
9 homeless and the hungry. Two months ago our commission
10 conducted a day's hearing on both of those issues, though
11 we have jurisdiction only in the city, the hearing encompass-
12 ed state-wide issues. I think one of the problems is that
13 all of the groups tend to be myopic and parochial, they
14 think of themselves.

15 I share something I wrote with Alan Dean, that
16 went to our local newspapers. One of the problems is --
17 and it started in the late '60s, we have dissolved the
18 traditional coalitions of groups that worked together for
19 a common cause. And those that would have us divided are
20 laughing all the way to the bank, because I am convinced
21 that this falls within the grand plan, to keep us divided
22 and to fight against one another.

23 And I submit that in any large group where you
24 have these different constituents there are feelings of
25 paranoia and suspicion that this one group wants it all.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVENUE, N.W.

WASHINGTON, D.C. 20005

1 And what are we talking about? We are talking about a very
2 small piece of the pie. All of us are hurting, and our
3 energies are not combined and focused towards the real
4 culprit. And that is the political control in our society.
5 And we are so ready to accept these platitudes that we
6 are living in the best of all possible worlds, we are so
7 willing to accept that.

8 I am sitting up here getting damned angry because
9 I am not hearing the sorts of things that for some reason
10 I sense that only I am feeling. I am really hot up here,
11 and I think with all respect to you, Ed, and the Commission,
12 I am getting the impression that this is an exercise in
13 futility.

14 MR. RUTLEDGE: I love the way you lump me together,
15 but that is all right, if that is the way you feel about
16 it, that's all right.

17 MR. PITTS: Ms. Eaton?

18 MS. EATON: I am so glad you brought this up,
19 Mr. Wilcox, because if we look at the groups you are talk-
20 ing about, the handicapped. I work in the EEO field and
21 I see regional accommodation and all of the ones that come
22 up with the laws, but I don't see no Hispanics and no
23 black being accommodated anyplace. So, within this
24 organization there is a terrible, very critical separation
25 and the same thing with the Vietnam veterans, there are

1 subclasses within these groups.

2 And when we have diluted so much into black groups,
3 Hispanics, ethnic and then we go into other things that
4 cover all of us, it is a losing battle. So, I am glad you
5 brought this up, we should discuss, you know, the handicap-
6 ped are getting all the reasonable accommodations. For
7 the first time I have seen handicapped as janitors getting
8 a contract. Every one of them is a black handicapped
9 person.

10 When I see handicaps being placed in the federal
11 government, everyone of them are white. So, you know,
12 we have a whole group of people up there.

13 MR. WILCOX: That is an army of people, and that
14 is what I don't want to turn them into is an army. If
15 we don't solve their problems, or address their problems,
16 we are going to have an army. And that is what I am
17 worried about.

18 MS. EATON: But we are going to have an army that
19 is very select, and the real army is being left out.

20 MR. PITTS: We will hear from Mr. Levinson now.

21 MR. LEVINSON: I think that we don't want to
22 create the armies you said, in the sense that you are
23 talking about. But the other thing what we are doing, or
24 what is being done to us, is raising -- this is the situation
25 where we are raising a lot of people's expectations,

1 whether they be handicapped, whether they be veterans, or
2 whether they be refugees, whether they be the variety of
3 groups that have begun to participate in this, quote,
4 "civil rights coalition or network".

5 We don't have the capacity, we don't have the
6 expertise, and we don't have the resources to meet those
7 needs. But we are including, or they are being included
8 in our various jurisdictions and in our various ordinances,
9 and you want to talk about veterans, there is racism there.
10 You want to talk handicap, there is racism there in the
11 handicapped issues, or sexism, or the various things.
12 And each one has its own set of problems.

13 Some of you may know Galen Martin, who is the
14 director in Kentucky and the president of IORA (phonetic),
15 five years, or six years ago, he wrote an article in the
16 Journal of Inter-Group Relations, where he talked in
17 very great detail about the traditional human rights
18 ordinances; race, color, sex, age, basically, now handi-
19 capped. And made the point that the more these ordiances
20 are being expanded -- look at D. C. with 15 coverages, or
21 some of these cities with 10 and 15 kinds of protected
22 classes, you walk a very fine line, because the more you
23 want to include from the moral perspective, the less
24 resources you have, the less ability you have to meet
25 those needs. There is nothing worse, in terms of the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVENUE, N.W.

WASHINGTON, D.C. 20005

1 armies that you are talking about, than to create that
2 expectation and not meet it.

3 You have an awful lot of frustrated people there,
4 who never had any faith in the system to begin with, or
5 didn't know how to use it, or didn't know what it meant,
6 and now the system is saying "You are covered, we are going
7 to help you, next year; next year, next year".

8 And I think we all, as enforcement agencies, as
9 your question started, are trying to reach those issues,
10 we are trying to reach on a language basis, we are trying
11 to reach on a medical basis, we are trying to translate
12 that -- we are trying to reach and include people in our
13 various communities, and we are -- and I think I can speak
14 for all of us -- we are all struggling on how to best do
15 that, while at the same time carrying out a mandate that
16 we have to remedy certain things that come before us.

17 I don't have the technical answers for you, but
18 I can tell you, personally, that I see my role, not as
19 someone who is paid to run a commission and to process
20 cases. I see one of the most important roles that I have
21 is to make sure that the community, in general, is informed
22 about what the hell is going on out there. And one of the
23 problems that we have, all of us, collectively, -- we are
24 always on the defensive. They have us running in so many
25 different directions in the last three years, we don't know

1 which end is going first.

2 Ralph Neese always says in the most conservative
3 administration, the last three years, we have won 22 straight
4 votes in the Congress. Well, to get the numbers, the wins
5 and the losses -- the fact is those are 22 different
6 issues that we are running around -- it is Grove City over
7 here, it is Memphis firefighters and affirmative action
8 over here, it is something else over here -- they have us
9 running in every which direction.

10 And what they are doing is they are setting a
11 tone. And we are not carrying out our obligation to make
12 sure that the rhetoric that comes out and their inter-
13 pretation and their point of view gets answered, not with
14 opinion, but with fact.

15 The only reason we passed the Voting Rights Act
16 so overwhelmingly is because it was the single largest
17 grass roots effort in this country since '64; because
18 every jurisdiction, every precinct, every media out there,
19 every labor group and church group, and activist group
20 in this country was involved. They were provided with
21 information, they were provided with material, they were
22 provided with packages and PACs to answer the rhetoric
23 from the opposition.

24 If we continue to allow their control of informa-
25 tion and their setting of the tone, then the atmosphere

NEAL R. GROSS
COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVENUE, N.W.
WASHINGTON, D.C. 20005

1 out there, the general public will sit back and say, "Well,
2 this is the majority opinion, and this is what most of
3 the people want".

4 And the only way we are going to respond, begin
5 to respond to some of the issues, is to make sure that
6 the people have the information, and people have facts,
7 people have data. I don't care if it is Grove City, or
8 affirmative action, handicapped -- we just had a very
9 embarrassing situation, some of you may have read about it,
10 I wish it wasn't as public as it was. Virginia, three
11 months ago, had a bill in the legislature to consolidate
12 all existing handicapped rules and regulations, and it
13 became known as the Handicapped Bill of Rights. No new
14 laws, no new jurisdictions, no new coverages, simply taking
15 all of the variety of laws and putting them in one bill.

16 The bill passed the House 90-to-2; it went to
17 the Senate, the Senate thought about it, it was the
18 governor's model piece of legislation, nobody thought
19 about it. The day before the vote in the Senate, the
20 Chamber of Commerce in Virginia released the statement
21 saying that this bill was going to cost business millions
22 and millions of dollars, and it was going to shut down
23 transportation systems, and it was going to shutdown every
24 restaurant in Virginia, it was going to do this, that and
25 the other thing. The Senate defeated the bill.

NEAL R. GROSS
COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVENUE, N.W.
WASHINGTON, D.C. 20005

1 We pit groups against each other. We pit members
 2 of groups against each other. I have handicapped people
 3 fighting among themselves. We spent millions of dollars
 4 putting in curb cuts, the blind community comes in and
 5 says "Our dogs are trained for curbs, we need the curbs
 6 back". And I am not trying to make light of very important
 7 kinds of issues, they are fighting among themselves.

8 How do we expect to keep any kind of coalition
 9 together, when we can't keep the individual members of the
 10 coalition together? And a lot of that has to do with our
 11 role in making sure that the facts are out there and are
 12 presented correctly. I don't know how else to answer you.

13 MR. PITTS: Very good.

14 MR. CUSHING: If I could add a couple of things
 15 to Steve's comments. I think one of the things that OCR
 16 and Health and Human Services, Betty Lou Dodson is the
 17 director, doesn't use the term "enforcement" when she
 18 talks about compliance. But I think there is a deliberate
 19 reason there, we have had an increase, both in our
 20 resources and in our staffing patterns to voluntary
 21 compliance on the outreach side of the House, as opposed
 22 to investigations for some very specific reasons.

23 And some of those are to begin to establish and
 24 continue a liaison with some of the interest groups, and
 25 almost to act as a broker in some instances where the

1 situation in Alexandria could be easily corrected, in terms
2 of a curb cut because you could change the texture of the
3 curb cut and the area around it with a brushed finish,
4 and that takes care of it.

5 But if you don't have an architect or an engineer
6 sitting down with some of the other people when you do the
7 planning in the first place, you know, you have built the
8 proverbial camel, that isn't of much use to anybody.

9 One thing I failed to mention yesterday, the
10 gentleman from the Community Relations Service, Mr. Haywood,
11 his staff came in and trained our people for three days
12 on negotiation and dispute resolution, so that our orienta-
13 tion is not only to go out and get the facts, and these
14 are the facts, and nothing but the facts, and this is
15 our decision, A, B, C and D. But to try and take con-
16 flicting groups and try and bring them together and see
17 if we can resolve some conflict.

18 We have a situation in the Tidewater Area of
19 Virginia right now, with two hospitals, Riverside and
20 Walter Reed; there was a complaint filed by the local
21 chapter of the NAACP about the lack of black physicians
22 on staff. The attorney for the corporation that owns
23 the hospitals can cite letter and verse of every recent
24 court decision that goes against us.

25 There was no way that he was going to give us

NEAL R. GROSS
COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVENUE, N.W.
WASHINGTON, D.C. 20005

1 access to the hospital, the NAACP was also in the situation
2 where the information had got out and the case was being
3 investigated in the newspapers.

4 What we have been able to do is negotiate, bring
5 the two parties together and act as a broker, not taking
6 a position on either side, but beginning to talk to one
7 another. We have been able to successfully resolve the
8 Walter Reed Hospital situation, and are now anticipating
9 that by the end of July we will have the Riverside case
10 closed.

11 But it has been through some rather time-consuming,
12 painstaking negotiations, but we have at least left the
13 table without any blood on top of it. And it has been the
14 first time that the two parties have really sat down and
15 talked to one another. And, hopefully, when we leave,
16 they will feel comfortable enough that while they may
17 agree to disagree, they will at least agree to sit down
18 and talk to one another.

19 And I think that is the approach that doesn't
20 get a whole lot of headlines, it may not necessarily bring
21 a lot of attention because we could throw up numbers and
22 talk about all of the cases that we have opened, or closed,
23 or whatever, but at least we are affecting some change,
24 and we are letting the local community begin to work out
25 the differences among themselves, rather than let us come

NEAL R. GROSS
COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVENUE, N.W.
WASHINGTON, D.C. 20005

1 in and saying this is the way to do it. We don't bring
2 all of the wisdom, in fact, sometimes we bring very little.

3 And it is almost better that we allow -- create
4 an environment that people begin to work out their disputes
5 among themselves, than to try and force them. I think if
6 we dilute ourselves, at least at the federal level, to
7 go in there, at least in our department and say, "Well, we
8 are going to make this change", I am not optimistic as
9 to how well, even if our agency agrees that it should go
10 to enforcement, it goes over to Justice Department -- you
11 know, how far we are in the pecking order before that case
12 really gets addressed.

13 I have a case now from Ewing, Pennsylvania, that
14 is six years old. And we are back at the position now
15 where we are trying to negotiate a payout settlement with
16 the employer, for a guy who is retired and living in
17 Arizona. But it has been pushed back and forth between
18 Justice and our agency, should we enforce? Yes, we should
19 enforce -- and it goes back and forth, and this is
20 ridiculous. Give it to us, we will go up there and see
21 people and talk to them, and see what we can do.

22 That's the approach that seems to be becoming more
23 successful for us. We are also working on a theory that
24 implementation of civil rights law begins to fall on the
25 groups that are protected by the law. And we have tried

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVENUE, N.W.

WASHINGTON, D.C. 20005

1 to work with our voluntary office for the last couple of
2 years, the more informed we can make those groups, the
3 more well-versed they are, in the kinds of legislation that
4 protects them, the more well-versed they are in the system
5 that is around them and what buttons they have to push to
6 make that system work for them, the more successful they
7 are going to be.

8 I think that, to a point, has been working in the
9 State of Virginia with the disability groups. In the last
10 gubernatorial election at their state conference they
11 had both gubernatorial candidates there asking for their
12 vote, which is something that I have not seen happen in
13 any other state in this region.

14 The Coalition on Handicapped Unlimited in Virginia
15 has been a fairly effective coalition, they have had a
16 setback by the action of the legislature that was unfortu-
17 nate, but you get burned and you learn from the burn and
18 I don't think they will let it happen again.

19 But you need that kind of thing happening in some
20 of the other states. The disability folks are the new
21 kids on the block, I think they would really like to talk
22 to some of the more traditional civil rights organizations
23 to learn from them the kinds of tactics they have used
24 that have been successful in the past.

25 If we can encourage that kind of dialogue through

NEAL R. GROSS
COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVENUE, N.W.
WASHINGTON, D.C. 20005

1 our office, we feel we have some success in our outreach
2 efforts.

3 I mentioned yesterday working with the aging
4 constituencies, that is a group that cuts across a lot of
5 jurisdictions. And getting the aging folks -- they can be
6 a powerful voting constituency in this country, just in
7 sheer numbers. And if they realized what kind of pro-
8 tections are offered them under the law, how they can
9 exercise it, either through the traditional complaint
10 filing, or at least through some of the other more non-
11 traditional approaches, that will have some effect.

12 The staff was up to Jackson Mill, West Virginia
13 a couple of weeks ago talking to the state's aging confer-
14 ence had thousands of seniors who had come in from all over
15 the state, they had everything from learning how to make
16 quilts to how to exercise their civil rights.

17 You try and pull these people together and get
18 them trained, and get them to understand what their rights
19 are. That is becoming for us a more productive function,
20 than counting beans and the number of complaints we investi-
21 gate. You know, the impediments are now more the con-
22 frontation that is set up between the recipients who hire
23 an attorney -- we had a case in Mercer County, Pennsylvania
24 the ruling was not out two days and I had an attorney
25 quoting -- and I didn't even have the opinion yet, and I

NEAL R. GROSS
COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVENUE, N.W.
WASHINGTON, D.C. 20005

1 am trying to find the opinions that he is quoting, he gets
2 them the next morning, and says, "You guys don't have
3 jurisdiction now, we only put money over here, not in this
4 program, so you can't investigate".

5 Of course, we have another complaint now against
6 the program they complained they had money in, so it is
7 "gotcha time". We can go back to them now and say "Here
8 it is", but right away they are on you. And so you
9 immediately go into a posture of banging heads with the
10 recipient. It makes the job a little bit more difficult,
11 so if we can get the constituencies a little better edu-
12 cated, it begins to change the environment that you are
13 working in, it makes it a little easier, and a little more
14 productive.

15 But I think Bob Greaux mentioned yesterday a
16 compliance officer's day is a hell of a lot different
17 animal than it was 10 years ago. And that is very true,
18 it is a whole different ballgame than what we dealt with
19 10, or 15 years ago when the laws were first passed.

20 MR. PITTS: Let me thank the panelist for their
21 participation in this particular session. I am going to
22 have to bring it to a close. Dr. Parker, I indicated that
23 we would hear your comment, or your question, and we will
24 do that, but that will be the last. And this session will
25 be ended with your question.

1 DR. PARKER: Thank you very much, I appreciate
2 that, so I can say whatever I want and nobody will challenge
3 me.

4 (Laughter)

5 DR. PARKER: I am from Washington, D. C., as you
6 may know, and Washington, D. C. is a little bit different
7 than some of the situations that you have described. I
8 just want to inject the fact that what Mrs. Morris alluded
9 to a few minutes ago is so very important. The bottom
10 line is politics, legislation and the sophisticated under-
11 standing of how the law works in this country.

12 Now, yesterday Maudine Cooper spoke about the
13 law in the District of Columbia. Now, I was a member of
14 the City Council, it was my law, Title 34. But Walter
15 Washington was the mayor, Sterling Tucker was the Chairman
16 of the City Council -- we started out with something as
17 simple and elementary as the fact that people didn't want
18 to rent apartments to students, particularly they didn't
19 want to rent them to African students.

20 And as the law developed, we included all the
21 elements that people had been discriminated against, in
22 all the fields that they might have been discriminated
23 against. It is good that we got in the provision about
24 the gays and the aged, and the handicapped, all at one
25 time because that made a universe of clients that carried

1 it through. I doubt if even in Washington we could get a
2 law about the gays by itself, because that is a very
3 polarizing issue. But at that time it was just seen as a
4 part of the total fabric of the social structure.

