

1 UNITED STATES  
2 COMMISSION ON  
3 CIVIL RIGHTS

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5 MARYLAND

6 STATE ADVISORY COMMITTEE TO THE  
7 UNITED STATES COMMISSION ON CIVIL RIGHTS

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9 Allegany County Office Building  
10 3 Pershing Street  
11 Cumberland, Maryland 21502

12 Monday,  
13 June 17, 1985

14 The above-entitled open forum was opened, pursuant  
15 to notice, at 11:30 a.m.

16 APPEARANCES:

17 Lorretta Johnson, Chairperson  
18 Joshua Muravchik  
19 Patsy Blackshear  
20 Walter Bosley  
21 K.. Patrick Okura  
22 Leonard Aries  
23 H. DeWayne Whittington  
24 Gerald L. Stempler  
25 Ki-Taek Chun

Topic: Maryland Human Relations Commission  
Handling of Complaints of Handicap Discrimination

U.S. Commission on Civil Rights  
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1           A little bit about the Commission; it is an  
2 independent, bipartisan fact finding agency established by  
3 Congress under the Civil Rights Act of 1957. On November  
4 30, 1983, a new Commission was established under the Civil  
5 Rights Act of 1983. As required by law, the Commission has  
6 established advisory committees in each state and the  
7 District of Columbia to assist in fact finding,  
8 investigative and clearinghouse work.

9           The Maryland Advisory Committee to the U.S.  
10 Commission on Civil Rights is composed of citizens of this  
11 state who are familiar with local and state civil rights  
12 problems, and they serve without compensation.

13           The Committee is authorized to study developments  
14 constituting a denial of equal protection of the laws under  
15 the Constitution because of race, color, religion, sex,  
16 national origin, age or handicap, or in the administration  
17 of justice.

18           This forum is one of our committee's regular  
19 public meetings.

20           The Maryland Advisory Committee is chaired by  
21 Lorretta Johnson of Baltimore, an officer of the Baltimore  
22 Teachers' Union. Our subcommittee was chaired briefly by  
23 Edwin J. Delattre of Annapolis and later by Dr. Chester L.  
24 Wickwire who made valuable contributions to the planning,  
25 along with the other members of the subcommittee. Chester

1 Wickwire had prior commitments that required his presence in  
2 Central America where is touring several countries.

3           Leading up to today's forum, the entire committee  
4 participated and the other members of the Advisory Committee  
5 here with me today are Joshua Muravchik, Walter Bosley,  
6 Patsy Blackshear, K. Patrick Okura, Lorretta Johnson,  
7 Leonard Aries, H. DeWayne Whittington, Gerald Stempler and  
8 Ki-Taek Chun.

9           The names of all the members of the Maryland  
10 Advisory Committee are available on the last page of today's  
11 press release which you will find on the table at the  
12 entrance to this room and, along with other publications,  
13 you will find a brochure with more information on both the  
14 U.S. Commission on Civil Rights and its 51 advisory  
15 committees. Also, you will find a sheet for persons to  
16 sign, to give addresses and agencies, if you wish. We would  
17 like to know who is here and we would like to inform you of  
18 future Advisory Committee activities.

19           Our committee receives staff support from the  
20 Commission's Mid-Atlantic Regional Office. Staff of the  
21 U.S.C.C.R. who are here today from the Mid-Atlantic Regional  
22 Office are Ki-Taek Chun, Deputy Regional Director, Yvonne  
23 Schumacher, Civil Rights analyst and Edward Darden, Civil  
24 Rights analyst and field representative for our committee.

25           The purpose of this forum is to gather information

1 from a variety of sources about whether or to what extent  
2 there is handicap discrimination in Maryland. And our  
3 purpose is to make this Advisory Committee meeting  
4 substantively interesting and on occasion for the Committee  
5 to function in its historic role as "the eyes and ears of  
6 the Commission."

7 In addition, we are interested in a productive  
8 interchange of ideas and in hearing your recommendations for  
9 solutions of problems of handicapped discrimination that the  
10 Committee may communicate to the Commission and any other  
11 issues pertaining to handicapped discrimination that deserve  
12 further monitoring by our Advisory Committee.

13 After this forum the Advisory Committee will  
14 compile a briefing memorandum based on the information that  
15 we have learned here and submit it to the United States  
16 Commission on Civil Rights and follow up with several  
17 experts and others who were invited to attend but who could  
18 not conveniently schedule an appearance.

19 These proceedings will be transcribed to ensure an  
20 accurate account of the forum and to assist the Maryland  
21 Advisory Committee in its presentation of its briefing  
22 memorandum.

23 The authority for the Commission to undertake the  
24 task that we are about today is contained in 42 U.S.C. 1975.  
25 The authority for the Advisory Committee is contained in

1 that same 1975 subsection B.

2 In order to inform ourselves and the public of the  
3 issues of handicapped discrimination we have invited a  
4 number of persons to address our committee and to answer our  
5 questions. Each person is here voluntarily to share his or  
6 her views with us about the issues.

7 Time has been scheduled for presentation of issues  
8 from any member of the audience in our Listening Post  
9 session this afternoon. Persons who wish to speak, please  
10 sign up with Ms. Schumacher at the rear of the room.

11 In addition, if any of the invited participants in  
12 today's forum or any member of the audience wish further  
13 information or wish to bring further information to the  
14 attention of the Advisory Committee, we urge you to send the  
15 information to us at the Commission's Mid-Atlantic Regional  
16 Office or call our regional staff.

17 Note also an agenda change. Mr. John Wormack of  
18 the Cumberland City Human Relations Commission will not open  
19 the Listening Post session. We regret that he did not have  
20 in hand our letter of initiation before the Commission's  
21 monthly meeting. The Listening Post will follow the order  
22 of the sign up sheet.

23 Lastly, Chester Wickwire could not be present but  
24 he has a written statement which we will read into the  
25 record.

1 I would like to our call first panel today. And  
2 as you take your seats, to be heard please speak up and  
3 identify yourselves.

4 MS. HALL: My name is Patricia Hall. I'm the  
5 Chairperson, Disabled in Action of Baltimore and  
6 Chairperson, National Disabled in Action/Advocacy view.

7 MS. KIRK: I am Faith Kirk and I an the Executive  
8 Director of the Governor's Commission on Employment of the  
9 Handicapped/Public Advocacy.

10 MS. CANNAN: I am Kathryn Cannan, Staff  
11 Coordinator, Implementation Health Systems Agency of  
12 Western Maryland/Garrett and Allegany Counties, Housing  
13 Discrimination.

14 MR. MEYER: My name is Jack Meyer and I'm the  
15 Executive Director of the Western Maryland Coalition for the  
16 Disabled, Problems experience by handicapped individuals.

17 MS. HALL: All right.

18 What is self-advocacy? It is the activity of  
19 deciding and accepting the right and responsibility to  
20 choose for oneself the level and direction of education, health  
21 services to be provided, employment, housing,  
22 transportation, entertainment and social relationships. It  
23 is the activity of living a full life as a full  
24 participating member and citizen of one's state and the  
25 United States of America in the least restrictive

1 environment in spite of a past, present or preceived  
2 disability.

3 The issues that citizens in the advocacy program  
4 are concerned with are as follows.

5 First. The right to access of public facilities  
6 such as Memorial Stadium in Baltimore.

7 Second. Access to public transportation such as  
8 the MTA.

9 Third. The right to employment, tenure and promotion  
10 without discrimination.

11 Fourth. The right to reasonable accommodations  
12 without being required that the landlord has the right to  
13 screen people.

14 Issues of present concern that have come from the -- is  
15 the fact that many do not have First or Fifth Amendment  
16 rights, freedom of speech, freedom not to incriminate self.

17 Economic deprivation through denial of redress  
18 quickly and equally through administrative and regulatory  
19 changes without imput or impact statements from disabled  
20 persons is another example of Social Security denials and  
21 changes as finalized by the Justice Department of federally  
22 conducted programs.

23 The underemployment of our disabled; the  
24 continuation of sub-minimum wages and waivers and sheltered  
25 workshops.



1 Denial of accessible housing. This is limited to  
2 public ghetto's and high priced condominiums, group  
3 homes/apartments and shelters for the homeless.

4 Abuse and harrassment of the disabled by family  
5 members, service workers, health systems, the education  
6 system and employers and businesses.

7 Denial or limited insurance coverage at a  
8 reasonable cost and cost effectiveness, such as health,  
9 life, car, home, et cetera.

10 Denial of credit and ownership by handicapped  
11 individuals. This is accomplished by screening out at  
12 higher and higher level of income or with co-signers  
13 required.

14 Continuing to allow children and others to be  
15 poisoned by lead paint and toxic chemicals. There is no  
16 enforcement of health issues in renovation of homes.  
17 such book up to date.

18 Some of the state-wide concerns that we are faced  
19 with are as follows.

20 Present human relations law in the State of  
21 Maryland does not meet provisions of the federal law or any  
22 regulations and it places the state government above present  
23 law as to monetary awards for non-compliance.

24 Cease and desist orders are not given on  
25 complaints filed by the disabled in spite of the harrassment

1 and abuse involved.

2 Extreme delays in the settlement of complaints or  
3 the compliance agency in filing in court on behalf of the  
4 client. Most clients have to request a right to sue letter  
5 because of inaction case filed in 1978 that was settled out  
6 of court by parties without the agencies help and signed off  
7 by the agency in 1985.

8 Limited funding for needed barrier removal and  
9 waivers given to leasing landlords on a whim with no  
10 compliance by agencies involved.

11 Policy procedures are not reviewed for compliance  
12 with or impact on the federal regulations or the disabled  
13 community.

14 Meetings by committees and boards are not held  
15 when working disabled person can attend and not necessarily  
16 in accessible buildings or locations.

17 Employment issues are not addressed to increase  
18 the number nor level of employment of disabled within and  
19 outside of the state government.

20 Tax incentives are not encouraged nor addressed by  
21 agencies to assist disabled in employment or business  
22 ventures.

23 The majority of the EEO staffs do not employ  
24 disabled persons in viable/visable positions.

25 Affirmative Actions gives access to public

9 ✓

1 housing in Sections 501, 503 and 504 in the Maryland --

2 Federal workers have not been reviewed.

3 In spite of the advocates attempting to work with  
4 the sytem, agencies and other entities or associations within  
5 the community; the present and past attitude has been one of  
6 retrenchment and denial of basic human needs and abusive  
7 "third-class" treatment of the needs of the disabled  
8 community. This communitry is not limited by socio-  
9 economic, race, sex or age classification. This is a  
10 growing community. The problems are not limited to Maryland  
11 alone nor to state employment. Many individuals who live in  
12 Maryland work for the Federal Government and ahve found the  
13 same to be present in both the federal system and in working  
14 in the District of Columbia area.

15 It is a waste of money to delay or deny what is  
16 ours by the constitution much less law and regulation. By  
17 denying employment one denies an increase in tax dollars,  
18 higher productivity and allows the free marketing of talent.  
19 By denying access to transportation or housing one the  
20 revenue and liberty. By denying cease and desist orders,  
21 compliance with the laws or action on behalf of the disabled  
22 one denies life. By denying access to public facilities,  
23 including parks, et cetera, one denies the persuit of  
24 happiness.

25 Let it be noted that the forms of discrimination

1 are still with us only more subtle, manipulative and feeding  
2 on an ideology of a pecking order or survival of the fittest,  
3 and other such ideals that have no relation to the actual  
4 status of the disabled person or community. To continue so,  
5 is to bbe seen as a society of either bullies or inept  
6 individuals who must harm by either action or inaction the  
7 alleged weaker member of society.

8 All we ask is to choose for ourself and to be  
9 treated as full first class citizens.

10 I thank you for your time and effort and look  
11 forward to seeing improvements in compliance efforts and  
12 acceptance of our needs as members of society.

13 Thank you.

14 MS. JOHNSON: Thank you, Ms. Hall.

15 Ms. Kirk?

16 MS. KIRK: Thank you.

17 I don't have a prepared statement to read from  
18 because I have dyslexia so you'll have to bear with me.

19 When I was asked to speak -- letter about when you  
20 look -- the problems.

21 In 1947 Truman was President of the United States  
22 and felt -- President's Commission -- request for in 1947  
23 did follow. Since then the Maryland Commission had grown --  
24 charge -- . We still need it because I think there has been  
25 enough loss in the last ten years for . The only reason we

1 have not lost much more of -- has been -- and when the  
2 spending -- these -- happen.

3 If you look at all the -- in Section 504 -- . The  
4 administration in the last ten years -- what they couldn't  
5 -- to be watering down. They gave orders that got placed --  
6 this in Sections 501, 502, 503 and 504.

7 We have to look very carefully -- water down to  
8 several -- . In paragraph six of the Civil Rights Code --

9 With those Complainants who file for compensation  
10 under the Revenue Shares Act -- you have to look very  
11 carefully because they take -- for people and if your  
12 meeting --

13 I look at Ms. -- and see 30 very hard working  
14 committee member -- way long -- it takes for --. For  
15 example, we did a four-year study of our own state and from  
16 that study we are working very closely with -- and changed  
17 the study.

18 Training. We have trouble getting people to  
19 attend, and if that was done we could educate them at a  
20 highest level -- . We also got them to say -- of the system  
21 that eight percent -- therefore, eight percent should be  
22 disabled. We finally got into the Affirmative Action goal  
23 and it is working.

24 There will be a ratio of eight percent of the  
25 state medical examinations that are -- and have kept

12. ✓

1 medical expenses low. It is not going -- also we have -- it  
2 is not as good as the one that Saturdays have offered.

3 We in the state legislation -- to administrative  
4 -- . We have been working with them for many, many months  
5 now. It looks like it is just that it seems we can't agree  
6 so we have got to look at all of those we have.

7 Number one barrier on Main Street, U.S.A. is the  
8 attitudes because persons with handicaps pricks -- or as the  
9 -- three dimensional -- than human and with that the many --  
10 and not when that happens, when we change the attitudes, I  
11 will be out looking for a job and it will be the happiest  
12 day of my life.

13 Community houses resources. The board is made up  
14 of 15 member in Allegany County that represent housing to  
15 the government and CHRB. The study was quite extensive --  
16 study.

17 What is the extent of discrimination? -- out  
18 number the housing industry as -- . They were interested in  
19 individuals who had no handicap -- Three interests -- to  
20 assist housing needs of --

21 Finally, the question was will the local real  
22 estate -- . I though major -- and would also offer that  
23 copies are available -- 600 or so and that was not under all  
24 23 percent, 19 percent, by the way, are distributed in a  
25 land lords -- the service.

B.V.

1           The first quiz after this happened to you -- you  
2 had the right to complain --. Do you think it is good to  
3 have laws -- have housing assistance -- major funding . It  
4 was a more important find, in this was what people did, very  
5 -- just generally on the --

6           So in my mind they -- even if they had recognized  
7 what to -- and that what to know, who the proper county  
8 commissioner was to notify.