5 Now, later, as the new council came in and the
6 government changed a little, the law was moved from being
7 a council resolution into being a police regulation, and
8 that makes another big difference, that the law is on the
9 side of the person who is the aggrieved party.

10 We have a law in the District of Columbia, I think
11 that Walter will probably remember how Mrs. Griswold
12 (phonetic) just lobbied him to death. That is why you will
13 find in every toilet that you go to in a public building
14 in Washington, a toilet that accommodates the handicapped.
15 You will find also a law that is just as simple as it
16 seemed at that time, but every time a street cut is made,
17 every time a repair is made to a street, you have to have
18 the curb that will accommodate the handicapped. Everytime
19 a subway station is built, you have to have an elevator
20 to accommodate the handicapped.

21 When people found that they were losing millions
22 of dollars on building the subway, the elevators began to
23 be built.

24 Now, what I am saying is this, one of the reasons
25 that we are having our problems right here is because this

1 administration does not feel that it needs to be responsi-
2 ble to the concerns of blacks and others, to whom it owes
3 not allegiance.

4 So, we are not talking about social change, we
5 have got to talk about voting strength. That is the issue
6 that we need to be talking about. And while we are talking
7 about where the problems are, let's not stop when we get
8 to all of the problems that we have in labor and in the
9 marketplace, and not move into these governmental agencies.
10 Now, we have, in the District of Columbia, at the present
11 time -- I think they say that we have the highest number
12 of women, members elected to our city council, but we
13 probably have one of the fewest percentage of women who
14 are holding really high, responsible government positions,
15 or highly responsible positions in private industry. It
16 is growing, but it is not in proportion to the 50 percent
17 that they say we have, as far as women are concerned, and
18 certainly not as far as the black population is concerned.

19 We have a very interesting situation in the
20 District of Columbia because we have so many federal
21 government cases that come under Title VII, and some of
22 the other titles. And the strongest enforcement factors,
23 as far as Title VII and some of the other cases is concerned
24 is the provision that allows plaintiffs' lawyers to receive
25 their fees from the court, if they prevail. And the Title

1 VII cases that are in the federal government, so obvious,
2 you know, that a freshman law student can write them and
3 bring them, but people continue to do these things until
4 they get taken to court and have to pay the money, have
5 to make restitution over a period of years that the dis-
6 crimination has occurred.

7 So, while we are speaking of our frustrations and
8 our concern about what is going to happen in the future,
9 and what is going to happen in the next four years, if the
10 nature of the Supreme Court changes, so that other Grove
11 Cities that come up to the Supreme Court, and other civil
12 rights cases will be in jeopardy. Just remember that
13 because a president nominates an individual to the Supreme
14 Court, that does not necessarily mean that that person
15 takes his seat.

16 There are other places where citizens who have
17 organized the strength of their electoral power, can
18 exercise vetos on nominees to the Supreme Court. And I
19 think that it is time that those of us who are really
20 concerned about the civil rights in the future, need to
21 really be just a little bit more sophisticated and aware
22 of just where the power is.

23 MR. PITTS: Thank you.

24 That will bring to a close this particular session.
25 I would just leave one closing remark with you, there are

1 those that say that they favor our freedom, yet they
2 deprecate our education. The power structure concedes
3 nothing without a demand, it never has and it never will.
4 Then, therefore, it must be a struggle, we must fight and
5 we must pay the cost of freedom and justice.

6 My friends, I would hope those of us who are
7 gathered here, that we resolve within ourselves not to
8 leave here today until we have brought our demands to bear
9 on Caesar's palace.

10 MR. WASHINGTON: Mr. Pitts, may I say a word?

11 MR. PITTS: I am finished.

12 MR. WASHINGTON: I was with you yesterday, I
13 stayed up late last night watching a certain event, and I
14 got up this morning at six to watch a certain event, and
15 my friends, brothers and sisters, if we sit here and
16 fail to understand what was happening in that event, as
17 far as racism and discrimination, and subtleties with
18 respect to our own country and our own people, then I
19 think that all we say here is nothing; all that we stand
20 for is nothing.

21 Here is a man -- and you know, I am no great
22 person with respect to individuals -- but a man who went
23 where nobody else would go. I have done that going to the
24 Third World, where no one else would go and went in the
25 name of peace and human rights, achieved something that

1 no one else could achieve, because they wouldn't go, wrapped
2 up some Americans and others and brought them home, and
3 don't you know, the first thing that happened was that
4 they wondered what he was doing there. Don't you believe
5 that he was illegally operating because he didn't have a
6 portfolio. Don't you believe that he violated the Logan
7 Act, don't you believe that he got taken by Castro --
8 you know, Castro will take anybody, if you will, but he
9 had his match.

10 I remember Moms Mabrey used to say "I never did
11 like that old Castro", years ago, before she died. But,
12 you know, the problem is here he was, bringing them back
13 from Cuba. The man's been over, white haired, for 20
14 years, and the question is what was he doing over there?
15 Why was he there? Was he operating illegally? And
16 shouldn't we do something about it?

17 Now, it wasn't a political matter because the
18 Republicans and the Democrats were both going -- Vice
19 President Bush was out there and so was Mondale, both
20 speaking in one tune, and don't you know what the bottom
21 line was, why did you speak up and not denounce
22 Farrakhan? Now, what in the hell did that have to do
23 with these people coming back home to American soil?

24 And if you don't think that that was the worst,
25 despicable kind of racism where Farrakhan is put on his

1 back and he has to answer to every word? And don't you
2 know, people are talking about Russian calling him names
3 and everything, nobody says anything about it.

4 But this man says "I am not my brother's keeper,
5 in this sense". I don't know what he is saying, he says
6 whatever he gets ready to say, and he is going to do it.
7 But I am not going to answer to everything he has to say.
8 Well, what did that have to do with him bringing back the
9 people from Cuba? Some of them have been there 20 years,
10 12 years -- some of them have been in holes in the prison,

11 Now, you know, I am not an emotional person --
12 I don't get into this kind of thing, but I want the record
13 to show that this is the most unusual thing for me --

14 (Laughter)

15 MR. WASHINGTON: I am not used to this --

16 (Applause)

17 MR. WASHINGTON: -- but I am going to tell you
18 the truth, when it is over, you cannot sit still every day.
19 You know, I have been through riots and demonstrations,
20 and everything else, they ever wanted to push on me -- you
21 know, questionnaires when I was mayor, I walked through
22 the streets the first week I was in office, and they didn't
23 want me to come in the hotel. I have been through all of
24 that, I know about that. But I didn't like what they did
25 to my brother -- and he is a brother of all of you.

1 You may not like his politics, you may not like
2 what he has to say, but he was a distinguished person,
3 working in the interest of this nation and the world.

4 Yesterday and this morning he did not deserve what
5 he got. And I think that as we sit here, we can reflect on
6 it. And I want to apologize, I didn't mean to get into
7 this, but I just think if we are talking about it, we ought
8 to know that. (Applause)

9 MR. PITTS: No apology is necessary. I think that
10 it bespeaks the sentiments of most of us that are sitting
11 in the confounds of this room, and perhaps, you have said
12 it best.

13 I will allow Mr. McIntyre, who has been trying to
14 get my attention here -- and with that, certainly, this
15 session, as much as I hate to, will be closed, because I
16 might start preaching.

17 MR. McINTYRE: Following the eloquence of Mayor
18 Washington makes one quake in his boots. That was well
19 said and timely said, Mayor. Thank you very much.

20 Now, yesterday we had at two levels a discussion
21 as to the Commission's position on the legislation which
22 was designed to correct and change the Grove City decision.
23 We discussed that with Linda Chavez yesterday morning,
24 and with Chairman Pendleton, and also with Steve Levinson
25 yesterday afternoon, trying to get a counter-position of

1 whether or not our position, that is the Commission's
2 position, is consistent with the Leadership Conference on
3 Civil Rights and, if so, what is that position.

4 We were a little uncertain as to what precisely
5 had been said yesterday morning. So, it became important
6 to get a copy of the transcript, which we did. We did not
7 want to misquote the statements of either or our representa-
8 tives from the Commission office.

9 That has been examined by Mr. Levinson.

10 Mr. Levinson, have you had a chance to review
11 that, in light of your personal knowledge of the Leadership
12 Conference on Civil Rights posture?

13 MR. LEVINSON: I have.

14 (Laughter)

15 MR. McINTYRE: I would like to ask for your
16 comments.

17 MR. LEVINSON: Let me say a couple of things.
18 First of all, I agree totally with the comment made, the
19 record is important, and a written record of events,
20 particularly in situations and with issues like these is
21 extremely important and needs to be as accurate as
22 possible.

23 I have looked at a discussion between Mr. Destro
24 and Ms. Chavez, and Mr. Pendleton, Mr. McIntyre and Mr.
25 Pitts. And let me read you the particular sentence that

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVENUE, N.W.

WASHINGTON, D.C. 20005

1 I think you are talking about.

2 Questions were being raised by Mr. Pitts and Mr.
3 McIntyre as to what the Commission's position is with
4 regard to both Grove City, the Supreme Court decision and
5 with regard to whether or not funds, in the event of an
6 allegation, or a finding of discrimination, whether funds
7 should be held programmatically, or institutionally.

8 And I will read you a comment from Ms. Chavez,
9 "That the old interpretation, prior to, we believe that
10 fund termination ought to be pinpointed. The Leadership
11 Conference on Civil Rights is that that is what their
12 position is. We are in full accord with that position.
13 We don't believe, the staff does not believe that this bill
14 does not."

15 That statement is incorrect, that statement is
16 untrue. The United States Commission on Civil Rights,
17 as an institution, has not taken a position. The testimony
18 delivered on Tuesday by Ms. Chavez was, in her role as
19 Staff Director to the Commission, and she made it clear
20 then, as this transcript does, that the Commission itself
21 has not taken a position.

22 As our discussion of yesterday, the Leadership
23 Conference on Civil Rights does not take positions in that
24 sense. That coalition is composed of people who drafted
25 what is known as the 1984 Civil Rights Act, in response to

1 the Grove City decision. And the position of that legisla-
2 tion, the position of the Executive Board of the Leadership
3 Conference on Civil Rights, and the position of the over-
4 whelming majority of the individual members of that coalition
5 is that funds should be, and can be, withheld institutional-
6 ly from an institution that has a discriminatory finding
7 in one of its programs.

8 As was stated previously, that was the practice of
9 the government agencies involved, that threat of institution-
10 al cutoff was deemed to be the law, was deemed to be
11 supported by the regulations, and was clearly deemed to
12 be the intent of Congress.

13 It is simply not true, by any stretch of any
14 definition of wording, to state that the position of this
15 administration, the position of the individual members of
16 the United States Commission on Civil Rights, or the
17 position of its Staff Director, in anyway, coincides with
18 the position of the civil rights community on this issue.
19 They are diametrically opposed to each other. It is the
20 position of this administration that the law was and should
21 be limited to pinpointed programatic cutoff. It is the
22 position of every civil rights group that I know of,
23 including the 187 members of the Leadership Conference,
24 including the House vote of 389-to-23 yesterday, that that
25 is not the correct interpretation, that the clear intent

1 of Congress, the clear intent of the past rules and
2 regulations, and all precedent, up to the Supreme Court
3 decision was that institutional cutoff is viable,
4 institutional cutoff is allowable, and institutional cutoff
5 is the position that should be taken when a program of an
6 institution receiving federal funds is found to have
7 committed discrimination.

8 The statement by Ms. Chavez, and a subsequent
9 statement by Mr. Pendleton are simply not true.

10 MR. PITTS: Thank you for that clarification.

11 DR. BICKLEY: Mr. Pitts, I believe that there
12 should be a letter of clarification sent to Ms. Chavez
13 from this group expressing the changed perceptions that
14 we now have to Mr. Levinson's clarification.

15 MR. PITTS: Is that a motion?

16 DR. BICKLEY: That is a motion.

17 VOICE: Second.

18 MR. PITTS: By acclamation it is so carried. We
19 will draft that letter before we leave this conference,
20 and that will be a part of our next order of business.

21 I will now refer the chair to my brother, and
22 colleague, Reverend Harris.

23 You don't mind if we don't take a break this
24 morning, do you?

25 REV. HARRIS: Let me just suggest that we do take

1 a 10-minute break and come back.

2 But I have another letter that should be dissemin-
3 ated, and you may take this letter as you go for the break,
4 and this will also be discussed when we come back.

5 MR. LEVINSON: One second, I have to leave. I
6 apologize, I am in the middle of budget hearings and have
7 to get back. I would just like to make one comment, before
8 I leave.

9 For someone who has worked on the outside, but
10 with this particular case, the Virginia Advisory Committee,
11 and prior to that the Massachusetts Advisory Committee,
12 I just wanted you to know that the work that you do, the
13 reports that you issue, the documents and studies that have
14 come out over the years, from the perspective of someone
15 who is in this from day-to-day, in the compliance or
16 enforcement capacity, are vital to us. They have had a
17 tremendous impact on the tremendous number of issues over
18 the years.

19 And while I don't want to -- nor do I have the
20 right -- to participate in your internal discussions of
21 what is facing you as individual SACs and what the
22 Commission's new policies might, or might not be, I want
23 you to know from someone who is the recipient of those
24 reports, and someone who needs them very badly, that I
25 hope that all of you, at least from this region, will do

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVENUE, N.W.

WASHINGTON, D.C. 20005

1 whatever you can to ensure your own viability, your own
 2 independence and your own ability to speak on issues that
 3 are germane or within your jurisdictions, that are legally
 4 sufficient, professionally done, and they are of great
 5 assistance to residents of all of the states; they are
 6 of great assistance to legislatures. And I want to see
 7 you maintain as much of that impact as you can.

8 I thank you very much.

9 MR. CONNER: Let's have a hand for the panel.

10 (Applause)

11 REV. HARRIS: "I think we will take a 10-minute
 12 break.

13 (Whereupon, a short recess was taken.)

14 REV. HARRIS: I believe our 10-minutes is up.

15 The practice has been that certain SAC chairpersons,
 16 or all of the SAC chairpersons have participated as
 17 presidors during the meeting. Two SAC chairs were not
 18 able to come, but they did send representatives.

19 So, I am going to ask Mrs. Eaton and David Watkins
 20 if they will come up with us here, as representatives from
 21 their SACs.

22 I feel better now that I either have chairpersons,
 23 or their representatives, and I think we all are suffering
 24 from the same kind of frustration. So, if there is an
 25 explosion, you will know that it is not safe to get us all

1 together at one time.

2 MR. CONNER: A critical mass.

3 REV. HARRIS: Let us begin this session by con-
4 sidering the letter that has been delivered to us, a draft
5 of a letter, addressed to Mr. Pendleton. Mr. William
6 Conner is the author of the letter, and he is going to
7 make an opening statement and read the letter into the
8 record, and then we will be able to discuss it.

9 MR. CONNER: Would you like me to read it first,
10 and then do my little introduction, or may I give the
11 introduction first?

12 REV. HARRIS: Either way.

13 MR. CONNER: All right. Ladies and gentlemen,
14 I am a new member of my advisory committee, and I joined
15 it just when the new instructions for the Commission came
16 down, indicating limitations on how we should operate,
17 and their desire to review our reports, et cetera. And I
18 was disturbed, and I gather many of you were, by my under-
19 standing of those. And my concern about it was not greatly
20 alleviated by yesterday morning's discussion.

21 I think that that discussion showed that a lot of
22 us, including me, are confused over the new direction which
23 the Commission has attempted to give to the State Advisory
24 Committees, with some resentment over what we perceive as
25 roadblocks between us and getting our job done, and the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVENUE, N.W.

WASHINGTON, D.C. 20005

1 concern about our state advisory committees future and the
2 role that we are supposed to play.

3 The Commissioners, and the Staff Director, on the
4 other hand, express some legitimate concerns, it seems to
5 me, over reports which were not as well focused, or as
6 well founded as they might be, containing inaccuracies.
7 And they also tried to spell out their new thrust that they
8 wanted to give to the Commission's new activities, and the
9 distinction which a lot of us find vague between social
10 issues and civil rights.

11 Now, it seems to me we have two ways to go here,
12 one possibility is we reach a confrontation with the
13 Commission, based on their attempts to re-interpret the
14 status quo and the jurisdiction of the Commission, and
15 based on our concern for our freedom of expression of our
16 own views as advisory committee members, what we think are
17 pertinent issues. We can go to confrontation, I don't
18 know that a whole lot would be gained because they say
19 wherever the 800-pound gorilla sits, that is where the
20 issue will go. And we are not the 800-pound gorillas in
21 this case, they are.

22 So, what is an alternative?

23 Well, it seems to me that if we have a solution,
24 it would be to try to understand what these new thrusts
25 of theirs are, and try to speak to their concerns in the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVENUE, N.W.

WASHINGTON, D.C. 20005

1 civil rights areas as much as possible, while retaining our
2 freedom to try to convince them that they ought to be look-
3 ing in still other directions, including some of the ones
4 that we have been concerned about for sometime.

5 And if we can retain our own freedom of action and
6 expression, and still get their input and their sense of
7 what they think is important in the civil rights picture,
8 perhaps we have some common area of action and communication
9 which will lead to something useful in the future.

10 Now, with those thoughts in mind, I collared Mr.
11 Destro after the session yesterday morning and got him to
12 sit down for a few minutes and tried some of these thoughts
13 on him. And he seemed to be, to some extent, receptive
14 to the kind of procedure that I am about to suggest to you
15 in the draft letter.