9           I think one of the more striking signs -- but  
10 weigh the question the way we identify a handicap. We sent  
11 all -- many said, no, that it is not a handicap, not to rent  
12 to me. One would have to do what would -- have the  
13 emotional or mental handicap.

14           The end result is that very few laws have been  
15 passed -- letter who answered the question as well as the  
16 people who are providing the money when they are both -- and  
17 the landlord. I say it is a question that another  
18 interesting finding --

19           MS. JOHNSON: You have two minutes.

20           MS. CANNAN: Okay.

21           My name is Kathryn Cannan. I'm speaking today on  
22 behalf of the Cumberland Community Housing Resources Board.  
23 I'm a planner with the Health Systems Agency of Western  
24 Maryland and my agency obtained the grant from the CHRB to  
25 conduct a fair housing study in Garrett and Allegany

1 Counties, the two westernmost counties in Maryland.

2 The Community Housing Resources Board, or CHRFB, is  
3 an organization made up of 15 volunteers representing  
4 various sectors of the community including homeowners and  
5 renters, housing industry groups and government housing  
6 assistance agencies. Its purpose is to monitor and improve  
7 local fair housing practices.

8 The study commissioned by the CHRFB was quite large  
9 in scope; handicapped individuals, or rather households with  
10 handicapped members, made up only one of nine groups  
11 targeted for study.

12 The purpose of the study includes (1) determining  
13 if people felt they were victims of unfair housing practices  
14 and (2) quizzing people on their knowledge of and attitudes  
15 toward the fair housing laws and government sponsored  
16 housing assistance program.

17 Time does not permit me to give you details of  
18 sampling methodologies, survey instruments, and profiles of  
19 respondents. Suffice it to say that we asked people to tell  
20 us if they thought they would have a right to complain in  
21 several particular scenarios we gave them. Two of the  
22 scenarios were geared specifically to households with  
23 handicapped members. One hypothesized that a landlord says  
24 he/she can't rent to a person in a wheel chair because the  
25 building isn't equipped for them; would you have the right



1 to complain?

2 Another describes the situation in which a  
3 mortgage lender requires from a person with a history of  
4 mental illness a doctor's letter stating the person could  
5 handle living on his/her own before the money is loaned.

6 There was a total of 142 respondents with  
7 handicapped household members for a 23 percent response rate  
8 compared to about 19 percent overall for all citizen groups.  
9 At least 70 percent of these handicapped respondents  
10 incorrectly assessed their right to complain in the two  
11 scenarios specifically geared to them. In their poor  
12 performance, however, they were identical to their  
13 counterparts in other targeted groups; general public,  
14 racial minorities, females heading households, landlords,  
15 mortgage lenders, housing assistance program employees and  
16 real estate agents.

17 It would seem from these findings that few, least  
18 of all handicapped person, landlords and lenders, are clear  
19 as to when a handicapped person has the right to complain  
20 about potentially unfair housing or lending practices.

21 Perhaps the most significant finding of the study  
22 is that in general citizen respondents, handicapped  
23 included, indicate they would not know where to take a  
24 complaint about such matters, even if they did recognize  
25 themselves as victims of unfair practices.

1           Finally, of 48 respondents who described a total  
2 of 62 personal experiences with housing in which they  
3 believed themselves to be unfairly treated, ten instances  
4 may have been related to a household member's handicapped  
5 condition.

6           In summary, study findings reveal several  
7 situations which seem to be occurring simultaneously among  
8 citizens and housing industry people in a manner that leads  
9 us to conclude that handicapped individuals in Garrett and  
10 Allegany Counties are the victims of certain types of unfair  
11 housing practices. Citizens may not recognize themselves as  
12 victims of unfair practices and wouldn't know where to take  
13 their complaints in any event. Landlords and lending agents  
14 may not be clear as to what constitutes unfair practices.  
15 The Civil Rights Commission and other advocacy organizations  
16 like CHRB should increase their efforts to educate the  
17 public about what constitutes fair and unfair practices and  
18 where people can take their complaints.

19           I think that really wraps up the major results of  
20 the study, but one of the major conclusions of the study is  
21 worth looking into.

22           Thank you.

23           MR. MEYER: My name is Jack Meyer. I'm the  
24 Executive Director of the Western Maryland Coalition for the  
25 Disabled.

17. ✓

1 I began work professionally in 1952 in Illinois.  
2 Four years later I took a job as plant chemist for a company  
3 with operations on the Wisconsin-Michigan boarder. One of  
4 my first assignments was to select and hire a technician to  
5 work in the laboratory. As part of the introduction to the  
6 job I had to take the candidates around the plant explaining  
7 the process. A friend who saw me in the act of explaining a  
8 process I barely knew described it as the blind leading the  
9 blind.

10 History is repeating itself today; my experience  
11 with the disabled is limited.

12 Since 1979 our company has been consulting in  
13 business matters. The Coalition hired us on March 25 of  
14 this year to act as executive director, secretary,  
15 bookkeeper and janitor. We don't do windows.

16 As many of you know, the Coalition was formed in  
17 1982; it has since obtained HUD 202 money for the disabled  
18 in the four western counties of Maryland. The Coalition  
19 sponsored Summerplace Residences of Frederick, Inc.,  
20 Frederick-Garrett Residences, Inc., and most recently the  
21 Coalition is seeking rehab funds for Washington-Allegany  
22 Residences, Inc.

23 There have been several cases of groups,  
24 individuals and officials attempting to block renovation of  
25 homes for the disabled. Most of these objections took place

1 before my time, but there have been several minor instances  
2 more recently.

3 Experience suggests that these problems should be  
4 faced immediately and resolved at the lowest level without  
5 the use of threats. Many times those raising the greatest  
6 fuss are those who do not know the law. If they won't take  
7 your word for what the law is, then they should be referred  
8 to someone they trust who will enlighten them.

9 Personally, I try to view the objections from the  
10 point of view of those making the objection. If I can begin  
11 to see his point of view, it's easier to find a solution.  
12 It is easy to cite the law, but those convert don't last  
13 long.

14 Again from a person view, many, many people have  
15 not had contact, until recently, with disabled people. It  
16 takes time regardless of what the law says for people to  
17 accept those who are disabled.

18 Thank you.

19 MS. JOHNSON: Thank you all very much.

20 Any questions?

21 MR. BOSLEY: Do you --

22 MR. MEYER: As -- friend it is those people whose  
23 houses are --

24 MR. BOSLEY: --

25 MS. BLACKSHEAR: --

1 MR. MEYER: The Coalition has a number of -- to  
2 HUD.

3 MS. BLACKSHEAR: -- the one -- will be called.  
4 Members of the board of those groups when I say that, I am  
5 talking -- it is we -- talking to those friends. Also,  
6 members of the Washington Coalition board --

7 MS. BLACKSHEAR: Don't you desire to have the  
8 building take place?

9 MR. MURAVCHIK: --

10 MS. BLACKSHEAR: --

11 MR. MURAVCHIK: Surely it is better than it was a  
12 year ago?

13 MS. BLACKSHEAR: You indicated --

14 MR. MEYER: The problem is not resolved by the  
15 friend in Garrett County -- difficulty about a year ago.

16 MS. BLACKSHEAR: So education of the -- that might  
17 affect the -- is that the way?

18 MR. MEYER: Perhaps it is more so than -- disabled  
19 are allowed -- home and seem to go away once and for all.

20 MS. BLACKSHEAR: Thank you.

21 The only comment that I would like to make is what  
22 we have been talking about for over 100 years. I have been  
23 listening to you all talking for 50 minutes about changing  
24 attitudes. I think this -- and I think we have to change  
25 the attitudes before you can change behavior. You have to

1 change attitudes and I did not launch some real down to  
2 Earth service that we are not reserving -- loss -- on the  
3 books. That is part of the old problem I think.

4 This may lead to a -- , Ms. Kirk, and I wish you  
5 would explain that.

6 MS. KIRK: We on the Governor's Committee will go  
7 sit down with the employer and do that we can after we have  
8 listened. This program is free of charge and give many the  
9 -- that Tilting at Windmills and Pick and Disability --  
10 education training remember you may not --

11 One example, and right now we have a --

12 So we as leaders must set an example. We have to  
13 work with the media doing commercials. The mass media, both  
14 radio and television, -- going out and getting drunk. Do  
15 the training that needs to be done. I don't care what  
16 dyslexics expect, do they allow them to move into the main  
17 stream. I have seen --

18 Thank you.

19 One more thing. I just want to let you know that  
20 my reason for being here today is to change attitudes. We  
21 have been sight impaired --

22 MS. HALL: When I became a teacher -- when I was  
23 told I was to show disabled children -- . Teaching before  
24 main streaming was not nice -- . I am just a person whose  
25 -- . You could understand the frustration.

1 MS. BLACKSHEAR: The Applicant who starts a  
2 litigation, -- out reach with grants, federal and state?

3 MS. HALL: In just about every field possible -- .  
4 We have recently been funded at the state level under the  
5 advocacy program and to teach them how to advocate for the  
6 rates for -- involved in --

7 MS. BLACKSHEAR: As it did you also -- those  
8 you -- ?

9 MS. HALL: If we do, we have also got individuals  
10 -- run on a daily basis whether it be --

11 MS. BLACKSHEAR: The same change in insurances --

12 MS. HALL: Getting through to the insurance  
13 companies basically is to educate those who know us to get us  
14 to do further training for the insurance -- and it is a  
15 possibility. Time will tell.

16 MS. BLACKSHEAR: Ms. Kirk, you mentioned that as a  
17 lack of compensation in watering down the rules --

18 MS. KIRK: Basically we were -- and to look that  
19 those likes are key. We are concerned -- and so enough we  
20 have seen -- and I don't what to be there for every -- . We  
21 are talking a -- and transportation takes years to develop  
22 programs.

23 MS. BLACKSHEAR: --

24 MS. KIRK: For the state -- looking -- Office of  
25 Handicapped Persons we work very closely with the -- . I

1 think in many ways -- . It will cost to do what we want to  
2 do.

3 MS. JOHNSON; One more question then we will close  
4 this first panel.

5 MR. ARIES: --

6 MR. O'KURA: Ms. Kirk, you talked about loss and  
7 most of them are -- look very carefully whenever a decision  
8 comes from the Title V of the Rehabilitation Regulations  
9 because of the -- because we couldn't get our president to  
10 get it passed into law in 1984.

11 Do you know how many years and -- so in those two  
12 instances? I had no way of knowing. How about it for the  
13 law.

14 MS. KIRK: Again, ignorance -- . The kind of  
15 money that is needed to do the publicity -- handicapped is  
16 enough to put us in the lurch.

17 So then you do what need to be done. You heard it  
18 here. You have a housing law and what these people didn't  
19 even know was that they had the right to know how to protect  
20 themselves. Even when you do take your campaign to the  
21 people, take the campaign by the idea that you must --

22 MR. WHITTINGTON: The study is the reason that --

23 MS. HALL: For people you treat as out casts they  
24 are -- and many of them lose jobs and can't get other jobs  
25 to replace the ones they lost.



1 MS. KIRK: It is very, very expensive to start a  
2 litigation. Fortunately we have the Eastern Paralyzed  
3 Veterans in New York but that was an old group and they have  
4 to make a living some how. -- don't have it -- and  
5 resourceful because many of the -- so as that one of the big  
6 problems that is there --

7 MS. JOHNSON: I'd like to thank our first panel  
8 for coming here today.

9 We will recess now for lunch. Please be back here  
10 in an hour.

11 (Whereupon, the forum was recessed, to reconvene  
12 this same day, Monday, June 17, 1985.)

1 MS. JOHNSON: I'd like to begin with our second  
2 panel and have them identify themselves and speak clearly so  
3 the recorder can get all of the testimony that you're  
4 giving.

5 And also, I'd like to remind our audience out  
6 there those people who would like to be in the part of our  
7 agenda, The Listening Post, please sign up with Ms.  
8 Schumacher in the back. A lot of folks have not signed up.  
9 And we also would like to have everybody sign in. It is for  
10 the purpose of our mailing list so that we can send out  
11 information to you. We have publications back there on the  
12 desk in the back. And we'd like for any of you to take  
13 copies of those publications. Please remember, refrain from  
14 smoking and eating or drinking in this meeting.

15 Now, I'd like to start with the panel.

16 MR. MATHER: Good afternoon.

17 My name is Robert Mather from the United States  
18 Department of Justice in Washington, D.C. I'm <sup>delighted</sup> happy to talk  
19 about the ~~Civil Rights requirements for the disabled on the~~  
20 ~~federal level.~~

21 ~~the~~ Federal Civil Rights requirements relating to  
22 the handicapped discrimination in Maryland, one of the  
23 responsibilities of the United States Department of Justice's  
24 Civil Rights Division <sup>g</sup> is the coordination of federal laws  
25 prohibiting discrimination against qualified handicapped



1 persons in Federal programs and in <sup>J</sup> the programs receiving  
2 Federal financial assistance.

3 Section 504 of the Rehabilitation Act of 1973  
4 represents the first civil rights law protecting the rights  
5 of <sup>p</sup> the handicapped persons and reflects a national commitment  
6 to end discrimination on the basis of ~~the~~ handicapped.

7 Specifically, Section 504 states in relevant part:  
8 No otherwise qualified handicapped individual shall solely  
9 by reason of his handicap be excluded from the participation  
10 in, be denied the benefits of, or be subject to the  
11 discrimination under any programs or activities receiving  
12 Federal financial assistance or any program or activity  
13 conducted by any federal agency.

14 Section 504 is <sup>applicable</sup> ~~only acceptable~~ to discrimination  
15 occurring under two types of programs. The first type  
16 refers to those programs that receive federal financial  
17 assistance. Section 504 is program - specific in reach -  
18 that it prohibits discrimination only in the particular  
19 program receiving federal funds. For example, a university  
20 receives federal funds to develop programs in <sup>its</sup> ~~the~~ medical  
21 school. If the funds are allocated directly to and used  
22 only by the medical school programs, then <sup>the</sup> ~~only their~~ medical  
23 school ~~programs~~ <sup>and ~~university~~ ~~programs~~</sup>, not other university programs, would be  
24 covered as programs receiving federal financial assistance.

25 The second type of program subject to Section 504

1 are those programs conducted by federal agencies. An  
2 excellent example is right here, this community forum which  
3 is conducted by the U.S. Civil Rights Commission. Other  
4 examples are U.S. prisons, social security offices and  
5 postal offices.

6 Now, what is discrimination under Section 504? In  
7 a very recent decision the U.S. Supreme Court recognized:  
8 Discrimination against the handicapped was perceived by the  
9 Congress to be most often the product, not of invidious  
10 animus, but rather of the thoughtlessness and indifference  
11 of benign neglect. Federal agencies and commentators on the  
12 plight of the handicapped similarly have found that  
13 discrimination against the handicapped is primarily the  
14 result of the apathetic attitudes rather than affirmative  
15 animus.

16 For example, architectural barriers were clearly  
17 not built with the aim or intent of excluding the  
18 handicapped. Another quote from the Supreme Court <sup>is</sup> "The  
19 handicapped were the victims of discrimination in access to  
20 public transportation and discrimination because they do not  
21 have the simplest forms of special educational and  
22 rehabilitation services they need."