16 So, I have some hope that the Commissioners and
17 Ms. Chavez might pay attention to our communication at
18 this time. When I mentioned it to a couple of people
19 around, they said, "Well, it would be fine for you, Conner,
20 to send a letter, but if the whole group wanted to send
21 a letter, it would have a lot more force".

22 So, why don't we see if the other members of the
23 group would like to join on, or any of them, and if so,
24 fine; if not, I will send it myself.

25 But here is the letter, "The frank and open

NEAL R. GROSS
COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVENUE, N.W.
WASHINGTON, D.C. 20005

1 discussion of relationships between the Commission and its
2 State Advisory Committees at the meeting on June 28, was
3 useful and significant. It was useful in defining concerns
4 and allowing some clearing of the air. It was significant
5 in that it dramatized the gap in perceptions of the proper
6 roles among Commissioners, State Advisory Committee members,
7 and staff.

8 I would like to suggest an approach which might
9 turn around the hostility and mistrust generated by the
10 recent shift in guidelines for the State Committees:

11 One: The Commission might issue a clarifying
12 statement concerning submission of draft reports to
13 national staff for prompt -- review and staff
14 reaction. The State Committees could then make any
15 changes, or additions, which they felt were indicated and
16 could then forward the report to the Commission itself
17 for its review and reaction.

18 The Commission could then read and approve, or
19 read and accept, the report. It could also elect to
20 accept the report, but elect to append a statement indicat-
21 ing the Commission's reactions to the report, or to its
22 recommendations. The last alternative would be to reject
23 the report, stating reasons, in which case it would be
24 returned to the State Committee for such use as it might
25 elect to make of it, but without the option of publishing

1 it at Commission expense.

2 If such a step were taken, the State Committees
3 would get: one, the benefit of the staff review and
4 suggestions; two, they would get the attention of the
5 Commissioners to the details of their reports; three, the
6 benefit of Commission comments or any difference, and,
7 four, the opportunity to appeal to the public, if no
8 accommodation of views was reached.

9 Such a procedure, I believe, would adequately
10 recognize the status of the State Committees as volunteer
11 advisory bodies, while still allowing the Commission to
12 set the national agenda for the agency, and to guide the
13 direction of its activities.

14 Best wishes in your effort to improve communica-
15 tions with State Committees, and to clarify both our
16 thinking and yours"; signed by whoever wishes to sign it.

17 REV. HARRIS: That letter is before us now for
18 discussion.

19 Yes.

20 MS. MORRIS: I have a question. If a particular
21 SAC does a study, or did a study, would we be allowed to
22 publish that under the name of our particular SAC?

23 I do not remember that being a practice in the
24 past. Maybe somebody on staff level could help me out
25 with that. For instance, if we send a study, or a report

NEAL R. GROSS
COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVENUE, N.W.
WASHINGTON, D.C. 20005

1 to the Commission and they reject it, would we be allowed
2 to publish that report as from our individual SAC?

3 MR. RUTLEDGE: We have never had that kind of
4 experience to my knowledge.

5 MS. MORRIS: I have never heard of it either.

6 MR. PITTS: If I may interrupt, approximately a
7 year ago, many of us got together and sent a letter, not
8 under the auspices of our positions as chairpersons or
9 members of State Advisory Committees, and we came under
10 great fire because of that letter.

11 I would assume that the Commission would take a
12 similar position on any report or position that is taken
13 on behalf of those that would attempt such information or
14 material.

15 MR. CONNER: Mr. Chairman, I would like to comment
16 on that, because my point, number four, at the bottom of
17 the first page, is that we would be asking the Commission
18 to adopt the suggestion which would be that if it came to
19 a disagreement, that we would be permitted to publish the
20 report, and we would append their views, if they furnished
21 any, but not to publish it at Commission expense.

22 It seems to me that gets us off the hook of being
23 accused of wasting Commission's resources, at the same
24 time, retaining our own right to say what is on our minds
25 and hearts, and not be defeated by any kind of bureaucratic

1 control on our freedom of expression.

2 MR. WASHINGTON: Mr. Chairman, number four is of
3 real concern -- down at the bottom of page -- "The opportu-
4 nity to appeal to the public, if no accommodation of views
5 was reached". Do we need that at all? If you are going
6 to the public, you are not going to the Commission, you
7 are going by yourself?

8 MR. CONNER: Well, I think that the reaction from
9 Mr. Pitts indicates that in the past there has been some
10 tendency to try to discipline the State Advisory Committees
11 if they spoke out of turn, according to the Commission's
12 point of view.

13 What I am trying to establish by that statement,
14 and perhaps it could be clearer, is that if we come to a
15 parting of the ways, and they say this is irrelevant to the
16 Civil Rights Act, or this does not represent our opinion,
17 or we disagree, or we think it is a bad study, that if we
18 elect, the State Advisory Committees, as individual
19 volunteers, to have a press conference to talk about it,
20 and don't spend any Commission money on printing it, we
21 have a right to do that.

22 MR. WASHINGTON: I would think if you add, after
23 "public" -- add the words "in some appropriate manner, if
24 not accommodation is reached". And then you are a little
25 safer, and you can do what you want anyway. What is

1 appropriate is what you determine.

2 MR. CONNER: I would certainly accept that sug-
3 gestion.

4 MR. RUTLEDGE: Mr. Chairman, I would like our
5 regional attorney, Bobby Greaux, to make a short comment
6 on this.

7 MR. ^{OWENS} GREAUX: I think it is something that I
8 mentioned yesterday, and possibly Bill Conner's as well.
9 It is simply that under the Freedom of Information Act,
10 any private individual has the right to request of any
11 federal agency a copy of any study or any investigation
12 that it has conducted. And once that document is received
13 by the individual they are certainly free to publish it
14 in whatever manner they want, and they can ascribe the
15 source to the agency which, in fact, conducted the study.

16 Now, that is the only point I would make.

17 REV. HARRIS: Let me, for clarification refer to
18 this item four that says, "The opportunity to appeal to
19 the public, if no accommodation of views was reached", and
20 we have inserted "in an appropriate manner".

21 Are you talking about we, or are you talking about
22 as an Advisory Committee, or are you talking about we, as
23 individuals, or we, as individual citizens? I think that
24 makes a difference.

25 What Bobby was saying to us is that as an individual

1 citizen, we could request a copy of the report, or the
2 study, and then do whatever we want with it. But as an
3 Advisory Committee, we may still be under the mandate to
4 remain silent, if the Commission rejects our work.

5 So, when you say we --

6 MR. CONNER: Mr. Ferron has a view.

7 MR. FERRON: Given the position or opinion of
8 Bobby, I would suggest that four should be omitted. I
9 don't see a need for four. The whole issue is moot on the
10 basis of the Freedom of Information Act. And I have a
11 concern that was just articulated, that under what egis
12 would this information be released? If it is under the
13 egis of the State Advisory Committee, I would see a con-
14 tinuing problem with the current body of the U. S. Commission,
15 but to release it in another way, or for distribution or
16 circulation, I would anticipate no problem.

17 I would recommend that four be stricken entirely.

18 MR. CONNER: Mr. Harris, I appreciate what Bob
19 has said to us, however, if there were a Freedom of
20 Information request filed on such a report made by a
21 State Advisory Committee, it would certainly be directed
22 to the Committee, because they would be the ones in
23 possession of the document. So, if they are not free to
24 release it, then it seems to me that the Freedom of
25 Information Act would not pertain.

1 So I think it is important that we get it clear
2 with the Commission, if they adopt this policy, they are
3 releasing us to express our opinions as State Advisory
4 Committees, and members of such, even though it may not
5 agree with their views.

6 MR. FERRON: Isn't it a more basic question
7 whether or not policy supercedes public law? I don't see
8 how policy established by the Commission can supercede
9 public law.

10 MR. CONNER: Are you speaking of the Freedom of
11 Information Act, public law?

12 MR. FERRON: Yes.

13 MR. CONNER: I don't think it does, but you can
14 always fiddle with the Freedom of Information Act. They
15 could say, for example, that this report is not final,
16 because we disagree with it, and we haven't authorized it,
17 and we are not printing it. And we won't spend any money
18 on it, and, therefore, it is not an official document,
19 therefore, the Freedom of Information Act does not apply.
20 And we would have no lawyers to litigate that through, so
21 there we are hung up, unless the newspaper is going to
22 bring a lawsuit against the Commission, it is not going to
23 get out.

24 But if the Commission says, "Look, we asked for
25 you advice, you gave it; we thought it was not pertinent,

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVENUE, N.W.

WASHINGTON, D.C. 20005

1 or not important, or something, and we don't want to go
2 any further with this. But if you want to talk to the
3 press about it, feel free. I mean, you are volunteers,
4 you are advisors, you can say anything you like, and if
5 we want to, we respond", then I think we are off the hook.

6 REV. HARRIS: Just a minute.

7 Dave.

8 MR. WATKINS: I would like to ask our counsel an
9 opinion, if I might, on that.

10 Bobby, a question on this issue, the enabling
11 legislation supercedes the Freedom of Information Act, as
12 far as what the SAC, as a group can do, does it not?
13 The problem here with item number four, we are already
14 saying in the paragraph before it, if you don't like our
15 report, we will get it published anyway, at independent
16 expense. We are saying that in the paragraph above.

17 Therefore, my question regarding item four is,
18 if we do that, if you ignore item four, and say, the
19 Maryland group takes their rejected report, goes ahead
20 and develops the funding, funds it independently, and
21 labels it "This is a report developed and prepared by the
22 Maryland State Advisory Committee, of the USCCR, it was
23 rejected by the USCCR and has been published independently",
24 what recourse does the Commission have at that point, under
25 the enabling legislation, when a SAC has essentially, I

NEAL R. GROSS
COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVENUE, N.W.
WASHINGTON, D.C. 20005

1 think, violated the enabling law?

2 ^{OWENS}
MR. GRE~~AUX~~^{AUX}: Well, the problem with that, if the
3 Commission rejects the report, and it is published based
4 on independent financing, the group or agency, whomever
5 publishes the report, the report won't be published as a
6 SAC publication. It won't say "The Advisory Committee to
7 the so-and-so, USCCR, releases this report".

8 It will say the "Unitarian Church releases the
9 report, this report was prepared by" -- so it won't be
10 released as a SAC report, but in the attribution, the
11 source of the information will certainly be that of the
12 SAC.

13 So, therein lies a somewhat subtle distinction,
14 is that on the one hand it is a report that carries the
15 banner of the USCCR, and on the other hand it is not. It
16 is as simple as that.

17 MR. WATKINS: I understand that, but what we are
18 doing here is not saying that. I agree with you that that
19 is the safest way to do it in terms of avoiding the legal
20 pitfalls, but that is not what the letter says. The letter
21 says, "The SAC is requesting permission to print inde-
22 pendently, after you have rejected the report".

23 Now, that is the question I am asking you, what
24 kind of a problem are we creating for ourselves? Is there
25 any point in putting that in the letter?

NEAL R. GROSS
COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVENUE, N.W.
WASHINGTON, D.C. 20005

1 ^{Over}
MR. GREAUX: The Commission is not going to abide
2 by that anyway. Under no circumstances do I think they
3 are going to say "We reject it, but go ahead and publish
4 it on your own". I don't think they will accept that, but
5 I am not saying that this entire exercise is one of futility.

6 What this letter does is simply convey the
7 sentiments of this group. Whether or not the Commission,
8 as a whole, chooses to accept or to reject the sentiments,
9 again, continuing along the advisory function of the body,
10 you have conveyed your sentiments as a group, is then up
11 to them.

12 MR. WATKINS: But if you --

13 MS. MORRIS: I have some problems understanding
14 how the Commission would not be involved financially. Now
15 whenever we have a meeting, it is advertised or publicized
16 in the Federal Register, some staff person does that --
17 paid staff person on the Commission does that, and we
18 travel to the meeting, we are reimbursed for our travel
19 by the Commission. We plan this thing, we plan to have
20 some public hearings to gather data that goes into a
21 report. Again, staff is involved -- time, salary, and so
22 forth.

23 So, I am sort of not understanding how you can
24 -- how we can relief ourselves of any financial responsi-
25 bilities to the Commission, only at the printing stage of

1 that particular report.

2 MR. WATKINS: Well, you can do that by doing what
3 Bobby just said.

4 MR. GRE^{OWNS}AUX: I think what we are saying with
5 respect to the financial commitment or investure by the
6 feds, is simply this, all the things you point out are
7 100 percent true. And it because federal monies have been
8 used introducing whatever document, or in conducting what-
9 ever research has gone on, it is because of those facts
10 that the Freedom of Information Act will allow you, as
11 taxpayers, to get a hold of that document that your federal
12 dollars have helped create.

13 Now, at that point the Commission says, "Since
14 these SACs exist solely for the purpose of advising us,
15 we choose not to release this report. We will take it
16 in-house as advisory. But in order to advise us, it is
17 not necessary for you to publish the report and disseminate
18 it publicly. You can still fulfill your role by simply
19 transmitting to us, whether we accept it, or reject it,
20 you have fulfilled your role".

21 Now, at that point they are talking about outsiders
22 coming in to finance it. So, that is the distinction
23 there.

24 MR. WASHINGTON: That is why you need to get rid
25 of four, and the rest of it will hold.

1 DR. BICKLEY: I would agree, I think we need to
2 improve four, and there are a couple of other things, I
3 think, in terms of references -- there is a more basic
4 question to me, and that is is it my understanding that
5 before we undertake a study, we must first get approval
6 of a concept, or a fairly full blown kind of thing.--
7 we can be stopped at that point, we can never get to this
8 point.

9 This answers the question of those that are
10 already prepared, the three or four that we would like to
11 see published right now, but does not answer that other
12 question of censorship early on, at the concept stage.

13 MR. PITTS: May I buttress? I asked Ms. Chavez
14 yesterday morning if her statement, if it did not pre-
15 suppose that if the report from Virginia should not have
16 been done in the first place, then we would never get to
17 the point that Bobby raises. The report never comes to a
18 point where anybody, whether it is done independently
19 of the government, or the Commission, or the church, or
20 some other organization can put that material out, because
21 it has already been preempted of the stroke of a pen.

22 So then if we may look to the enabling statute,
23 and determine from the enabling statute the purpose and
24 the role of the State Advisory Committees, and then from
25 that point define what we are to do. I think we have a

1 much stronger basis upon which to rely, not only then
2 should number four be stricken, but I thave some real
3 concerns with the entire document, the entire document.

4 MR. WATKINS: What we have here is an identity
5 crisis, frankly. I think that a report which has been
6 approved in concept, the research has been done, the work
7 has been done, and the Advisory Committee has spent three
8 years preparing it and they now have a document in-hand
9 which they would like both reviewed by the Commission and,
10 perhaps, alternately made available to the public, is one
11 issue.

12 A SAC going to the Commission and saying "We
13 would like to conduct this study" and the Commission says,
14 "Under the mandate of the legislation and as a body which
15 is beholding to us, we are telling you we don't want you
16 to do that", we get to the point of are we advisory
17 committees to the U. S. Civil Rights Commission, who are
18 unhappy with the political views of the current members
19 of the Civil Rights Commission, or are we unhappy with
20 our role as defined under the enabling legislation as an
21 advisory committee, and in that case do we want to be
22 something else?

23 You know, that is what we are getting down to,
24 we are saying, "Look, we want to do a study and the
25 commission that we work for, technically as volunteers,

NEAL R. GROSS
COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVENUE, N.W.
WASHINGTON, D.C. 20005

1 but the commission we work for tells us they don't want
2 us to conduct that study. Are we being censored, should
3 we go ahead and do the study anyway?"

4 At that point you do the study as a SAC, or do
5 you just say we are an independent body concerned and
6 involved with the civil rights, and we are going to go
7 ahead and do this study, we will have to do it at our own
8 expense, because the USCCR doesn't want to pay the expense.
9 What are we debating here?

10 MR. PITTS: May I?

11 MR. WASHINGTON: Yes.

12 MR. PITTS: It is not our identity crisis. We
13 understand that we are in an advisory capacity, but we
14 cannot allow those that we are to advise, to tell us what
15 we are to advise them upon. And this is what we have come
16 to, they are telling us that we can only advise them on
17 certain things, and on certain issues, they don't want the
18 facts. They want to determine before hand what those
19 facts are going to be, what information we will gather.

20 Now, it seems to me that they may have a problem
21 of identity, but certainly, if we are to be advisors, then
22 the information that they receive from us cannot be deter-
23 mined freehand by them what it will be, or for the purpose
24 for which it will be used.

25 I mean, I am not arguing against you, Dave. I am

1 just saying that --

2 MR. WATKINS: I understand what you are saying.

3 MR. WASHINGTON: Gentlemen, let me say one thing
4 about this document, let us not have the document carry
5 more than it is intended to. It is a conciliatory document,
6 designed to establish with the Commission some kind of a
7 procedure with respect these reports.

8 The first thing it says is that the Commission
9 itself should issue a clarifying statement concerning the
10 submission of drafts, which is okay. Next, then it tells
11 the Commission what to do and taking out four, you have
12 no real recourse then for the Commission to say, no,
13 because you are not telling them that you are going to the
14 public.

15 It seems to me it is a fair document for what it
16 does, it is not designed to deal with what worries me and
17 you, that is a determination between social and civil
18 rights, a matter that came before this body yesterday in
19 various resounding terms. I mean, how do you determine
20 social policy versus civil rights? A matter that we are
21 labored with, in our SAC right now, for instance, single
22 women heads cannot lease an apartment -- is that social
23 policy, or is that discrimination, because she is a single
24 head?