23 It must be emphasized that Section 504 does not  
24 require affirmative action; rather it requires that a  
25 recipient take reasonable modifications so as to ensure

1 meaningful access for disabled persons. Section 504 does  
2 not require a recipient to take actions that would result in  
3 a fundamental alteration in the nature of the program or in  
4 undue financial <sup>or</sup> administrative burdens.

5 If we're going too fast just stop us, please.

6 With their background in mind, now we can discuss  
7 the definitions of qualified handicapped persons *as well as*  
8 requirements as found in the 504 regulations. Both 504  
9 regulations for federally assisted programs *and federally conducted on*  
10 For this <sup>reason</sup> ~~purpose~~, I will address only 504 requirements for  
11 federally assisted programs.

12 Who is protected by Section 504? Section 504  
13 prohibits discrimination by reason of handicap against a  
14 qualified handicapped individual. To be afforded protection  
15 under Section 504 an individual must be a handicapped person  
16 and qualified.

17 Handicapped person, the term, handicapped person,  
18 has three categories. One, a handicapped person is any  
19 person who has a physical or mental impairment which  
20 subsequently limits one or more major life activities. The  
21 terms "physical or mental impairments" include but are not  
22 limited to disease or conditions as orthopedic, visual,  
23 speech, and hearing impairments, cerebral palsy, epilepsy,  
24 muscular dystrophy, cancer, heart disease, mental  
25 retardation, emotional illness, drug addiction and

1 alcoholism.

2 It is emphasized that a physical or mental  
3 impairment does not constitute a handicap for purposes of  
4 504 unless its severity is such that it results in a  
5 substantial limitation of one or more major life activities,  
6 such as caring for one's self, walking, seeing, hearing,  
7 speaking, breathing, learning, and working.

8 ~~About~~ <sup>ago</sup> two years the Department was asked <sup>whether</sup> which  
9 ~~people~~ <sup>person</sup> who used glasses should ~~be~~ <sup>be</sup> considered as ~~handicapped~~ <sup>handicapped</sup> persons  
10 ~~Section 504~~ <sup>police</sup>. One department required that person be able to  
11 see without using glasses. ~~And~~ <sup>argued</sup> the town ~~said~~ <sup>not</sup> those people  
12 who use regular glasses ~~will need glasses~~ were handicapped <sup>person</sup>  
13 under Section 504. The Department viewed that they ~~do~~ <sup>were</sup> not  
14 ~~come under the purpose of Section 504~~ because they ~~are~~ <sup>are</sup> ~~not~~ <sup>did not have</sup>  
15 ~~any physical disability that~~ limited "one or more major life activities" ~~similar with the~~  
16 ~~purpose that very serious cause put limits on their life~~  
17 ~~activities.~~

18 Secondly, a handicapped person is a person who has  
19 a record of such an impairment. The phrase means <sup>it has a record of</sup> has a  
20 history of, or has been misclassified as handicapped. <sup>such an impairment</sup>  
21 Frequently occurring examples are persons with histories of  
22 mental or emotional illness, heart disease or cancer.  
23 Persons have been misclassified as mentally retarded when,  
24 in fact, they are not.

25 Third, a handicapped person is a person who is

1 regarded as having such an impairment. The phrase means a  
2 person who is treated by <sup>a</sup> recipient as handicapped as a  
3 result of the attitudes. For example, ~~obese~~ <sup>obesity</sup> is a handicap  
4 if it is regarded as such by the recipient. Another example  
5 is one student who can function independently in school and  
6 ~~wants to~~ <sup>does not need</sup> special ~~things~~ <sup>accommodations</sup> mobility. But the schools  
7 refused to accept that student because he's handicapped.  
8 He's classified as handicapped but he did not see himself as  
9 handicapped or disabled.

10 As mentioned earlier, the term handicapped persons  
11 include drug addicts and alcoholism. This fact does not  
12 necessarily mean that drug addiction <sup>or</sup> alcoholism must be  
13 ignored in determining whether an individual is qualified  
14 for services or employment opportunities. A recipient may  
15 not deny an alcoholic or drug addict services or disqualify  
16 the person from employment solely because of his or her  
17 condition. The recipient may take the behavioral  
18 manifestations of the condition into account in determining  
19 whether he or she is qualified.

20 Pregnancy is not considered a handicap for  
21 purposes of 504.

22 If you have any questions while I'm giving my  
23 talk, please stop <sup>me</sup> ~~us~~.

24 Qualified handicapped person. In order to be  
25 covered by 504 a handicapped person must be qualified with

1 regard to programs or services. A qualified handicapped  
2 person is a handicapped person who can achieve the purpose  
3 of the program without modifications in the program that  
4 would result in fundamental alterations of its <sup>nature</sup> ~~natural~~ or  
5 undue financial <sup>and</sup> administrative burdens.

6 Those limitations are established by the Supreme  
7 Court in Southeastern Community College v. Davis, ~~is that case~~  
8 ~~the nursing school, plus limits on the application of 504.~~  
9 ~~That's a quote. He's quoting about the financial~~  
10 ~~alterations and the undue financial administrative burdens~~

11 The test is whether --

12 MS. JOHNSON: Excuse me a moment. When you are  
13 interpreting for him would you speak into the mike?

14 MR. MATHER: ~~They're not getting all I'm saying~~

15 The test is whether with appropriate modifications  
16 the person can achieve the purpose of the program. Section  
17 504 requires that a handicapped person who is capable of  
18 achieving the purpose of the program must be accommodated,  
19 provided that the modifications do not fundamentally alter  
20 the <sup>nature</sup> ~~name~~ of the program.

21 The general and specific requirements for Section  
22 504: The requirements can be divided into three major  
23 areas, employment practices, program accessibility and  
24 communication accessibility.

25 ~~Extended requirements 504~~ <sup>The general &</sup> basically says, in short,



1 <sup>that</sup> recipients are required to provide special treatment, make  
2 reasonable adjustments to regular programs, ~~or provide~~  
3 different programs wherever necessary to ensure meaningful  
4 access to the programs by disabled persons. For example, a  
5 welfare office that uses the telephone for communicating  
6 with its clients must provide alternative modes of  
7 communicating with its deaf clients.

8 Employment practices. Relating to employment, <sup>§</sup> 504  
9 requirements are designed to ensure qualified handicapped  
10 persons equal opportunity to participate in federal assisted  
11 programs. Section 504 applies to employment discrimination  
12 when the employer receives federal funds whether or not the  
13 primary objective of the funds is to provide employment.

14 Under <sup>§</sup> 504 only qualified handicapped persons are  
15 entitled to equal employment opportunities. With respect to  
16 employment, the term "qualified handicapped person" means a  
17 handicapped person who, with reasonable accommodations, can  
18 perform the essential functions of the job in question. The  
19 concept of reasonable accommodations includes <sup>making</sup>  
20 buildings accessible to the handicapped employee, job  
21 reconstructing, part-time or modified work schedules,  
22 acquisition <sup>or</sup> modification of equipment or devices, and the  
23 provision <sup>of</sup> interpreters <sup>or</sup> readers.

24 A recipient is not required to provide an  
25 accommodation if he or she can demonstrate that the

1 accommodation would ~~oppose~~ <sup>cause</sup> an undue hardship on the  
2 operation of the program.

3 Whether an accommodation constitutes undue  
4 hardship will vary depending on the facts of a particular  
5 situation. A small day-care center might not be required to  
6 spend more than a normal sum, such as that <sup>is</sup> necessary to  
7 equip a telephone for the use by a secretary with hearing  
8 impaired. <sup>man</sup> But a large school district might be required to  
9 make available a teacher's aide to a blind applicant for a  
10 teaching job.