25 We have these matters of that magnitude, which

1 this doesn't deal with. It tells you only how you get a
2 report before the Commission, and if the Commission doesn't
3 react, what you do with it. And some good language sug-
4 gests that we have better communications, which was also
5 a factor that was brought out, and serves for a communica-
6 tion link, except for the one that deal with the leadership
7 and what the new bill involves.

8 It does not deal with Dave's point of limiting the
9 size of SACs, because it is unfashionable that everybody
10 should be appropriately represented in these eleven numbers;
11 it does not deal with certain subjects as the role of the
12 Advisory Committee as it relates to the operation of the
13 Commission. It does not deal with these basics that we
14 have let hit the table yesterday, and labored with. And
15 we are going home today without defining.

16 It does say to the Commission, "Look, you were
17 nice to come out here and sit with us, and here is what
18 we suggest to you". It is nice from that standpoint, but
19 I don't think we ought to put more rules on it and have it
20 carry more baggage than what it is intended.

21 Am I right, Bill?

22 MR. CONNER: Yes, 100 percent.

23 MR. WILCOX: Let me say something, I have an
24 advantage over here, because I am not an attorney, so I
25 don't have the slightest idea -- but I have listened to

1 what you have had to say and it is kind of like that
2 thunderstorm yesterday, it just opened up with all of the
3 problems we talked about yesterday, but you are not address-
4 ing the issue.

5 Bill has written a letter, and he would like to
6 have us talk about his letter. And I would like to make
7 some suggestions. First of all, I like his letter, and
8 there are 24 of us who were invited to this meeting. And
9 it is my understanding that we are here to represent all
10 of the SACs, all 51 of them. And let's assume just for the
11 sake of discussion, that the letter goes forward, as is,
12 except for number four.

13 If I were in the Hawaiian SAC, I would be madder
14 than hell, because we haven't solved any problems. This is
15 a very pleasant -- as the Mayor says, a very pleasant
16 little letter, that says "We are sorry we argued with you,
17 but if you would just let us have so much, we would be
18 happy". And that's not true.

19 This letter should, first of all, be expanded to
20 include those things that we are very concerned about.
21 Don't write two letters, just write one. And I would like
22 to modify number four, I would like to give those people
23 in those 51 SACs something to chew on. Remember, I am
24 the man that is unhappy about a migrant report.

25 Rather than say what we have said, to say the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVENUE, N.W.

WASHINGTON, D.C. 20005

1 opportunity to present its finding in a public session,
2 which is what we have said here, and/or publish it with
3 private funds, if no accommodation of views are reached.
4 And that addresses the issues.

5 We are talking about going to the public, we are
6 not talking -- what is the public? We are talking about
7 having a press conference. We have them all of the time.
8 And we are talking about publishing it with private funds.

9 Now, you can debate whether that is right, or wrong,
10 but I agree with the Mayor, I think we should expand this
11 letter to say somethings that are on our mind. But,
12 essentially, Bill has done an excellent job of introducing
13 the problem.

14 DR. AZORES: Concerning number four, I have my
15 problems. If it is the state committee that can do that,
16 number one, can the Commission on Civil Rights waive?
17 That's what we are asking, a waiver to give us permission
18 to do that -- can they do that legally?

19 And assuming that they can, the other question
20 comes up, can we, assuming that we are given the right to
21 do that, do it legally?

22 Remember, we are an advisory committee and our
23 function is to advise the Commission, not the public. But
24 if it is not the state committees, but in an individual
25 capacity, whether it is the charge, or whatever, we don't

1 mention SAC, then I think we have the liberty and the
2 freedom to do that, as private citizens. And I think this
3 is good, only for the reason that instead of going to court
4 in case we have exhausted our remedies, then we are not
5 successful, then we could appeal to the public forum.

6 So this is very valuable, number four.

7 MR. WILCOX: I disagree.

8 MR. KENNEY: I agree with Don. Maybe I can para-
9 phrase it by saying let the author of the letter send the
10 letter in without us discussing it, because what we are
11 doing here is, basically, agreeing that censorship -- and
12 we already have the authority as was discussed earlier,
13 to print a report, if we want, aside from the Commission.
14 So what are we discussing here?

15 Are we going to agree with censorship? That is
16 what the letter says, basically.

17 MR. CONNER: That is a very unfair characterization,
18 Mr. Chairman, if I may say so. The thrust of the letter
19 is not that we exceed censorship, the thrust is that we
20 ask the Commission, in the event that we come to a parting
21 of the ways, and have different views on something, that
22 we can, without using any further funds from them, to
23 express our views publicly, which is something in the
24 past --

25 MR. KENNEY: But he hasn't said that.

1 MR. WILCOX: Well, what he has said is that some
2 third-party can come and bring a law suit against the
3 federal government, to release the document. And in the
4 event that it is not a finalized document, that may or may
5 not be so.

6 But in any event, what we are asking the Commission,
7 in my view, in this letter to do is to say, "Look, we have
8 appointed you folks to advise us, you have given us your
9 best advice, we don't have to agree with it, or we don't
10 think it is pertinent, or we think it is passed over, or
11 something, we are not going to pay for publishing it, but
12 since you have gone to all of that trouble, if you want to
13 publish it, fine. And we won't object to it".

14 That is not the same as it is today, because they
15 assumed to have the right to object, if we do that. But
16 whether they could make it stick, or not, is something
17 else again.

18 MR. LEWIS: Mr. Chairman, I would like to suggest
19 that maybe we ought to table the letter. Bill and I dis-
20 agree on other things, and it is not the first time. I
21 think the idea of the letter is a good one. I happened to
22 feel that this is not the best letter we should be sending
23 to the Commission.

24 I think there are some other things that precede,
25 as was pointed out earlier by others, this information on

1 time line and so on. As a matter of fact, if we did send
2 a letter, we ought to be demanding, if you will, that the
3 Commission give us some kind of structure, as to when they
4 will be releasing the reports, and so on.

5 But before we even get into that, we ought to be
6 dealing with the issue of social versus civil rights issues,
7 on the basis of censorship, which somebody else pointed out.

8 I guess my point is I think there are some other
9 things I think we ought to be dealing with, rather than
10 sending a letter that seems to put us in a complacent kind
11 of a position, if you look at the tone, it is a nice letter.
12 And I don't know that we are in a nice disposition at this
13 point, given the kind of conference we have been through.

14 And if you do send the letter, I think it is going
15 to need time, I think it is going to need some work. I
16 think it is going to need some heads together, and I think
17 we ought to, at a very minimum, at a very maximum, a very
18 maximum table the situation, have some people look at what
19 kind of letter we ought to send, and have some people work
20 in the interim -- we know how to use the mail, we can get
21 back to each of us and share copies of drafts, as to what
22 we really want to tell the Commission.

23 I know what I would like to tell them, I don't
24 think I should say it, but we ought to look at some things.

25 MR. WASHINGTON: Mr. Chairman, I understand that

1 sentiment, but Bill has seen fit to put that letter to-
2 gether, these are his views. And I think we do a great
3 disservice to each and every one at the table, if he has
4 some views growing out of the deliberations here that he
5 wishes to convey.

6 Now, we can say to him, "You go ahead and send
7 your letter", which gives him the option to do something
8 that represents his views on how to approach something.
9 That doesn't bind the group, but it -- I would not like to
10 see us hold hands up, and say a few of us wanted, or many
11 of us wanted it, or a few of us, because that in itself
12 suggests conflict. Rather for a SAC chair, or a SAC repre-
13 sentative to develop some views that he has about the
14 structure and about how you communicate, and about how you
15 improve relations seems to me to be a perfectly appropriate
16 thing. And we don't have to take any action, just tell
17 him to go on and send it.

18 But don't table the letter that a brother or
19 sister brings before us.

20 MS. EATON: If you recall, yesterday morning this
21 was exactly my question to Ms. Chavez, "What is going to
22 happen in the future? What are we going to do with reports?"
23 Because the Maryland SAC is getting ready to embark on a
24 very nice project, and we need to know if our work is not
25 going to be in vain.

1 So, I support this letter, because it really asks
2 what is the future of the reports. And somebody is going
3 to have to answer this letter and come up with some kind
4 of format and say, you know, in the past we did this, today
5 this is the way we are going to do it. But we need some
6 type of -- really to ask some questions. We need to leave
7 of this and go and tell our bodies in Maryland SAC, or
8 wherever, this is what is happening. There are concerns
9 about this.

10 Now, on the other concerns that we have, there is
11 no way that we are going to get out of here, check out of
12 the hotel by one o'clock -- that we can sit down here and
13 write the way we feel.

14 REV. HARRIS: Let me just interject, since you
15 mentioned check out time. I have just been passed a note
16 saying that the check out time has been extended to 1:30.
17 But you should identify your affiliation with the confer-
18 ence when you check out, so that you will not be charged
19 overtime.

20 MR. RUTLEDGE: Mr. Chairman, also remember that
21 we agreed yesterday to close the meeting at one, but that
22 does not mean -- our original plan was to go to 4:00
23 o'clock. So you be the judge on how you want to go.

24 REV. HARRIS: I want to hear one comment, then I
25 want to bring us to some kind of conclusion relative to

1 this letter. I see a hand over here.

2 MS. MORRIS: I would just like to say that I did
3 not realize how opposed I was to this letter, until I have
4 heard more discussion on it.

5 And, Bill, in all fairness to you, I know Bill
6 Conner is a good SAC member, so it is not at you. But I
7 am really totally opposed to it, and let me explain why.
8 It starts of "With the frank and open discussion of relation-
9 ships between the Commission and the State Advisory
10 Committees", I do not agree that yesterday's session was
11 an open and frank discussion.

12 "It was useful in defining concerns", I do not
13 agree that it was useful in defining concerns. I am as
14 confused now, as I was yesterday morning. And as far as
15 it "clearing the air", I, personally do not feel that it
16 cleared any air.

17 Okay, "it was significant" -- the meeting, I guess
18 we are referring to -- "in that it dramatized the gap in
19 perceptions", I did not have to come to Washington, D. C.,
20 to a meeting between those persons and us to know that
21 there was a terrible gap, the gap was already there and
22 it has worsened since my attendance at this meeting.

23 And the second paragraph, "I would like to suggest
24 an approach which might turn around the hostility and mis-
25 trust", I would doubt that it would. The hostility is

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVENUE, N.W.

WASHINGTON, D.C. 20005

1 greater, and the mistrust is greater, as far as I am con-
2 cerned.

3 So, Bill, I guess I have to thumbs down, as a no
4 vote on this letter. But I would suggest and recommend
5 that we send something to the Commission at some date.

6 And might I make another suggestion? That we
7 probably will not have this opportunity to dialogue to-
8 gether anytime soon. In fact, if there are changes to be
9 made in the various SACs throughout the country, I would
10 not be surprised if I see some of us again.

11 However, many of us have been in civil rights
12 longer than we even care to remember, and whether or not
13 we are serving on a SAC, doesn't matter to me, I am still
14 going to be out there fighting. So, I would suggest that
15 we all keep in close contact with each other, and perhaps,
16 set up a meeting at some point, at our own expense, and
17 bring in even more of the SAC members -- we did this in
18 Virginia, when they tried to abolish us, and we turned that
19 agenda around. And I think we have the power and the
20 talent to change this agenda around.

21 I have not given up yet. That's all.

22 MR. CONNER: Mr. Chairman, in view of the views
23 expressed around the table, I would like to withdraw my
24 suggestion that we make this an action of this group. I
25 am, however, going to send the letter, and so if it is in

NEAL R. GROSS
COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVENUE, N.W.
WASHINGTON, D.C. 20005

1 accord with your wishes, I would like to circulate my
2 tablet and anyone who would like to join me as a signatory
3 to the letter, I would welcome their participation. That
4 way anyone who feels uncomfotable with it, will not have
5 to participate, and if anyone feels it would do some good,
6 can be with me on it. And the Commission will have the
7 benefit of the views, in any event.

8 REV. HARRIS: Thank you very kindly.

9 I believe the open discussion on the letter has
10 permitted those of us here to express ourselves. The
11 author of the letter now wishes, after having been advised
12 by this group, to withdraw the letter, and he does have
13 that authority, or right to do so.

14 So, I would consider the letter having been with-
15 drawn and any further discussion, or consideration, and
16 those of you who would like to -- I'm sorry?

17 MR. FERRON: If you are ready to make a final
18 decision on this letter, I would hope that the last recom-
19 mendation by the author of the letter would not come to
20 fruitition because I think it is extremely important that
21 any differences that exist among us, regarding the letter,
22 its substance, the content and so forth be reconciled, so
23 that there will be no question in the minds of the
24 recipients of the letter that we are unified, philosophical-
25 ly. I think it is extremely dangerous to present a picture

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVENUE, N.W.

WASHINGTON, D.C. 20005

1 of splintering, fractionalism and so forth.

2 I don't know how much time we have left, if we
3 cannot reconcile it today, maybe the suggestion that the
4 letter be circulated -- redrafted encompassing all of our
5 concerns of substance, be circulated for our reactions and
6 comments, and then ultimately sent out. I think that is
7 much more important than someone's going out unilaterally,
8 maybe four or five of us being signatories to a letter.

9 MR. WASHINGTON: You are absolutely right.

10 REV. HARRIS: Let me state that the record is
11 clear regarding your comments. There is no real division
12 on the letter itself, but the concern is that the letter
13 is not broad enough in scope. That is in the record,
14 several people have spoken to that issue. So, no one can
15 go from here saying that the intent and purpose of the
16 letter is not a concern, and is not receptive to all of the
17 persons here.

18 However, we all might be satisfied with how we
19 bring this to a conclusion. We will then ascertain from
20 this group how we come to that kind of settlement, so that
21 the record will show even better, than I believe the record
22 already shows.

23 MR. WASHINGTON: Mr. Harris, may I ask the author
24 of the letter -- in view of what has been said around the
25 table, I think it is fairly clear that there is a need for

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVENUE, N.W.

WASHINGTON, D.C. 20005

1 perhaps a paragraph to expand the letter, to involve certain
2 of the basic issues..

3 Would the author be willing to withhold this letter
4 and make an effort to add such a paragraph, and then cir-
5 culate it at least to the chairs, and get a reaction,
6 hopefully, then we could send it forth unanimously as the
7 chairs make the determination?

8 Because I fear that if we take the single shot, or
9 five or six, or three or four, the reaction coming from the
10 Commission will be they don't know what they are doing,
11 they are all separated. Bill wrote a letter and now a
12 couple of people -- I would rather see the letter succinctly
13 set forth certain of these basic issues, it could be done
14 in a paragraph, in addition to this, Bill. And let it
15 go forward and represent fairly unanimous feelings of the
16 group.

17 I don't feel that there is any great distrust of
18 the language, except to the extent that it does not embrace
19 certain basis issues. I ask the question as a means of
20 trying to resolve it.

21 MS. MORRIS: I am sorry, sir, but I disagree.
22 There are some of us who feel that the meeting yesterday
23 morning did not open up frank and open discussion.

24 Did we not hear from Mr. Levinson, who --

25 MR. WASHINGTON: My point was, that in view of

1 what has been said, including what you said, could they
2 do a redraft and extend it, and do something the questions
3 you are raising?

4 In other words, redraft a few paragraphs, and
5 add to it, to make it all embrasive of what has been said
6 generally around the table, that's all I am asking.

7 MR. WHITTINGTON: I am in the same position as the
8 gentleman to my left. I am not a lawyer.

9 MS. MORRIS: I can't hear you.

10 MR. WHITTINGTON: I happen to be in the same
11 position, I am not a lawyer, but it seems with all of the
12 legalese that we have talked about, most of us are in
13 agreement on many things. There are several different
14 views that we want to express in the letter. And I think
15 everybody is agreeing on each individual point, but they
16 are not encompassed in the letter we want to write.

17 I would concur that the letter could be composed
18 by a smaller group of people than this entire group, which
19 would encompass all of the ideas of the individual SACS.

20 The best persons to represent those SACS would
21 be those persons who are here representing the individual
22 SACS, the chairpersons, or representatives. And if a
23 motion is in order, I would like to so move that a com-
24 mittee be composed of the SAC chairpersons, or their
25 representatives, to work with Mr. Conner and compose a

1 letter which will be acceptable to them.

2 MR. WILCOX: I second it.

3 REV. HARRIS: Is there any discussion?

4 MR. LEWIS: Call the question.

5 REV. HARRIS: All those in favor say Aye.

6 (Chorus of Ayes.)

7 REV. HARRIS: In opposition?

8 (Chorus of Ayes.)

9 MR. WASHINGTON: I am voting in opposition to it,
10 only to the extent that we get his concurrence because he
11 still has the right to send in his letter. And if Bill
12 is saying this is acceptable, I would like to see the
13 action as unanimous.

14 MR. CONNER: Mr. Chairman, let me tell you how
15 I feel in my heart about these suggestions. As you so
16 accurately pointed out, this was a letter that was only
17 supposed to carry about so much freight. All I was trying
18 to do was suggest a procedure which would keep the channel
19 of communication open between this group and other SACs,
20 and the Commission.

21 We do not have a meeting of the minds here, as
22 Ms. Emily Morris's eloquent statement clearly illustrates,
23 as to what is useful to say in this regard -- some people
24 want to emphasize the difference, I wanted to emphasize,
25 as much as I could, our common interests in improving civil

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVENUE, N.W.

WASHINGTON, D.C. 20005

1 rights.

2 So, I déspair of a successful effort between now
3 and the time we leave, or over the next few weeks even,
4 for these gentlemen, with or without help from me, to try
5 to draw together something that the transcript would show
6 meets all of our views, because there is no such position
7 that meets all of our views.

8 It seems to me if we took a little piece of it
9 and tried to established this communication, that would be
10 helpful. So, if the motion passes, I would be glad to try
11 to help, but I don't have any great confidence that it will
12 work.

13 MR. WASHINGTON: I was trying to preserve your
14 rights, sir, as I have preserved everybody elses.

15 REV. HARRIS: The question on the motion is before
16 us now. The author of the letter has stated that if the
17 motion passes, he will concede the letter, but he doesn't
18 have much confidence that anything useful will come of it.

19 So, the motion is before us. Is there any further
20 discussion?

21 MR. FERRON: I will withdraw my call for the
22 question for substantive dialogue on this. I think it is
23 so important.

24 MR. LEWIS: Is this a new motion?

25 REV. HARRIS: This is the same motion.

1 The motion was carried, with one exception, which
2 raises a question about whether or not we have the right
3 to do what was going on, in light of the fact that the
4 author of the letter had made a statement that he wishes
5 to withdraw the letter.

6 The letter is in our hands, so there is no need
7 for any further vote. I believe the vote is unanimous.

8 Thank you very much.

9 MS. MORRIS: Mr. Chairman, I have a question, I'm
10 sorry, but I have been on the Commission for a while, and
11 things have changed, and I just need some clarification.
12 Can we, as individual SAC members send letters to the
13 Commission?

14 REV. HARRIS: Yes.

15 MS. MORRIS: That's all I wanted to know.

16 MR. WASHINGTON: That was my objection, I had to
17 preserve that -- and if you want to write one I want to
18 protect you in your ability to do so, because you would do
19 it anyhow.

20 (Laughter)

21 REV. HARRIS: Thank you very much.

22 Now, at the end of the last session there was
23 action taken to have another letter drafted, and at the
24 break we asked Steve Levinson and James McIntyre --

25 DR. BICKLEY: Are we going to say nothing about

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVENUE, N.W.

WASHINGTON, D.C. 20005

1 the prior approval of what we can say? Are we going to
2 leave you without making any comment about that? Of the
3 proposals, or the concept approval by the Commission?

4 REV. HARRIS: I believe we will have time to say
5 something about -- to do a wrap-up of our feelings about
6 what happened in this meeting, and to consider what kind of
7 reaction.

8 Now, we are in to some reaction, this letter, the
9 first letter that we discussed, is a kind of reaction.
10 The letter that is coming up now is a kind of reaction.

11 After we get through with this, then we will con-
12 sider what other reaction you might have, with reference
13 to what has transpired here these two days.

14 MR. FERRON: Mr. Chairman, before we go into that,
15 I have some need of clarification on an issue which has
16 been made on prior approval, because in the memo that
17 Linda Chavez sent to the Commission and the SAC members,
18 I don't see any reference to that. All I see is "The
19 reports will be submitted to the Commission in draft form
20 for their review, prior to publication and public release"

21 I don't see any suggestion that the SACs will be
22 required to get prior approval from the Commission on
23 addressing an issue. Now, maybe I have missed something.

24 MR. WATKINS: I think perhaps Bobby needs to
25 address that, that has always been the case.

1 MR. RUTLEDGE: What is the question?

2 MR. FERRON: The issue of prior approval.

3 MR. RUTLEDGE: We have -- there has been a need
4 -- I didn't want to get into the academic discussion, or
5 a discussion of procedures now, in terms of how you get
6 the concepts, how you get into -- if you want us to go
7 through this, so you can see whether it was this Commission,
8 or the previous Commission, up to the last directive they
9 had about reviewing the report, we could give you that
10 right now. So you could go away at least clear in your
11 mind. We have done it at all of the SAC meetings, but if
12 you want that between Suzanne Crowell and Bobby, we can
13 get that accomplished in about five minutes, or less.
14 If you would like that done.

15 REV. HARRIS: Yes.

16 MR. RUTLEDGE: Do you want them to both speak, or
17 one at a time?

18 MR. OWENS: It is very simple, I don't think it
19 will even take both of us, so I will defer to Suzanne, if
20 she wants to speak.

21 MR. RUTLEDGE: Suzanne, as you know, is the
22 research writer-editor, et cetera, related to our issues,
23 and you know that she was previously the editor of the
24 Civil Rights Digest at the national headquarters. She is
25 fully familiar with the procedures that have gone on over

1 the years, and the present procedures.

2 MS. CROWELL: You gave me a chance to write down
3 three notes. The process of originating a SAC report has
4 not changed, and I will outline that.

5 First, the SAC has a discussion as to what they
6 would like to pursue in the way of a topic; the topic is
7 then written up by staff into a concept; the concept is
8 reviewed by the lawyer, to make sure that it is not about
9 air pollution, or something, unless you can tie it in some
10 reasonable way so that it is legally within the Commission's
11 jurisdiction. The concept is then sent to the Commission
12 headquarters and signed-off on by the staff director.

13 If the project is extensive, it requires the
14 development of a proposal which is a much longer explanation
15 in exactly what we will do. And the proposal is submitted
16 only to the office of regional programs, they look it over
17 and they make suggestions, or something.

18 Then the work begins, the report is written, and
19 it again goes through a legal submission review by the
20 attorney, it is sent to the agencies who have been examin-
21 ing the report for their input, response and we may or
22 may not incorporate what they say in the text. It may
23 be just their letters. And I think those of you who saw
24 the Maryland report, have seen those letters.

25 It is then sent to the Commission, the Commissioners

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVENUE, N.W.

WASHINGTON, D.C. 20005

1 in the past simply accepted the report, and then the staff
2 prepared an action memorandum, based on the recommendations
3 made in the report for the Commission to actually send to
4 those federal agencies involved, such as the Secretary of
5 Labor, or someone else, saying, "This is what we want you
6 to do".

7 I should add that the reports were printed, were
8 released to the Commission in printed form.

9 Now, the change has been in, first of all, the
10 argument about what the legal jurisdiction is, so in the
11 past there have been more or less a consensus of what that
12 consisted of. So, we are talking about a policy inter-
13 pretation question at the concept stage.

14 And in the end the change has been that rather
15 than send the report in printed form to the Commissioners,
16 the draft will first be sent to the staff director's office.
17 And as I understand the words that have been used, which
18 we have not seen how this works in practice -- is that it
19 will be reviewed by the staff director's office. When
20 asked directly will the reports be printed, the answer has
21 been, yes, if they are in the legal jurisdiction of the
22 Commission, they will be printed, whether or not they were
23 adopted, whether the recommendations were sent forward to
24 the federal agencies, or not.

25 So, the difference, I think, and Bobby can correct

1 me, if I am wrong, is in the concept stage what will be
2 legally within the Commission's jurisdiction, and at the
3 final stage the process involved in the staff director's
4 review, which is not entirely clear yet.

5 But I would say that as of yet there has not been
6 a statement that it would not be printed, except for the
7 legal jurisdiction problem.

8 So, you should take that into account as you look
9 at the process. You may be anticipating something that
10 hasn't occurred.

11 DR. BICKLEY: Is the question of interpretation
12 of policy at the concept stage, or are we back to the
13 question of social versus civil?

14 MR. OWENS: Let's be very clear on this point,
15 the idea of prior approval before any work can be done
16 on the project has always existed, prior to this
17 Administration and it currently exists. So that is not
18 new, we have always had to get prior approval.

19 The distinction comes in, as you pointed out, it
20 is exactly what happens -- well, first of all, let's be
21 clear, the staff director always has to sign-off and
22 approve, before any project is begun.

23 Now, in the past the staff director has had a
24 more liberal interpretation of what, in fact, falls within
25 the jurisdiction of this Commission. And as was discussed

1 yesterday, interpretation of Commission jurisdiction becomes
2 the most salient factor.

3 The current administration within the USCCR has
4 adopted a more narrow view. Therefore, as in the past,
5 we still send the concepts over for approval, but the
6 difference now is the current staff director, Ms. Chavez,
7 is more apt, in my opinion, to take a narrow interpretation
8 of what we do and don't have jurisdiction to report about.
9 Therein lies the possibility of this censorship notion.

10 So, when she says that it was always required,
11 in fact, it was always required. And the only difference
12 remains that of interpretation.

13 And I hope that that is responsive to your question.

14 MR. RUTLEDGE: Now, could I add one thing? Since
15 this is a moment of clarification, and I said when the
16 meeting broke up, when they were talking about the inter-
17 pretation of what took place on the migratory labor report,
18 they were talking about staff, they were talking about
19 national staff, not the Maryland staff.

20 So that we get a clear notion, and let me give it
21 to you very quickly.-- when we developed the three migratory
22 labor concepts for the Delmarva region, that was Delaware,
23 Maryland and Virginia, on the migratory labor situation,
24 we decided that it was important to do three separate
25 studies, because there are three separate states, three

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVENUE, N.W.

WASHINGTON, D.C. 20005

1 separate legislatures, and so forth that could benefit
2 from whatever findings and recommendations the advisory
3 committees would make.

4 In the three instances, we planned fact-finding
5 meetings, so that these were very serious concepts costing
6 money that were submitted to headquarters and approved by
7 headquarters. So, the whole procedure outlined to you now
8 we went through with all three of those concepts and those
9 projects.

10 The fact-finding meetings were held, the Maryland
11 report -- the Maryland fact-finding meeting and report were
12 completed early. We printed up the report, we had fine
13 news conference, press conference, we got a lot of publicity
14 on it, we did withhold the report, and that's difficult
15 until we could hold that press conference, and then we
16 prepared -- and that is a very important part of the pro-
17 cedure at that time -- we then prepared -- this was in the
18 previous administration, just about a year ago. We then
19 prepared what we call our "action memos". That means when
20 you get the report done, you then say to the Commission --
21 you prepare a memorandum and you even prepared the letters
22 that are supposed to go to the Secretary of Labor, or
23 Agriculture, or wherever it goes -- the Department of
24 Justice, for the Commission to sign.

25 Those letters are reviewed by the General Counsel's

NEAL R. GROSS
COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVENUE, N.W.
WASHINGTON, D.C. 20005

1 office, those letters are reviewed by the General Counsel's
2 office and that memorandum.

3 When we sent that one in for the Maryland report
4 now, that already has been released, and publicized, we
5 got a call from one of the staff people in the General
6 Counsel's office saying "Since your Virginia report is
7 coming through soon, and the Delaware report, maybe we
8 could prepare one action memo, instead of this one action
9 memo you sent us, since it would apply the same way, we
10 would only send one letter to the Department of Labor,
11 rather than three letters".

12 We said, "That makes a lot of sense". No questions
13 of jurisdiction or anything else were raised at that time.
14 All this had been going on, remember, openly in fact-
15 finding meetings two years of this thing. There was no
16 secret about what we were doing.

17 So what happened then was when we made that agree-
18 ment, when the Virginia report was ready -- oh, and I
19 agreed at that time with these people. And I am not going
20 to use names now, on the staff, that this wouldn't have
21 to apply to Delaware because already it could be determined
22 from the findings we were making in Delaware that it wouldn't
23 need federal action. So, the memo would be geared to
24 Maryland and Virginia, which did need certain federal
25 action, based on the findings and recommendations of the

NEAL R. GROSS
COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVENUE, N.W.
WASHINGTON, D.C. 20005

1 advisory committee, who were, 'in fact, fully participating
2 in all those findings and recommendations.

3 Now, having done that, we put the Virginia report
4 into the printer's office figuring it would be printed.
5 Well, at that time there was a new administration that had
6 come in and they held up the printing of the Virginia
7 report. It was subsequent to that that we put in the
8 Delaware report, that, of course, was held up.

9 But in that process, no one still had raised the
10 question of jurisdiction with us on the action memos.
11 Now, in that period of time, as some of you may recall,
12 September, October and November, we were closing down the
13 agency. So, this all feel into that crack at that time,
14 and those reports were there. And then we got the new
15 legislation, and then the retreat and then the memorandum
16 came out on how they were going to handle things.

17 And it was only until we had a Virginia meetings,
18 SAC meeting in Alexandria, when I got and Bobby got -- we
19 got a copy of the General Counsel's memorandum. The new
20 General Counsel's memorandum to the staff director stating,
21 in effect, there was not a centilla of evidence of racial
22 discrimination, et cetera, and that we had no jurisdiction.

23 Now, this is right there in the record. Incidentally,
24 I went through this whole process at a regional directors'
25 meeting, but in any event, as was very clear from Destro's

NEAL R. GROSS
COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVENUE, N.W.
WASHINGTON, D.C. 20005

1 remarks, this report -- and I did report that to the
2 advisory committee -- this was the General Counsel's view.
3 It had never been submitted to the Commission. They still
4 have not been submitted to the Commission -- they may have
5 after yesterday, but they still had not been submitted to
6 the Commission.

7 Now, I think that is very important to place this
8 in the period of time, it took place at the time of the
9 appointment of the new commissioners, and the revised
10 program and philosophy, et cetera. And then the juris-
11 dictional question comes into play over what we had, and
12 what the advisory committees had, not been misled by the
13 previous General Counsel, and the previous staff, not have
14 we been misled by our regional attorney, or by me.

15 We did everything in accordance with the rules and
16 the regulations, and as some of you know, regardless of
17 the philosophical differences, I believe in going down the
18 line on those rules and regulations, but feeling that we
19 should not be impeded in anyway in studying what we have
20 a right to study, or the advisory committees studying what
21 they have a right to study, and making any recommendations
22 or findings they want to make.

23 If they are not accepted, then you have to make
24 our own decision.

25 In any event, that is the real story behind these

NEAL R. GROSS
COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVENUE, N.W.
WASHINGTON, D.C. 20005

1 migratory labor reports. When Linda Chavez says that the
2 old staff wrote those memos, she is being correct, under
3 the guidance and direction of the new General Counsel,
4 which she did not add, and should have been added. Because
5 we had directions from the previous General Counsel and
6 the same staff that gave us full leeway to do what it is
7 we wanted to do, and the only reason the Virginia report
8 didn't get out, is that if it had happened -- if we had
9 had it ready when the Maryland report was ready, you would
10 have had it released, the action memos would have gone
11 out, and so forth, with no questions asked.

12 So, I hope you understand now the seriousness of
13 this. Now, maybe, Bill, this gives you an appreciation of
14 some of the very interesting, but complex approaches that
15 take place within the Commission, as they have a transition
16 period.

17 MR. CONNER: May I comment, Mr. Chairman, for a
18 moment?

19 I just want to say to this group, I am a professor
20 of administrative law, just as Mr. Destro is, and I suspect
21 that I have as much experience as he does in that area.
22 And I just want to tell you that I think this whole palaver
23 just described by Ed about the jurisdiction of the Commission
24 is hogwash.

25 The only thing that has happened here is that the

NEAL R. GROSS
COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVENUE, N.W.
WASHINGTON, D.C. 20005

1 Commission has decided that they are going to place the
2 emphasis in a different place than the old Commission did,
3 and they have that right. They were appointed, they set
4 the policy, that is what they are there for, and what they
5 are paid for.

6 But to tell us that they are compelled by the
7 statute to do this is ridiculous, because this agency has
8 been operating in the way described by Ed for years and
9 there was never any question about the appropriateness of
10 it.

11 So I think to say that it is illegal to do the
12 things that we are interested in doing is silly, all that
13 is really going on is the Commission has changed the
14 emphasis.

15 Now, one more comment. That is the reason that
16 I want to keep the lines of communication open, because
17 eventually they are going to have to admit this. They
18 are not going to be able to sustain the position that their
19 General Counsel has taken. They may try, but if we are
20 talking to them, and we are saying, "Come on, fellows,
21 be reasonable, all of these issues are intertwined, and
22 we have to look at them all, we can't draw these sharp
23 distinctions that it isn't a question of jurisdiction, it
24 is a question of judgment", then I think we are a lot better
25 off.

NEAL R. GROSS
COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVENUE, N.W.
WASHINGTON, D.C. 20005

1 REV. HARRIS: Thank you.

2 Let me get back to the original question and see
3 if we have sufficiently addressed it. The original question
4 had to do with the interpretation of the new emphasis, and
5 whether or not we have addressed sufficiently this question
6 of social policy versus civil rights, which is the initial
7 question to be raised when we submit a proposal for doing
8 a study, or making a report.

9 I believe that the staff has given us some deep
10 insights in this regard, and that is where we are. That
11 is where the game is being played at this time. How we
12 want to address that, we are not clear on how we can.

13 We can, however, address a portion of the question
14 of trust or mistrust, a portion of who is leading and
15 the adversarial role, in a letter that we can discuss at
16 this time, as we try to wind this down, because I don't
17 believe that we have sufficient time to resolve all of the
18 problems that have been presented to us, yesterday and
19 today.

20 I believe we should, however, before too many
21 people get away, have that letter read and have a dis-
22 cussion on that, and take some action regarding it.

23 MR. WASHINGTON: Mr. Chairman, do we have the
24 letter?

25 REV. HARRIS: Steve, do you have the letter?

1 MR. LEVINSON: I have a draft, I don't know where
2 Mr. McIntyre is at the moment.

3 MR. KENNEY: We should wait until he comes back,
4 because he has some comments.

5 MR. LEVINSON: We have typed up a draft of the
6 letter, but I really think he should be here to present it
7 to you.

8 If I can, Reverend, I would like to make one
9 request, -- certainly you can't do it today. Many people
10 in what I will call the general civil rights community,
11 have expressed a variety of concerns about the new Com-
12 mission and the new policies that they have implemented,
13 the mechanisms that they are attempting to use, including
14 the issue that you have been discussing with reports.