11 Last year there was an important ~~X~~ in the <sup>court decision on the issue of reasonable accommodations</sup>  
12 ~~Department of the Handicapped~~ <sup>in the Pennsylvania's case</sup>, blind caseworkers, who  
13 reviewed clients' files, ~~Now blind workers~~ asked that the  
14 state ~~for a service to provide a reader~~, a part-time <sup>accommodate</sup> reader  
15 to help the blind caseworkers. It would cost about several  
16 hundred dollars <sup>for each reader</sup>.

17 The Department refused to provide the reader.  
18 Then the blind person went to the <sup>court</sup> Department again. ~~And~~  
19 ~~under 504~~ <sup>court stay argued?</sup> the Department said first, the blind person <sup>was</sup> not  
20 qualified <sup>handicapped</sup> person because that job requires reading, ~~reading~~  
21 papers, <sup>and</sup> reading files, ~~and so on~~. That person can't read.  
22 Second, if the blind person is a qualified <sup>handicapped</sup> person, then they  
23 ~~the Department~~ should not provide a reader because it <sup>would cause</sup> ~~will~~ get undue  
24 burdens.

25 The Court ruled ~~that~~ <sup>Department</sup> against the disabled person.

1 The question was <sup>whether</sup> the blind person <sup>could</sup> function with proper <sup>adjustment</sup>  
2 modifications. In this case they <sup>could perform the</sup> can do a good job with a  
3 part-time reader. <sup>with respect to the second argument, the Court</sup>  
4 ~~modifications, look at the department's~~ <sup>budget and found it received</sup>  
5 ~~million of in Federal financial assistance.~~ <sup>large money, lots of</sup> Then the Court determined  
6 dollars. It ~~was~~ <sup>was not an</sup> undue burden on that department to provide  
7 a ~~small service~~ <sup>reader</sup> for the blind <sup>caseworker</sup> client. That's a very good  
8 case on the concept of ~~the reason~~ <sup>able</sup> of changing modifications.

9 Program accessibility. Section 504 regulations  
10 prohibit/ discrimination because a recipient's program or  
11 activity is located in an inaccessible facility. The goal  
12 of program accessibility is to ensure equal opportunity for  
13 qualified handicapped persons to participate in a program by  
14 ensuring physical access to the program.

15 The program accessibility requirements has two  
16 sets, one for dealing with the construction of new  
17 facilities, and another for dealing with the existing  
18 facility.

19 Any building constructed with federal funds must  
20 be made ~~ready~~ <sup>readily</sup> accessible to disabled persons. With respect  
21 to existing facilities, the 504 requirements provide that  
22 the program operated in an ~~existed~~ <sup>existing</sup> facility, when viewed in  
23 ~~its~~ entirety, must be readily accessible to ~~the~~ <sup>disabled</sup> handicapped  
24 persons.

25 Under this provision a recipient is not required  
to make each existing facility accessible to the handicapped

1 persons so long as the program, as a whole, is accessible.  
2 Thus, a recipient is not required to make structural changes  
3 to existing facilities where other methods are effective in  
4 making the program accessible, as long as priority is still  
5 given to offering the program in the most integrated setting,  
6 ~~appropriate.~~

7 For example, you have a federal program here. I'm  
8 not familiar with this building. <sup>Suppose if</sup> Do you have no front  
9 entrance that is accessible <sup>to</sup> for a person in a wheelchair?  
10 It's not required to ~~have~~ <sup>make it</sup> a front entrance <sup>accessible</sup> if you have  
11 another method of ~~getting the~~ <sup>making the program accessible to the</sup> handicapped person ~~into the~~  
12 ~~program, if it's accessible.~~ <sup>Here</sup> This is an example of how to  
13 make the program accessible. Suppose there's no elevator <sup>to</sup> in  
14 this ~~building.~~ <sup>second floor and</sup> Then the program <sup>is conducted</sup> should be ~~acted~~ on the  
15 ~~first~~ <sup>second</sup> floor. If you have <sup>a ready</sup> access to the first floor you  
16 would have to move the program downstairs. That's called  
17 ~~a~~ program modification.

18 To sum up the program accessibility requirements,  
19 a recipient may not deny equal opportunity to participate or  
20 benefit from a federally assisted program because the  
21 facilities are inaccessible.

22 Finally, communication accessibility. <sup>auxiliary aids</sup> A qualified  
23 handicapped person should be ~~given~~ <sup>provided with</sup> ~~communication services~~ <sup>access</sup> as  
24 necessary to be afforded an equal opportunity to participate  
25 in or benefit from a federally assisted program. A

1 recipient may be obligated to provide auxiliary aids, such  
2 as readers, interpreters, and devices that would ensure  
3 effective communication.

4 Other examples, we have public -- the register for  
5 the regular person. We have tapes for the blind person so  
6 the person has equal opportunity to see this register from  
7 the government office. For those persons who are visually  
8 impaired it is done in large print. These are examples of  
9 communication accessibility.

10 I'll be happy to answer any questions you have for  
11 me.

12 MS. JOHNSON: Thank you.

13 MR. MATHER: Thank you.

14 MS. JOHNSON: Are you representing Mr. Lancaster?

15 MS. HORNBECK: No. As I understand it, Mr.  
16 Lancaster hasn't arrived. I'm Rebecca Hornbeck with the  
17 Attorney General's Office.

18 MS. JOHNSON: All right.

19 MS. HORNBECK: Do you want me to go before you ask  
20 questions?

21 MS. JOHNSON: Yes.

22 MS. HORNBECK: My name is Rebecca Hornbeck. I'm a  
23 staff attorney in the Attorney General's Office. Thank you  
24 for inviting our office to be present at this community  
25 forum on handicapped discrimination.

1 The Attorney General of Maryland, Stephen Sachs,  
2 has been actively involved in issues involving handicapped  
3 persons. He is strongly committed to ensuring that the  
4 state meets not only the letter of its legal obligations,  
5 but the spirit.

6 THE INTERPRETER: I need you to slow down just a  
7 little bit.

8 MS. HORNBECK: Okay. Sorry.

9 He is strongly committed to ensuring that the  
10 state meets not only the letter, but the spirit of its legal  
11 obligations. Because the Attorney General gives priority to  
12 these issues, he <sup>has</sup> ~~is~~ appointed a special assistant, Ellen  
13 ~~Kaligari~~ <sup>Callegary</sup>. Ellen would like to have been here today. <sup>She</sup> ~~was~~  
14 originally invited but <sup>was</sup> ~~was~~ unable to come, so I am here in her  
15 place.

16 <sup>Ellen</sup> ~~She~~ supervises and coordinates the actions of our  
17 office on issues involving the rights of handicapped  
18 persons, institutionalized persons and prisoners. Ms.  
19 ~~Kaligari~~ <sup>Callegary</sup> works with state officials and representatives of  
20 interested citizens groups in a broad based effort to  
21 increase the opportunities for disabled citizens to achieve  
22 and maintain independence.

23 The Office of the Attorney General not only gives  
24 advice to state agencies, to the legislature, to the  
25 governor and represents them in legal actions, but we also

1 practice what we call preventive law. That means we try to  
2 take steps to prevent problems before the fact, rather than  
3 having them develop into situations that involve great human  
4 cost and lengthy litigation.

5 One especially satisfying example of this  
6 preventive law effort was the identification by the  
7 Department of Health and Mental Hygiene and our office of  
8 almost 300 mentally retarded persons who were being  
9 illegally housed in state psychiatric institutions. They  
10 were not receiving in those institutions the training and  
11 education to which they have a right.