15 We have all had our press conferences, we have
16 all written, we have all sent letters, we have had dis-
17 cussions with our congress people in various forums.
18 To me silence connotes acceptance sometimes, and if we
19 can't be, all of us -- I am not a member of a SAC, but
20 all of us involved in these issues, if we can't be honest
21 with each other, then I think we have some real problems.

22 And it seems to me, I am very uncomfortable
23 sitting here as someone who is deeply involved in all of
24 these issues, because I have a real concern as to why
25 there is this great need to be conciliatory. It seems to

1 me that in our hope SACs carry some weight when they speak
 2 as SACs, and SACs carry some weight when they speak as
 3 regions, all 51 of you. And it seems to me --and it is
 4 our hope in the civil rights community, our segment of it
 5 that you would at some point, and clearly there is no
 6 time today -- send a letter to the Commission as a group,
 7 that raises the issues of interpretation of social policy
 8 versus civil rights, that raises the issue of the SAC
 9 reports and how they are released, and what is legal
 10 sufficiency; that raises your concern about the Commission
 11 issuing statements and taking positions, without fact-
 12 finding, without studies, without the proper groundwork
 13 being laid; that raises significant questions when a
 14 member of the United States Civil Rights Commission says
 15 "I don't need anymore studies, I know what I believe, and
 16 I don't need to do anymore work".

17 I have a real problem with State Advisory
 18 Committees not being on record as opposed to some of these
 19 changes in policy and philosophy. That doesn't mean that
 20 I am opposed to communication, and it doesn't mean that
 21 I am opposed to dialogue, and it doesn't mean that I am
 22 opposed to sitting down around any table and trying to
 23 discuss some of these.

24 But not to go on record, to me, connotes accept-
 25 ance. And I am not concerned about me, because I respect

NEAL R. GROSS
 COURT REPORTERS AND TRANSCRIBERS
 1323 RHODE ISLAND AVENUE, N.W.
 WASHINGTON, D.C. 20005

1 all of you a great deal, and I know individually many of
2 you. But I am concerned about the view of the general
3 public that doesn't see a response from SACs, that doesn't
4 see a response from the people who work with the Commission,
5 and they are going to perceive that there is a basic
6 bottom line agreement, and you have some in-house political
7 squabbles, instead of some major philosophical differences.

8 And I would hope that at some point the chairs,
9 or the individuals SACs could get together as a group and
10 put on record what your concerns are with the new Com-
11 mission, so that everybody in the community sees it.

12 DR. BICKLEY: I would like to add my voice to that.
13 I tried to convey yesterday, and I guess I am the only
14 person who feels this sense of anxiety. And maybe I live
15 in a different world than the one the rest of you all live
16 in, but I don't see any peace and serenity out there.
17 And you are telling me to be political and when I am one
18 of 60,000 in a state, what can I do that is political?
19 Who is going to listen to me? I have no economic or
20 political clout. The only thing I have is organizations
21 like this, and if we don't speak up, there isn't anything
22 more.

23 And what I see, five-10 years down the road is
24 really terrible. Now, maybe my crystal ball and yours
25 don't show the same thing, but mine does not show anything

1 that is peaceful, and I am a black female. I just don't
2 have any recourse, and there is a certain amount of hope-
3 lessness that I feel.

4 Now, maybe your picture is different, tell me.
5 Send me home with something else, tell me what you see.

6 MS. MORRIS: Is this going to be released to the
7 press? Is the news media going to be involved at all,
8 Mr. Rutledge, and if so, at what point? Can this informa-
9 tion get out to the general public? Because I am feeling
10 exactly the same way she is.

11 MR. KENNEY: Can we do a press release?

12 MR. RUTLEDGE: Well, one of the reasons we had
13 it taped is that this will be a report that is sent to the
14 Commission, and it will be reduced to a report. And that
15 will be released.

16 MS. MORRIS: What about a news release coming
17 from this conference?

18 MR. KENNEY: What about a press release, just to
19 say what we discussed today, which will be directed to
20 that transcript?

21 MR. RUTLEDGE: Without asking, I don't see any
22 objection to a press release, it is a question of who is
23 going to release it, and at what time you are going to
24 release it, and under whose name.

25 DR. BICKLEY: I am not necessarily interested in

1 a press release. That may answer the questions, but maybe
2 simply a letter or some communication to the Commission,
3 itself. If they ask us to be their eyes and ears, and
4 what their eyes and ears are trying to tell them that it is
5 not all peace and serenity out there in the field, then
6 that is the message they need to hear.

7 MR. RUTLEDGE: Well, that is what I was assuming
8 you were going to accomplish, is to get that kind of letter
9 out, that was the thought. Isn't that what you decided to
10 do?

11 And I earlier said that we agreed to close the
12 meeting at one, but you could stay here as long as you
13 want to. We had it planned to stay until four o'clock,
14 but we agreed we would be done at one. But I did ask
15 the Chairman if you want to continue the meeting, he could.
16 If he wants to appoint a committee to put together the
17 kind of letter that you feel would reflect your feelings,
18 as we did it in West Virginia advisory committee, the
19 committee stayed over, you produced your own letter and
20 you got it out, and sent it to the Commission. This
21 could be done, and this could be done here.

22 REV. HARRIS: Let me stand up, I am a preacher,
23 and I think better on my feet. Let me suggest that we
24 have been laboring under certain kinds of restraints on
25 what it is that we can do as a group. And we have been

1 walking around like on eggs, and I have been kind of walk-
2 ing around with you on eggs, that is not my style at all.

3 It occurs to me that we are either going to do
4 something, in this group, or we may as well leave it. Now,
5 what I said yesterday about the migrant report is going to
6 be published from Virginia, it is going to be published,
7 that is just like money in the bank.

8 If the Commission doesn't do it, then it is going
9 to be published. I have a copy, and if it means that I
10 am no longer on the SAC, after I publish it, then so may
11 it be. I got about 14 other civil rights hats to wear,
12 that I can wear very well.

13 When we come to a meeting, an open meeting -- this
14 is a public meeting, because we are using public funds, it
15 is open. It has been in the Federal Register. Now, the
16 reason we don't have any press is because the press is not
17 aware of any controversy, the press doesn't just come to
18 a public meeting to be there -- this is not the City
19 Council.

20 We did not create the atmosphere for the press
21 to come. Now, I am ready with you, to remain, to draft
22 a press statement that will encompass the important issues
23 discussed in this meeting. I said we could do it in the
24 form of sending a letter to the Commission which will be
25 published, and I am ready to get the hatchet, or the axe,

NEAL R. GROSS
COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVENUE, N.W.
WASHINGTON, D.C. 20005

1 or whatever that follows -- if it follows, and if the people
2 here are willing to do that, and ready to do that. And I
3 see no need for a lot of discussion on it, I think that we
4 ought to just do it.

5 And we all talk about frustration, or we see that
6 road 10-15 years down the line, and I don't want to come
7 here and sit two days and just discuss some problems, and
8 go back home, and nothing has been done or said.

9 Now, a number of SACs have sent letters to the
10 Commissioners. I have one that we just drafted that will
11 go out from the Virginia SAC, questioning all of these
12 items. But none of this has been released to the public,
13 it has gone only to the Commission. And we know it among
14 ourselves and have sent copies to other SACs, so among
15 ourselves we are just talking to each other. And I will
16 not remain forever tied up in the strings of the Commission
17 saying to me that I can only talk to myself and to them.

18 I am ready to talk to the public about what is
19 going down, and I don't like it and you don't like it, and
20 I don't think we ought to be just going around the bush
21 forever and forever.

22 So, now we want to hear your reaction to that,
23 we will entertain a motion on how to proceed.

24 I will take the offering after the meeting.

25 MR. FERRON: Mr. Chair, I would move that we spend

1 whatever time was necessary today to come up with a letter
2 incorporating and addressing all of the concerns reflected
3 during this meeting, and preceding this meeting. And
4 upon the completion of that letter, concurrently release
5 it to the media.

6 That is my motion.

7 MR. WILCOX: I second.

8 REV. HARRIS: Is there any discussion?

9 MR. LEWIS: Can we get some logistics in there,
10 some of us might want to check out and come back, and work
11 on it, an hour or two hours, I don't know? Could we say
12 that we would reconvene in another 10-15 minutes, and
13 then start the letter? It is just a question.

14 MR. KENNEY: Mr. Chairman, why don't you appoint
15 a committee to work with the letter, and let some folks go
16 to lunch, check out, or whatever, and then meet back in
17 this room at 2:00 o'clock, or whatever? At least the
18 committee would come back with something in writing that
19 we could respond to.

20 MR. WILCOX: There are too many to all write the
21 letter.

22 REV. HARRIS: All right, let me see how that fits
23 into the sense of the motion. The motion is that we draft
24 a letter before we leave, and send it to the Commission,
25 and release it simultaneously to the press.

1 MR. RUTLEDGE: We would have to re-arrange with
2 the steno to stay here and I am glad we are going to do
3 it this way, but why don' t you take care of the other
4 letter that has been worked on by the committee, and make
5 a decision on that? That's ready, as I understand. So,
6 that letter is ready for your action, and then work out
7 a way of resuming the meeting at 2:00 o'clock, and ask
8 everybody be here and have an appointed committee to work
9 on it.

10 But I think you ought to take care of that
11 committee's letter.

12 REV. HARRIS: Okay, I hear what you are saying.
13 The suggestion that I would make to you now, that we have
14 a motion on the floor, to draft a letter to the Commission
15 and we have a suggestion that we hold that in abeyance
16 until the letter that has been drafted and brought before
17 us.

18 What I would suggest then is -- the motion that
19 is on the floor is an order that we pass on that motion,
20 and then work out the details of how we are going to do
21 what the motion says. And then we can go to this letter.

22 Somebody call the question.

23 MR. LEWIS: Call the question.

24 REV. HARRIS: All those in favor of the motion
25 say Aye.

1 (Chorus of Ayes)

2 REV. HARRIS: Opposed the same sign.

3 (No response.)

4 REV. HARRIS: The Ayes have it, and it is so
5 ordered:

6 MR. FERRON: The record should show that that is
7 unanimous.

8 REV. HARRIS: Let the record show that the motion
9 was unanimous.

10 We will listen to this letter, and then we can
11 appoint a drafting committee to work during the break, and
12 then we will designate the time we are going to come back.
13 And those of us who need to checkout, can checkout, and
14 we can come back and deal only with that letter and how
15 we are going to release it to the press.

16 The letter is here, Mr. Pitts has it, and we
17 are going to ask him to read it.

18 MR. PITTS: June 29, 1984, "Dear Mrs. Chavez, At
19 the MARO Conference on June 28th, 1984, you discussed the
20 Grove City decision, and the so-called 1984 Civil Rights
21 Act. You were questioned about the Commission's position
22 on this legislation, generally, and particularly on the
23 subject of whether or not, in the Commission's view, fund
24 cutoffs should be programatic, or institutional. As we
25 understand it, the Commission has not taken a formal

1 position on either issue.

2 "In your testimony before the Senate Committee
3 earlier this week, as the Staff Director for the Commission,
4 and in your appearance before the regional conference, you
5 stated that the Commission's position was that in the
6 event of the finding of discrimination, fund cutoffs for
7 the offending institution should be programatic. The
8 statement is in direct dimetric opposition to the legisla-
9 tion, the intent of Congress and the position of the
10 civil rights community, generally.

11 "We are advised that while the LCCR has not, and
12 does not, take a position formally in such matters, its
13 constituent members strongly favor institutional rather
14 than programatic fund cutoffs.

15 "A review of the transcript of the June 28th,
16 regional conference reflects that you observed that there
17 is harmony between the position of the USCCR and that of
18 the civil rights groups within the LCCR. This statement
19 appears to have no basis in fact. Your remarks in this
20 regard have become a source of great consternation to
21 the conferees.

22 "We ask you to review the transcript and clarify
23 your statement, so that any duplicity may be quickly
24 rectified. For the record, we believe that a policy of
25 withholding funds on an institutional basis is the only

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVENUE, N.W.

WASHINGTON, D.C. 20005

1 effective means of preventing such acts of discrimination."
2 That is the content of the letter.

3 MR. WATKINS: I move the letter be adopted.

4 MR. KENNEY: Seconded.

5 DR. PARKER: I would suggest that the wording
6 in that letter be used in the record.

7 MR. WATKINS: I would say it should be underlined.

8 DR. PARKER: But he said be corrected, be rectified,
9 duplicity is a trait of character, isn't it.

10 MR. WATKINS: Could you read that phrase again?

11 MR. PITTS: "We ask you to review the transcript
12 and clarify your statement, so that any duplicity may be
13 quickly rectified".

14 REV. HARRIS: There has been a motion and a second
15 to adopt this letter with the corrections that have been
16 indicated.

17 Is there any discussion?

18 MR. FERRON: Discussion, as I perceive it, we are
19 considering the sending of two separate letters. I would
20 recommend that the content of the last letter read be
21 incorporated in one letter -- the letter that the Committee
22 will be reading to revise.

23 MR. WATKINS: My feeling on this letter here is
24 that this addresses the specific action of the staff
25 director and I kind of would like to see us address that

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVENUE, N.W.

WASHINGTON, D.C. 20005

1 separately. The subject of the Commission's position on
2 the legislation is one thing, but it is her presentation
3 here yesterday and her statements that I think this letter
4 specifically calls to question. I think that is appropri-
5 ate to handle separately from the overall concerns of the
6 SACs regarding all of the subjects that we want to put
7 in this letter.

8 But I think it is her conduct and the statement
9 -- duplicity is not that far off, but I think her statement
10 was duplicitious, I think it was intentional, intended to
11 mislead. And I want to address that separately.

12 (Simultaneous discussion)

13 REV. HARRIS: We have a motion on the floor.

14 MR. FERRON: I am concerned about process, the
15 process by which this letter, if the motion passes in its
16 present form, what process that will take. Will we simply
17 send that letter to the director of the Commission and
18 the Commission, with copies to the Commission, or do you
19 want to make that public, also?

20 DR. BICKLEY: I don't see anything to be gained
21 by making it public. We are asking her to clarify a
22 personal action, and I don't see any point in --

23 MR. WASHINGTON: There is nothing in the public
24 that would be gained by it, because they have no background
25 on what she said here, and very little about what happened

1 up there.

2 MR. FERRON: Will copies go to the Commission?

3 REV. HARRIS: Yes.

4 MR. LEVINSON: One comment, the letter as you
5 read it, was addressed to Ms. Chavez. What I want you to
6 be clear on is that in my review of that transcript this
7 morning, the comments that are at issue were made not only
8 by Ms. Chavez, but by members of the Commission.

9 So, what I would hope you would do -- I think you
10 did a wonderful job of drafting this, but I would hope
11 that you would address it to either those specific
12 Commissioners who were here, and Ms. Chavez, or to the
13 Commission and Ms. Chavez. The statement "insidious",
14 "duplicitious" or whatever, were made by Commissioners, as
15 well as by Ms. Chavez.

16 MR. WASHINGTON: But it should go to the Commission
17 anyway, and also to her, it seems to me because she was
18 speaking for the Commission at the hearing and here, for
19 that purpose. I think the protocol is that we do send it
20 to the Commission.

21 MR. RUTLEDGE: I think it is appropriate, I think
22 Steve's point is well taken. It is not only her statement,
23 you had Pendleton here and Destro here, saying essentially
24 the same thing.

25 MR. WASHINGTON: They were speaking on behalf of

1 the Commission in both instances, so it should go to the
2 Commission.

3 MR. WILCOX: I call for the question.

4 REV. HARRIS: The motion is before us that the
5 letter be adopted and sent. There has been some discussion,
6 and I don't know where we are on the discussion.

7 MR. WATKINS: Did we resolve the question of the
8 word "duplicitious"?

9 REV. HARRIS: That has been taken care of in the
10 motion for the correction. There are some other dis-
11 cussions about whether it should be sent, whether it
12 should be included as participants in the discussion, of
13 making the statements.

14 MR. WASHINGTON: Mr. Chairman, that is not in the
15 letter itself. I don't know what discussion there is,
16 but the solution is simply send it to the Commission and
17 to the director, and that gives everybody that was here,
18 or everybody that wasn't here whom she spoke on behalf of,
19 and I don't think we need a special motion, I think that
20 is a detail as to how you address it.

21 MR. WATKINS: The only point, if I may, that
22 Steve raises that should, perhaps, be addressed in the
23 body of the letter -- it only says "statements made by
24 you". And we might modify that language to say "statements
25 made by you and the Commissioners present", something like

1 that.

2 MR. LEWIS: Or call them by name. I could press
3 the point and ask for an amendment to the motion that will
4 allow for the inclusion of these clarifications in the
5 letter.

6 MR. WATKINS: I would move to amend the letter to
7 indicate that the statements were made, not only by Ms.
8 Chavez, but also by the two Commissioners present. And
9 the letter should say that.

10 DR. PARKER: If I could be presumptuous, I think
11 the point is that the letter should be addressed to these
12 Commissioners, rather than addressed to Ms. Chavez and
13 copied to the Commission. And if you simply say that
14 the address be such and such, and that the body of the
15 letter changed into harmony, then that would simplify it.

16 MR. WATKINS: I was going to make that part of the
17 amendment.

18 REV. HARRIS: I am simply trying to get an amend-
19 ment to allow for the drafters of the letter to include
20 the agreed upon suggestions.

21 MR. FERRON: If we could cut through the red tape,
22 as the maker of the motion, I would accept those amendments.

23 REV. HARRIS: Is there a second?

24 DR. PARKER: Second.

25 REV. HARRIS: Those favoring the amendment say

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVENUE, N.W.

WASHINGTON, D.C. 20005

1 Aye.

2 (Chorus of Ayes)

3 REV. HARRIS: Opposed?

4 (No response)

5 REV. HARRIS: The Ayes have it, and so on.

6 The letter is before us with the amendments. Those favor-
7 ing the letter with the amendments will say Aye.

8 (Chorus of Ayes)

9 REV. HARRIS: Opposed same sign?

10 (No response)

11 REV. HARRIS: The Ayes have it.

12 MR. FERRON: The record should show unanimity.

13 REV. HARRIS: Now that we have this letter con-
14 cluded, we are going to have a break. We need a committee
15 to draft a larger draft that will be sent to the Commission.

16 MS. MORRIS: Can we nominate people?

17 REV. HARRIS: No, I would like some volunteers.

18 DR. BICKLEY: Mr. Washington has to leave, but if
19 he could stick around for about 15 minutes to help in
20 drafting the letter.

21 REV. HARRIS: Well?

22 MR. WASHINGTON: I have another matter to decide.

23 REV. HARRIS: What I am going to suggest -- are
24 you with me? I am going to suggest that we break and those
25 who would like to share in the pulling together of this

1 letter, come up to the front table and do that. And that we
2 would come back -- how much time do you think it is going
3 to take?

4 MR. LEWIS: Thirty minutes.

5 REV. HARRIS: We will come back at a quarter to
6 two, that will give time to those who wish to checkout,
7 and we will come back and pass on the letter and close the
8 meeting.

9 MR. WASHINGTON: Mr. Chairman, I have a deposition
10 that I have to get to by 1:30, but I will work for about
11 10 minutes. I'm sorry, but I am being deposed.

12 REV. HARRIS: Is that agreeable with everyone?
13 All right, let's consider ourselves recessed.

14 (Whereupon, the lunch recess was taken at 1:15 p.m.)
15
16
17
18
19
20
21
22
23
24
25

1 AFTERNOON SESSION

2 (2:30 p.m.)

3 REV. HARRIS: All right, --

4 DR. BICKLEY: Dear Mr. Pendleton, the MARO SAC,
5 in session, in Washington, D. C., on June 28th-29th,
6 expressed concern regarding recent actions taken by the
7 U.S. Commission on Civil Rights.

8 One, we find the new definitions of the Commission's
9 jurisdiction, social policy versus civil rights to be
10 narrow, restrictive and unsupported by law. The issues are
11 inexplicably intertwined and an attempt to separate them
12 is artificial, and an attempt to ignore the reality of
13 civil rights issues.

14 We are alarmed by the Commission's newly evident
15 penchant for adopting the positions without the benefit of
16 research or appropriate fact-finding. We cite, for example,
17 the recent position taken on affirmative action goals and
18 timetables. We find the new requirements which are
19 embodied in the staff director's memorandum concerning the
20 release of SAC reports to have been prepared without prior
21 notice or consultation with SACs.

22 Although the Commission has characterized these
23 groups as its "eyes and ears", we are particularly alarmed
24 at the Chairman's recent statements designating himself
25 as a spokesperson for civil rights for the Administration.

NEAL R. GROSS
COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVENUE, N.W.
WASHINGTON, D.C. 20005

1 This clearly is in opposition to congressionally mandated
2 role of the Commission as a bipartisan, collegial body
3 devoted to the independent inquiry into civil rights con-
4 cerns.

5 The Chair and the Commission can hardly function
6 as the latter, while serving as the former. We bring these
7 matters to your attention from our deep concern and from
8 our wish for the Commission to be of continuing service
9 to those in our society who are denied.

10 REV. HARRIS: Any discussion on the letter?

11 MR. McINTYRE: Paragraph one.

12 DR. BICKLEY: The MARO SACs in session in Wash-
13 ington, D. Co, on June 28th-29th, expressed concern re-
14 garding recent actions taken by the U. S. Commission on
15 Civil Rights.

16 MR. McINTYRE: Expressed concern regarding the
17 following, and then enumerate.

18 DR. BICKLEY: Okay.

19 MR. WATKINS: The reason we took that out just
20 now is because each of the following paragraphs begins
21 with a characterization of the SACs reaction. We are
22 saying they are concerned about the following things, and
23 say we are alarmed about this, we are irritated about this,
24 we are upset about this.

25 DR. BICKLEY: Let me read it again.

1 The MARO SACs, in session in Washington, D. C.,
2 on June 28th-29th, expressed concern regarding the follow-
3 ing recent action taken by the U. S. Commission on Civil
4 Rights, colon (that is with your addition).

5 One, we find the new definitions of the Commission's
6 jurisdiction of social policy versus civil rights to be
7 narrow, restrictive and unsupported by law -- in law.

8 Do we want unsupported, or unsupportable?

9 MR. McINTYRE: Unsupportable.

10 MR. WATKINS: As social policy versus civil
11 rights.

12 DR. BICKLEY: We find the new definitions of the
13 Commission's jurisdiction as social policy versus civil
14 rights --

15 MR. McINTYRE: What does it say again?

16 DR. BICKLEY: We find the new definitions of the
17 Commission's jurisdiction as social policy versus civil
18 rights.

19 MR. WATKINS: They are not defining their juris-
20 diction of social policy or civil rights.

21 DR. BICKLEY: Finds the new definitions of the
22 Commission's jurisdiction --

23 REV. HARRIS: We are concerned about the new
24 definition.

25 MR. WATKINS: The sentence goes on, the problem

1 is in the language. And we go on to say "We find it
2 restrictive, narrow and unsupportable".

3 DR. BICKLEY: Why don't we just take out "social
4 policy and civil rights"?

5 MR. McINTYRE: We want that in there, which
6 separates social policy.

7 MR. WATKINS: Or we could differentiate, or attempt
8 to differentiate, how about that -- which attempts to
9 differentiate social policy from civil rights as narrow
10 and restrictive, that makes sense. That says what we want
11 to say.

12 DR. BICKLEY: Now listen to it, "We find the new
13 definitions of the Commission's jurisdiction, which attempt
14 to differentiate social policy from civil rights to be
15 narrow, restrictive and unsupportable in law. The issues
16 are explicably intertwined; and an attempt to separate them
17 is artificial and ignores the reality of civil rights
18 issues.

19 "Two, we are alarmed at the Commission's newly
20 evident penchant for adopting positions without the
21 benefit of research or appropriate fact-finding. We cite,
22 for example, the recent position taken on affirmative
23 action goals and timetables.

24 "Three, we find the new requirements which are
25 embodied in the Staff Director's memorandum concerning the

1 release of SAC reports to have been prepared without prior
2 notice to, or consultation with SACs, although the Com-
3 mission has characterized these groups as its "eyes and
4 ears".

5 "Four, --

6 MR. McINTYRE: Wait a minute, we ought to add one
7 sentence to that. These new rules should be re-examined
8 and modified.

9 I think we are saying we don't like what you have
10 done, because you didn't talk with us. Now, re-examine
11 and modify them and talk with us, after consultation with
12 the SACs, you might even add that.

13 MR. WATKINS: Should be re-examined and modified,
14 after consultation with the SACs.

15 MR. FERRON: We are talking about rules and
16 regulations, is that correct?

17 MR. WATKINS: The administrative rules regarding
18 --

19 MR. FERRON: As a general principle that when
20 rules and regulations of a regulatory body such as the
21 U.S. Commission on Civil Rights, are in the process of being
22 modified, it is opened up to the public for public input,
23 or should be.

24 Do we want to be that restrictive in limiting the
25 oversight or the input to the SACs? This is for your

1 consideration.

2 MR. McINTYRE: These are not regulations.

3 MR. PITTS: The Commission is not a regulatory
4 body, therefore it may not be subject to such procedures.

5 MR. FERRON: It might be a healthy suggestion
6 then.

7 DR. BICKLEY: Listen to it again. "We find the
8 new requirements which are embodied in the Staff Director's
9 memorandum concerning the release of SAC reports to have
10 been prepared without prior notice to, or consultation
11 with SACs, although the Commission has characterized these
12 groups as its 'eyes and ears'. These new rules should be
13 re-examined and modified, after consultation with SACs."

14 Or do you want to say "SACs consultation"?

15 MR. FERRON: Why don't you say "we recommend
16 that these rules --

17 MR. KENNEY: We demand these rules --

18 DR. BICKLEY: "Four, we are particularly alarmed
19 at the Chairman's recent statements designating himself
20 as the spokesperson for civil rights for the Administration.
21 This is clearly in opposition to the congressionally
22 mandated role of the Commission as a bipartisan collegial
23 body, devoted to independent inquiry into civil rights
24 concerns. The Chair and the Commission can hardly function
25 as the latter, while serving as the former".

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVENUE, N.W.

WASHINGTON, D.C. 20005

1 MR. WATKINS: What about anionting himself?

2 DR. BICKLEY: Just use the word "characterizing".

3 "We bring these matters to your attentions from
4 our deep concern and from our wish for the Commission to
5 be a continuing servant to those in our society who are
6 the denied".

7 MR. WATKINS: Now, do we need a paragraph that
8 invites discussion, or something? Or that we would like
9 a response, or something to indicate that we would like a
10 response in recognition of what we suggest, or an acknow-
11 ledgement.

12 DR. BICKLEY: Isn't there going to be a national
13 meeting of SAC chairs?

14 (Simultaneous discussion)

15 MR. RUTLEDGE: The SAC chairs.

16 MR. WILCOX: May I make a comment? It seems that
17 the main reason why these folks showed up here yesterday
18 was to increase communication with this group. Why don't
19 you have as a last paragraph something to the effect that
20 "We hope this increases communication", or "makes communica-
21 tion between the Commission and SACs easier", or something
22 like that?

23 Why did we write this letter? To insult these
24 people? To start a war? a continual war, or did we do it
25 to try and increase communication and make communication

1 better with them?

2 MR. WATKINS: That would cover all of the reasons.

3 MR. PITTS: I think that the letter will merely
4 represent our sentiments of what we actually feel and how
5 we perceive the situation to be presently, rather than an
6 attempt to necessarily conciliate the situation. I think
7 that we are putting them on notice.

8 DR. BICKLEY: Wasn't there a line in the letter
9 that we had this morning that said something about the
10 gap in communications, and we hoped that this would begin
11 a --

12 MS. EATON: The closing paragraph.

13 MR. WATKINS: Best wishes in your effort to improve
14 communications.

15 MR. FERRON: I am not saying this to be facetious,
16 "Given our mutual interesting in extending lines of com-
17 munication, we are hereby requesting a meeting" and then
18 finish it, given we don't know whether we are going to
19 wait until September, or another date.

20 MR. WILCOX: You have to have some reason for this
21 letter, it is obvious.

22 MR. WATKINS: The reason for the letter is to
23 express our concern. I don't have any problem with that.
24 It has not been articulated like this, and it hasn't been
25 articulated like this in a public forum. We intend this

1 to be a letter to them, but also --

2 MR. WILCOX: What action do you want them to take?

3 MR. WATKINS: Resign.

4 MR. WILCOX: Other than that, what do you want
5 them to do? That's all I am saying.

6 MR. McINTYRE: We make a recommendation, with each
7 one we say re-examine this and consult with us.

8 MR. WILCOX: As long as there is some action that
9 they can take.

10 DR. BICKLEY: Dear Mr. Pendleton, MARO SACs, in
11 session in Washington, D. C., on June 28th-June 29th,
12 expressed concern regarding the following recent action
13 taken by the U. S. Commission on Civil Rights.

14 One, we find the new definitions of the Commission's
15 jurisdiction which attempt to differentiate social policy
16 from civil rights to be narrow, restrictive and unsupport-
17 able in law.

18 MR. McINTYRE: At that point let me make a
19 suggestion. Mr. Floyd's point of yesterday was -- and
20 I think this language will suffice -- "The Commission's
21 definition discounts the continuing impact of the historical
22 origins of discrimination". That means that you might
23 -- as you might immediately perceive that those qualities
24 which brought about discriminatory behavior were social
25 in nature, and if you are going to separate social policy

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVENUE, N.W.

WASHINGTON, D.C. 20005

1 from discriminatory behavior, what have you, on civil rights
2 action, you are discounting the continuing impact.

3 DR. BICKLEY: The only problem is that civil
4 rights now has been broadened. He was speaking from a
5 black perspective, I think. And if we are going to con-
6 sider handicapped, and there are many others --

7 MR. McINTYRE: It is true, but it is worth saying.
8 I still say that the problems of the black minority has
9 not gone away. And this definition is designed to make it
10 go away, to a certain extent.

11 MR. WATKINS: That is valid for all of us, includ-
12 ing handicapped.

13 DR. BICKLEY: "The Commission's definition dis-
14 counts the continuing impact of the historical origins
15 of discrimination".

16 MR. McINTYRE: That's right.

17 DR. BICKLEY: So ordered.

18 Okay, "The issues are inextricably intertwined,
19 an attempt to separate them is artificial and ignores the
20 reality of civil rights issues..

21 "Two, we are alarmed at the Commission's newly
22 evident penchant for adopting positions without the benefit
23 of research, or appropriate fact-finding. We cite, for
24 example, the recent position taken on affirmative action
25 goals and timetables.

1 "Three, we find the new requirements which are
2 embodied in the Staff Director's memorandum concerning the
3 release of SAC reports to have been prepared without prior
4 notice to, or consultation with the SACs. Although the
5 Commission has characterized these groups as its 'eyes and
6 ears'.

7 "We recommend that these new rules should be re-
8 examined and modified, after consultation with SACs.

9 "Four, we are particularly alarmed at the Chair-
10 man's recent statements designating himself as the spokes-
11 person for civil rights for the Administration. This is
12 clearly in opposition to the congressionally mandated
13 role of the Commission, as a bipartisan collegial body
14 devoted to independent inquiry into civil rights concerns.

15 "The Chair and the Commission can hardly function
16 as the latter, while serving as the former. We bring these
17 matters to your attention from our deep concern and from
18 our wish for the Commission to be a continuing servant to
19 those in our society who are the denied."

20 MR. FERRON: Did someone recommend a specific time
21 in which to meet, or for the Commission to follow-up? May
22 I again suggest a closing sentence -- "Given the serious
23 nature of the above referenced issues, and our mutual
24 interest in expanding lines of communication, we are here-
25 by requesting a special meeting with the Commission, as

NEAL R. GROSS
COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVENUE, N.W.
WASHINGTON, D.C. 20005

1 soon as reasonably possible. May we have a response from
2 you within -- and then whatever timeframe.

3 I will submit that for your consideration.

4 DR. BICKLEY: What about a week?

5 MR. FERRON: Are we speaking on behalf of SACs,
6 are we all going to sign?

7 REV. HARRIS: Some people have gone, but I think
8 we have representatives from each of the SACs that were
9 present.

10 MR. WILCOX: That is an action they can take, that
11 last paragraph would provide them something to do, other
12 than the other modification.

13 REV. HARRIS: Let us add the suggested last para-
14 graph, and there is some question about how much time we
15 want to allow them to respond. And I would like to suggest
16 that we ask them to respond at their earliest convenience,
17 rather than to put a 10 day, 15 day --

18 MR. FERRON: Well, I closed originally with "As
19 soon as reasonably possible". Then we don't need that
20 final sentence.

21 REV. HARRIS: Ed, did you have anything?

22 MR. RUTLEDGE: Just a point of information, the
23 Commissioners will meet this coming month, in about a
24 week or so, and then they won't meet in August. And I
25 guess the next meeting will be when they meet with the

1 SAC chairs. And I understand -- I only heard that yester-
2 day, that they may be in Nashville, where the guest is
3 from.

4 So, in terms of timetables, if you want this
5 brought to the Commission's attention, I think that is the
6 sense of it. That is about the time it would be brought
7 to their attention, and consideration.

8 So, realistically speaking, especially if it is
9 the SAC chairs who are going to sign this for those in
10 attendance, that you relate to that, at least by that date,
11 so that you could either have that on the agenda, perhaps.

12 REV. HARRIS: Which date?

13 MR. RUTLEDGE: The meeting of the SAC chairs,
14 which would be September 11, or 12th, something like that.

15 REV. HARRIS: We want the Commission to have this
16 letter right away, as quickly as possible.

17 MR. RUTLEDGE: But I doubt whether it will get
18 on the agenda in the July meeting, it takes a long process.

19 REV. HARRIS: The July meeting is next week. If
20 we send them the letter, they can do as they please.

21 MR. RUTLEDGE: Well, why don't you just put down
22 "as soon as possible"?

23 REV. HARRIS: They may want to call a special
24 meeting.

25 (Laughter)

1 REV. HARRIS: For the purpose of releasing the
2 letter, they will have that, they will have the letter,
3 they will have the press, and somebody has got to respond.
4 So, let the spokesman respond from the Commission.

5 MR. RUTLEDGE: Then I guess that language is all
6 right.

7 MR. WATKINS: Are we proposing that this be signed
8 by the chairpersons of each of the states?

9 MS. MORRIS: I so move.

10 MR. WILCOX: I second.

11 MR. WATKINS: For MARO. We need to take the
12 time to get it typed and circulated to all those chair-
13 persons.

14 MR. RUTLEDGE: I would like to correct one thing
15 while we say for MARO. I am not sure Douglas drew the
16 implication, Curtis.