12 This problem was brought to our attention by the  
13 Maryland Mental Health Association. All of these  
14 individuals who came to be called the Sachs' Population have  
15 now been evaluated and appropriately placed.

16 Another example of a preventive law effort on  
17 behalf of handicapped persons is the change that has been  
18 made in the state's vocational rehabilitation program. This  
19 change ensures that individuals with severe handicaps  
20 receive priority for services.

21 You heard this morning from the first speaker,  
22 Pat <sup>Hall</sup> ~~I don't remember her last name~~, from Disabled in  
23 Action. It was that advocacy group which brought this  
24 problem to our attention.

25 These changes occurred more quickly and more

1 effectively than would have been possible through a lawsuit.  
2 Am I still speaking too quickly?

3 THE INTERPRETER: All right.

4 MS. HORNBECK: Okay.

5 One of the most recent cases concerning the rights  
6 of handicapped persons is a class action brought by mentally  
7 ill patients in our state mental hospitals. They are  
8 seeking to implement their constitutional right of access to  
9 the courts. As a result of a consent decree, a legal  
10 services program will be established to provide free legal  
11 assistance to indigent patients who claim their civil rights  
12 have been violated or that they are entitled to benefits,  
13 like social security or veterans benefits, that they are not  
14 receiving.

15 This service will help ensure that patients'  
16 rights are not violated and that if they are it is quickly  
17 remedied. The program will also further the goal of  
18 deinstitutionalization by providing legal representation to  
19 persons seeking income entitlements. If they do receive  
20 their social security benefits, this enables them to live in  
21 the community instead of on the streets or in institutions.

22 Our office also protects and advocates for the  
23 rights of handicapped persons in other ways. For example,  
24 we recently filed an amicus brief in the Supreme Court case  
25 of Cleveland Living Center v. City of Cleveland. In our

Cleburne

Cleburne



1 brief we joined Texas supporters of a group home for  
2 mentally retarded persons in their efforts to have a  
3 restrictive city zoning ordinance declared unconstitutional.

4 In addition, we respond to numerous requests each  
5 year for letters of advice and opinions of the Attorney  
6 General. One of our recent opinions concluded that a  
7 health <sup>club</sup> which otherwise opens its membership to the general  
8 public, cannot deny a blind person full and equal access to  
9 and use of its facilities. This opinion was based on  
10 Maryland's White Cane law.

11 A recent letter of advice, ~~in fact~~ requested by  
12 Mr. Mather, in his role as a member of the Maryland  
13 Commission on the Hearing Impaired, concerned the issue of  
14 jury service by hearing impaired persons who need an  
15 interpreter. Hearing impaired persons are serving  
16 successfully on juries in Maryland. And our office advised  
17 that there was no reason for a change in this practice.

18 Another major concern of our office is one that  
19 was raised this morning in testimony, and that is of the  
20 handicapped employee. Faith Kirk mentioned the problem of  
21 attendance at ~~our~~ training sessions.

22 In order to try to address that problem our  
23 office, along with Faith's support and the support of John  
24 Lancaster's office, Maryland ~~Committee~~ <sup>of the Governor's Office for</sup> Handicapped  
25 Individuals, held a seminar last fall concerning Maryland

Coordination  
of  
Service  
to

1 and federal laws which affect handicapped persons. The  
2 seminar was for all general counsel and all assistant  
3 attorneys general who are the lawyers who represent all of  
4 these state agencies.

5 The seminar focused on a preventive law approach  
✓ 6 to legal issues relating to <sup>the</sup> employment of disabled persons  
7 and program accessibility, some of which Mr. Mather has just  
8 been describing. A manual entitled "Legal Framework for  
9 Employment and Program Accessibility for Disabled Persons"  
10 was developed by our office and distributed to all of these ✓  
11 assistant attorneys general ~~in the hope~~ <sup>so</sup> that they ~~will then~~ <sup>may</sup> ✓  
12 advise their clients, the state agencies, of what the law  
13 requires and how to comply with that law.

14 Furthermore, to ensure that all state agencies,  
15 including the Office of the Attorney General, do not screen  
16 out an individual just because of his or her race, sex or  
17 handicap, and to ensure that we are making reasonable  
18 accommodations for present and future employees, our office  
19 has undertaken an affirmative action audit.

20 Handicapped persons are included in this audit.  
21 It will help state agencies assess their work force and help  
22 them to bring their office into compliance with the  
23 governor's stated goal of eight percent employment of the  
24 handicapped which Faith mentioned this morning.

25 In closing, I would like to express our

1 appreciation in Maryland for offices like Faith Kirk's  
2 office, the Committee for Employment of the Handicapped, and  
3 for John Lancaster's office. They are an invaluable  
4 resource to us and a support to us as we try to represent  
5 the state agencies and to carry out Maryland and federal  
6 laws.

7 With their help and with the help of advocacy  
8 groups, some of which have spoken here today, we in Maryland  
✓ 9 ~~will~~ remain committed to the rights of disabled persons who  
10 are among the most vulnerable to the breach of the promises  
11 of the law.

12 Thank you.

13 MS. JOHNSON: Thank you.

14 Mr. Lancaster's office had called and we've been  
15 advised that he's having car trouble. Oh, he's here.

16 MR. LANCASTER: I'm here.

17 I am John Lancaster. And I apologize for being  
18 here late. I had my car in the shop since last Thursday and  
19 they promised me it would be ready at 8:00 this morning and  
20 it was not. So I had little alternative but to wait until  
21 they had the part in place.

22 I was asked to come and address my role, my  
23 office's role, that is the Governor's Office for  
24 Coordination of Services of the Handicapped, their role in  
25 monitoring and implementing state programs for disabled

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23 office's role, that is the Governor's Office for  
24 ~~Coordination of Services of the Handicapped, their~~ <sup>HANDICAPPED INDIVIDUALS</sup> ~~role~~ <sup>our</sup> in  
25 monitoring and implementing state programs for disabled



1 persons, in particular, in their relationship to  
2 discrimination against handicapped persons.

3 The main function <sup>of</sup> ~~that my office has, that is the~~  
4 Governor's Office for Handicapped Individuals, is to provide  
5 advice to the Governor and to the major state agencies on  
6 the delivery of services to disabled persons. <sup>We focus on</sup> ~~whether the~~

7 <sup>on persons with a variety of</sup> ~~disability~~ <sup>illness</sup> ~~be a mental handicap, or mental retardation, or a~~  
8 <sup>physical disability</sup> ~~or~~ <sup>ments,</sup> a hearing impaired <sup>ments,</sup> ~~or~~ sight impaired  
9 ~~person,~~ <sup>We monitor all</sup> whatever the disability might be, and ~~whatever the~~  
10 program ~~might be,~~ whether it's something to do with  
11 transportation, something to do with education, health care  
12 services, housing, (whatever it might be,) ~~architectural~~  
13 ~~barriers,~~ the problem of architectural barriers. →

14 So that's sort of our general mandate. Within  
15 that mandate we have a mandate to monitor and evaluate the  
16 delivery of services within the State of Maryland, both  
17 those services delivered by state agencies, those delivered  
18 by county agencies, and those delivered by private agencies.  
19 So we have to monitor those.

20 We're also charged with providing annually to the  
21 Governor and to the State General Assembly, to the  
22 Legislature, an annual report on the provision of services  
23 to disabled individuals.