17 REV. HARRIS: Yes.

18 MR. RUTLEDGE: We are not speaking for 51 advisory
19 committees, nor are we the body meeting. There were nine
20 other regional conferences -- we are speaking for the
21 Mid-Atlantic region.

22 MR. WILCOX: There are nine going on right now?

23 MR. RUTLEDGE: Most of them are going on.

24 MR. WATKINS: What I meant was can the chairperson
25 of this conference, as a whole, sign for the chairpersons

1 for each of the SACs, in the interest of time? For one
2 person to sign after we have voted for it?

3 MR. RUTLEDGE: They could sign for those that are
4 represented here from the SACs and for the SACs as a whole.
5 For your entire SAC, if the SAC at a meeting votes on the
6 issue, just as the letter Curtis is sending out, the letter
7 that Don Pitts sent out a couple of weeks ago. These are
8 letters that are approved by each State Advisory Committee.

9 This letter really -- the SAC chairs were here,
10 and several members of the Advisory Committees from those
11 SACs were here, and it is that party you are representing
12 in signing this letter.

13 MR. McINTYRE: That's right, exactly.

14 REV. HARRIS: Some of those people are gone, we
15 don't have anybody here from Delaware -- we do. When I
16 called the role before, I guess you weren't in here.

17 Do we have somebody in here representing each of
18 the six?

19 MR. RUTLEDGE: -- maybe one gave the commitment
20 to the sense of what you were going to put out.

21 MR. WATKINS: Can it be signed by the chairperson
22 of the Mid-Atlantic Region, SAC Regional Conference, and
23 thereby imply that it receives the approval of all of the
24 attendees?

25 MR. RUTLEDGE: I think for this particular meeting

1 it would be Curtis.

2 MR. KENNEY: Let Curtis be the one to sign it then.

3 MR. RUTLEDGE: If he wants company, he can sign
4 it with Pitts.

5 (Laughter and simultaneous discussion)

6 DR. BICKLEY: It could be signed by the chairpersons
7 of this concluding session.

8 REV. HARRIS: I am game.

9 MR. PITTS: I am game.

10 MR. RUTLEDGE: Both the chairpersons of all six
11 SAC chairs have agreed to sign that one. When Walter
12 left, he said he had the sense of this, and I will go with
13 the letter. Sol Eaton was speaking for Blackshear, and
14 she said she would go, with it and Horacio had taken that
15 position, so I don't think there is any question about
16 signing -- the SAC chairs would be speaking.

17 REV. HARRIS: Let's indicate that the SAC chairs
18 from each of the jurisdictions concur, and Pitts and I
19 can sign it as the signees, with the understanding that
20 we are signing for everybody, that it is not just our
21 piece.

22 MR. WATKINS: You can say "with the concurrence
23 of the chairpersons of the represented SACs".

24 REV. HARRIS: Is that agreeable?

25 MR. FERRON: Sort of piggybacking on that, I was

1 going to suggest possibly one sentence that clearly reflects
2 that this body, meeting in plenary session, unanimously
3 adopted and endorsed them. And selected these co-chairpersons
4 to sign on its behalf.

5 MR. WATKINS: That is even better.

6 REV. HARRIS: All right. Now, we have the sense
7 of the letter, and so forth. And we already mentioned
8 earlier that we would direct this letter to the Commission,
9 and that we would publish it in the media.

10 MR. KENNEY: And we can do that today, we can get
11 the letter typed today?

12 DR. BICKLEY: I don't know, it is going to be hard
13 at 3:00 o'clock on Friday afternoon.

14 MR. McINTYRE: That won't be hard, we can get that
15 done today.

16 MR. KENNEY: We can't get the letter typed today.

17 MR. PITTS: You mean in all of this town they
18 don't have a "White Glove" or "Green Glove"?

19 MR. WATKINS: Well --

20 MR. PITTS: I can type it in that length of time.
21 Can we go over to your office and type it?

22 MR. WATKINS: We have a typewriter here.

23 REV. HARRIS: What is the problem? We have a
24 letter that will take 15 minutes to type, what is the
25 problem?

1 MS. MORRIS: The only thing about the timing of
2 that, make sure that all of the press is going to get it
3 about the same time, so the press letters ought to be
4 ready.

5 DR. BICKLEY: Let me read it one more time.

6 "Dear Mr. Pendleton, Representatives of the MARO
7 SACs, in session in Washington, D. C., on June 28th-29th,
8 expressed concern regarding the following recent actions
9 taken by the U. S. Commission on Civil Rights.

10 "One, we find the new definitions of the Com-
11 mission's jurisdiction which attempts to differentiate
12 social policy from civil rights to be narrow, restrictive
13 and unsupportable in law. The Commission's definition
14 discounts the continuing impact of the historical origins
15 of discrimination. The issues are inextricably inter-
16 twined, an attempt to separate them is artificial and
17 ignores the reality of civil rights issues.

18 "Two, we are alarmed at the Commission's newly
19 evident penchant for adopting positions without the benefit
20 of research, or appropriate fact-finding. We cite, for
21 example, the recent position taken on affirmative action
22 goals and timetables.

23 "We find the new requirements which are embodied
24 in the Staff Director's memorandum concerning the release
25 of SAC reports to have been prepared without prior notice

NEAL R. GROSS
COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVENUE, N.W.
WASHINGTON, D.C. 20005

1 to, or consultation with the SACs. Although the Commission
2 has characterized these groups as its 'eyes and ears'.

3 "We recommend that these new rules should be re-
4 examined and modified, after consultation with SACs.

5 "Four, we are particularly alarmed at the Chair-
6 man's recent statements designated himself as the spokes-
7 person for civil rights for the Administration. This is
8 clearly in opposition to the congressionally mandated
9 role of the Commission, as a bipartisan collegial body
10 devoted to independent inquiry into civil rights concerns.

11 "The Chair and the Commission can hardly function
12 as the latter, while serving as the former. We bring
13 these matters to your attention from our deep concern and
14 from our wish for the Commission to be a continuing servant
15 to those in our society who are the denied.

16 "Given the serious nature of the above-referenced
17 issues, and our mutual interest in expanding lines of
18 communication, we are hereby requesting a special meeting
19 with the Commission, as soon as is reasonably possible.

20 "Submitted with the concurrence and endorsement
21 of the body in plenary session, and the chairpersons of
22 the MARO SACs, Donald Pitts and Curtis Harris, co-chair-
23 persons for the concluding session".

24 REV. HARRIS: Do we have any difficulty with the
25 letter now that it has been finalized?

NEAL R. GROSS
COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVENUE, N.W.
WASHINGTON, D.C. 20005

1 MR. FERRON: Just one, in that next to the last
2 sentence, the one that I drafted, where we say "We are
3 hereby requesting a special meeting with the Commission,
4 as soon as reasonably possible".

5 I am suggesting an even finer modification, "A
6 special meeting with the Commission to resolve these issues,
7 as soon as reasonably possible".

8 And that gives it a specific focus for the meeting.
9 Does that require a motion, or anything?

10 REV. HARRIS: We are going to pass on the whole
11 thing, once we get it in shape.

12 MR. FERRON: Mr. Chairman, we were discussing
13 getting the letter out.

14 REV. HARRIS: Let's get the letter finished and
15 adopt that, and then we will discuss how we are going to
16 get it out.

17 MR. FERRON: I move acceptance of the letter as
18 drafted.

19 MR. WATKINS: Second.

20 REV. HARRIS: Any further discussion on the letter?

21 (No response)

22 MR. FERRON: Call the question.

23 REV. HARRIS: Those in favor of the motion say
24 Aye.

25 (Chorus of Ayes)

1 REV. HARRIS: Opposed same sign.

2 MR. KENNEY: She didn't get a chance to vote,
3 because she was talking to me.

4 REV. HARRIS: You are like the deacon who woke up
5 in the church, and he and the preacher were the only ones
6 there.

7 (Laughter)

8 REV. HARRIS: I will have to tell you about that
9 later.

10 MR. WAKINS: Can we put it on the record that the
11 letter was adopted unanimously?

12 REV. HARRIS: Let the record show that the motion
13 to adopt the letter was unanimous.

14 Now the release of the letter.

15 MR. FERRON: Mr. Chairman, my concern is process.
16 We are all supportive of getting the letter out as quickly
17 as possible. What I am concerned about now is protocol.
18 Were I a Commissioner, whether a liberally oriented
19 Commissioner, or a conservative, I would have a deep
20 problem in finding out about the letter first, through
21 the press.

22 So, I would move that there will be a concurrency,
23 or that the letter be received by the Commission, and
24 released to the media simultaneously, as opposed to the
25 media first.

1 MR. KENNEY: If the motion is moved, I will second
2 it.

3 MR. FERRON: So moved.

4 MR. KENNEY: Second.

5 REV. HARRIS: It is so moved that the letter be
6 released to the Commission and the press simultaneously.

7 MR. KENNEY: There is this thing about old news
8 and good news, or -- if this is going to come out to the
9 press next week sometime, it is going to be difficult to
10 report it because it is something that happened last
11 Thursday or Friday, and we are talking about what, Tuesday,
12 Wednesday, or Thursday? When might it get out to the
13 press?

14 MR. RUTLEDGE: First of all, just in terms of
15 logistics, and in terms of getting news releases out,
16 Saturday is about the worst time you can get a news release
17 anywhere, and Sunday is dead. So that this letter, first
18 of all, there is no stationery, the letter could be proper-
19 ly typed and addressed at our office Monday morning. It
20 could be properly prepared as a news release at our office
21 Monday, with the envelopes, the names of the media, and
22 all of that, right there. We don't have those facilities
23 here, nor did I ask staff to plan otherwise at the con-
24 clusion of the meeting, they could leave. The office is
25 not next door.

1 So, my recommendation, and having to run this
2 operation, is that we will accept that letter and the
3 responsibility of getting it out Monday morning.

4 MR. McINTYRE: That is fair enough.

5 MR. WATKINS: Mr. Chairman, I move the letter be
6 turned over to the Regional Office to be prepared properly
7 for issuance on Monday.

8 MS. MORRIS: Second.

9 REV. HARRIS: Any discussion?

10 MR. FERRON: As a point of order, there was another
11 duly seconded motion, we haven't resolved that motion.

12 I will withdraw it, if the second will accept it.

13 REV. HARRIS: We were discussing your motion.

14 MR. FERRON: I am willing to withdraw the motion,
15 if the second will --

16 MR. McINTYRE: Your motion is what we were voting
17 on, and you said what we could do.

18 REV. HARRIS: Let me say this, the second motion
19 that is before us is out of order. Now, we were discussing
20 the first motion, and we got into the second motion, and
21 I have forgotten what the first motion was.

22 MR. McINTYRE: To release them simultaneously.

23 REV. HARRIS: Okay, the first motion to release
24 them simultaneously can be amended to include what was in
25 the second motion.

1 MR. FERRON: I would accept the amendment to
2 incorporate the proposed second motion.

3 REV. HARRIS: Is there a second to the amendment?

4 MR. McINTYRE: Second.

5 REV. HARRIS: Those in favor of the amendment say
6 Aye.

7 (Chorus of Ayes)

8 REV. HARRIS: Opposed same sign.

9 (No response)

10 REV. HARRIS: The Ayes have it, and it is so ordered.

11 Now, we have the motion with the amendment in
12 front of us. Those in favor of the motion with the amend-
13 ment say Aye.

14 (Chorus of Ayes)

15 REV. HARRIS: Opposed same sign.

16 (No response.)

17 REV. HARRIS: The Ayes have it and it is so ordered.

18 Now, we have the letter drafted and we have the
19 process for releasing it. It will be prepared and released
20 Monday, delivered to the Commission, so that they will have
21 it simultaneously with the press. And we will all sit back
22 and wait to receive our letter.

23 MR. RUTLEDGE: If the phone doesn't answer, you
24 will understand.

25 DR. BICKLEY: How can this be sent to other SACs?

1 REV. HARRIS: We want to request that the office
2 send copies of this letter to the other SACs in other
3 regions. Also, --

4 MR. KENNEY: Cannot a copy of the letter be sent
5 to Gale Martin of IAOHRA, because we will be meeting July
6 8th, and the chair will be there the first day, and it
7 would be good to have that information?

8 MR. RUTLEDGE: Why don't you provide him with
9 that?

10 MR. KENNEY: I will get a copy of it.

11 MR. FERRON: A question of logistics, Mr. Chairman,
12 the media, as we all know, wants this release received by
13 the press, and will want to contact a spokesperson, or
14 representative of this body, logistically, how are we
15 going to deal with that?

16 REV. HARRIS: They will contact Rutledge, and he
17 will give them names and please send us a copy of the
18 letter, so we will know what we said.

19 What about this letter? What letter?

20 MS. MORRIS: The local press will probably con-
21 tact the chair of the region.

22 REV. HARRIS: Everybody will have a copy of the
23 letter, fine.

24 We did another letter and made some changes in the
25 other letter. Don wants to share the changes with you,

NEAL R. GROSS
COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVENUE, N.W.
WASHINGTON, D.C. 20005

1 before we close.

2 MR. RUTLEDGE: Excuse me, this letter now is, as
3 far as that letter, is clear. The letter that you have
4 you will give to us?

5 DR. BICKLEY: Yes, let me explain it to somebody.

6 REV. HARRIS: She will do that, we are going to
7 break up here in a few minutes. Let's do this.

8 MR. PITTS: Concerning the letter to Ms. Chavez,
9 the letter is to go to Ms. Chavez, with copies to Com-
10 mission members.

11 "At the MARO Conference on June 28th, 1984, --
12 and here is the change -- "Chairman Pendleton, Commissioner
13 Destro and you, discussed the Grove City decision and the
14 so-called 1984 Civil Rights Act".

15 I am going to skip the other two paragraphs, and
16 go to the paragraph which we changed, is that all right?

17 REV. HARRIS: Yes.

18 MR. PITTS: "In your testimony -- changed -- before
19 a Senate committee, earlier this week -- change -- Ms.
20 Chavez, as the Staff Director for the Commission, and in
21 your appearance before the Regional Conference, you stated
22 that the Commission's position was that in the event of
23 a finding of discrimination, fund cutoff to the offending
24 institution should be programatic -- change -- At the
25 Conference your views were shared by the Commissioners

1 present. This statement is in diametric opposition to
2 legislation -- no further changes in that paragraph.

3 "A review of the transcript of June 28th -- of
4 the June 28th Regional Conference reflects that you and
5 -- this is the change -- and the Commissioners observed
6 that there is harmony between the position of the U.S.
7 CC and the civil rights groups within the LCCR. This
8 statement appears to have no basis in fact. Your remarks
9 in this regard have become a source of great consternation
10 to the conferees. We ask you to review the transcript
11 and clarify your statement, so that any perceived mis-
12 representation may be quickly rectified-- the "perceived
13 misrepresentations" was the change. -

14 MR. KENNEY:: Perceived misrepresentations, don't
15 you think that is quite strong?

16 MR. WATKINS: It is not as strong as what we
17 substituted it for -- she misrepresented the civil rights
18 community's position on the legislation, there is no
19 question that she misrepresented it.

20 MR. PITTS: Should Curtis and I sign this letter
21 as co-chairpersons, or what?

22 MR. KENNEY: I see nothing wrong with it, myself.

23 MR. PITTS: Those are the changes that were made.
24 I don't know whether we carried the vote on it this morning.

25 MR. WATKINS: We carried a vote with changes.

1 MR. FERRON: I am going to be a stickler and
2 apologize, but I have a problem with "perceived misrepre-
3 sentations". You have documented that these were mis-
4 representations, but these are not perceived.

5 MR. WATKINS: It was my phrase, can I defend it?

6 MR. FERRON: I won't argue.

7 MR. WATKINS: The reason is to give her an
8 opportunity --

9 MR. FERRON: What about "the possible misrepre-
10 sentation"?

11 MR. WATKINS: I don't think it was a possible
12 misrepresentation, it was one. We perceived it as one.

13 MR. McINTYRE: Don't look at me, I used duplicity.

14 MR. FERRON: I have a problem with "perceived".

15 MR. WATKINS: Nobody misunderstood it, give her
16 the benefit of the doubt.

17 MR. FERRON: Okay, we are just a bunch of diplomats
18 here.

19 MR. PITTS: I will turn that letter over.

20 MR. FERRON: I guess, for the record, a motion
21 should be made to adopt or to accept the modifications. If
22 that is appropriate, I would make that motion.

23 MR. McINTYRE: Second.

24 REV. HARRIS: Any discussion?

25 (No response.)

1 MR. McINTYRE: Question, call the question.

2 REV. HARRIS: Those favoring the motion say Aye.

3 (Chorus of Ayes)

4 REV. HARRIS: Opposed same sign.

5 (No response)

6 REV. HARRIS: The Ayes have it, and it is so
7 ordered.

8 Now, this is the second letter that Don and I have
9 signed, that is what you call "over-kill".

10 (Laughter)

11 REV. HARRIS: I believe we have done as much as
12 we can do in this conference, and I want to thank you all
13 for the privilege to share with you in this session, having
14 come to the conclusion of our conference, if all minds
15 are clear, I will declare that the conference is duly
16 closed.

17 (Whereupon, the meeting was adjourned at 3:15 p.m.)

18

19

20

21

22

23

24

25

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: Friday, June 29, 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.

[Handwritten signature]

NEAL R. GROSS
1323 Rhode Island Ave.
Washington, D.C. 20005