24 Also part of <sup>the</sup> ~~our~~ charge of my office is to oversee  
25 a portion of the state's capital budget which is used for

1 the purposes of bringing the state owned buildings and  
2 facilities into compliance with Section 504 of the  
3 Rehabilitation Act of 1973. And that is a gradual program  
4 that we've had going in Maryland since the signing of the  
5 504 regulations. ~~And we are gradually in the process of~~  
6 spending somewhere in the neighborhood of \$500,000 to  
7 \$1,000,000<sup>a year</sup>; depending on how much the Governor and the  
8 Legislature gives us to go back through our old buildings  
9 and to bring them into the program accessibility  
10 requirements as spelled out in the regulations implementing  
11 Section 504 of the Rehab Act.

12 My office is also charged with being the state's  
13 Section 504 coordinator. ~~so to speak~~ So it's our charge in  
14 ~~the~~ <sup>the</sup> process of evaluating and monitoring various state  
15 programs to see that they are being delivered in a non-  
16 discriminatory fashion and to ensure that the various  
17 programs, especially those that are in receipt of federal  
18 financial assistance, are delivering their services in a way  
19 that is non-discriminatory.

20 In doing that we also participate and work with  
21 other state agencies, such as the Governor's Committee on  
22 Employment of the Handicapped, to ensure that the State  
23 Department of Personnel is doing what they ought to be doing  
24 to ensure that the state has a non-discriminatory practice  
25 in terms of hiring and promoting disabled people, and also

1 to ensure that we're doing some affirmative action.

2 Faith Kirk was on the agenda this morning. And  
3 I'm not sure whether or not she spoke to you about some of  
4 the things that we are doing in Maryland to increase the  
5 number of disabled persons in the state work force. But we  
6 are having some good progress in that area. The State of  
7 Maryland has set a goal of eight percent and we're working  
8 towards that. We're in the process of modifying some of our  
9 hiring practices so that disabled people are brought right  
10 into the mainstream of ~~the whole~~ merit system testing and  
11 ~~are being hired~~ <sup>hiring.</sup> and that ~~The~~ <sup>S</sup> State indeed is doing some  
12 affirmative action in that regard.

13 Also, my office has been working with the various  
14 local jurisdictions in ~~terms of~~ assisting them in their  
15 compliance with Section 504, the 504 regulations that have  
16 recently ~~or within the last couple of years~~ been implemented  
17 by the Office of Revenue Sharing. ~~So~~ We have held several  
18 training conferences for the 24 local jurisdictions, the 23  
19 counties and Baltimore City, and have been working with  
20 their county personnel on ensuring that our office is  
21 available to assist them in whatever way to ensure that  
22 they're in compliance with those regulations.

23 The Governor's Office for Handicapped Individuals,  
24 however, does not do any sort of investigation, at least  
25 formal investigations of any complaints or problems we hear

1 of discrimination. Obviously, when the Governor gets a  
2 complaint or when one of the state agencies gets a complaint  
3 and discrimination is alleged, we look into it, we  
4 investigate, but we have no authority under the law to do a  
5 formal investigation or to hold any sort of a hearing or to  
6 make any sort of findings of law or findings of fact, ~~or law,~~  
7 or coming in and making any sort of a judgment in any sort  
8 of case involving discrimination. ~~So~~ <sup>W</sup> We do not have that  
9 type of authority in Maryland. ~~As you probably already~~  
10 ~~heard today,~~ that authority rests with the Maryland Human  
11 Relations Commission primarily, and obviously the courts.

12 That is the role briefly of my office in  
13 monitoring state programs, ~~both actually~~ those run by the  
14 state and those run by the county jurisdictions, in terms of  
15 non-discrimination. ~~So~~ <sup>W</sup> We make a lot of suggestions,  
16 recommendations, and we try to generally <sup>to</sup> monitor ~~the~~  
17 state's compliance with Section 504 of the Rehabilitation  
18 Act of 1973, and to a lesser extent with other state laws  
19 that ensure the rights of disabled persons.

20 I have a staff of three people besides myself.  
21 We're paying attention to the whole State of Maryland. To  
22 put it mildly, we are spread very thin.

23 Any questions?

24 MS. BLACKSHEAR: I'm not quite sure I'm clear on  
25 who handles compliance monitoring. I understood the points



1 that you made, Mr. Lancaster, and also Ms. Hornbeck.

2 The State's Attorney's office is providing legal  
3 assistance and interpretation to legislators, to the  
4 Governor and so forth. And if I understood you, Mr.  
5 Lancaster, you are providing monitoring as it relates more  
6 specifically to the Governor and to the various departments.

7 I'm not quite sure who takes a complaint from a  
8 citizen and processes that, except for Human Relations. But  
9 do they have enforcement power?

10 MR. LANCASTER: The Maryland Human Relations  
11 Commission does have enforcement power within the State of  
12 Maryland.

13 MS. BLACKSHEAR: Over a private company?

14 MR. LANCASTER: In an employment situation, yes.  
15 And in a situation of public accommodation, while the amount  
16 of remedy they can give is somewhat limited, they would  
17 have enforcement power in that situation as well.

18 MS. BLACKSHEAR: So the enforcer for non-  
19 compliance would be the Human Relations Committee?

20 MR. LANCASTER: That's correct.

21 MS. BLACKSHEAR: That's very helpful.

22 MR. STEPLER: I would like to ask Mr. Mather a  
23 question.

24 In a private company where they have to decide  
25 whether to accommodate a handicapped person, where is that

1 line that they can say they will not accommodate or they  
2 will accommodate? I'm having problems with that. I really  
3 don't quite understand where that line would be.

4 MR. MATHER: There are two federal laws, first  
5 Section 503, ~~that deals with private contracts, by a company~~ <sup>companies with government</sup>  
6 ~~to require to provide federal law, Section 504 applies to~~ <sup>applies</sup>  
7 ~~the federal funds. Those two completely different~~ <sup>Programs receiving laws have</sup>  
8 requirements, under Section 503, ~~require~~ <sup>contractors</sup> the private are  
9 required to ~~provide readers or whatever is needed, the~~ <sup>take affirmative action in hiring and</sup>  
10 ~~modifications that are needed. The employees have the~~ <sup>promoting qualified handicapped persons. This includes the</sup>  
11 ~~burden to show will cause undue hardship, with the contracts~~ <sup>provision</sup>  
12 ~~determined first the job, the money~~ <sup>of reasonable accommodation</sup>

13 You have specific recommendations that have to be  
14 ~~made, curriculum, under the law, criteria, under the~~ <sup>then Section 504 does not require affirmative acts</sup>  
15 ~~regulations. On Section 504 the individual is required to~~ <sup>Under a recipient</sup>  
16 make "reasonable accommodations" that will not cause undue  
17 ~~financial burdens on that company. You have to look at the~~ <sup>hardship program.</sup>  
18 ~~department money, the monies involved in the middle of~~ <sup>'s budget, federal monies, and job, and the program.</sup>  
19 ~~dollars, the cost, maybe \$100, not undue hardships.~~

20 Does that answer your question?

21 MR. STEPLER: It answers my question. But  
22 apparently, the law then is not so specific. It's not  
23 really that clear, is what I'm hearing.

24 MR. MATHER: No. They have to use criteria to  
25 determine whether ~~they will get it or not.~~ <sup>an accommodation is required or not.</sup> But the employer

Factors used  
in determining  
whether an  
accommodation  
would be  
an undue  
hardship as:  
employer's  
budget, job,  
contract, etc.

1 has the burden to show that there would be an undue  
2 hardship. But in most cases, there are reasonable changes  
3 to be made.

4 MS. HORNBECK: There is a job accommodations  
5 network that the Federal Government has. I'm not sure who  
6 runs that.

7 Faith, is that the President's Commission, the job  
8 accommodations?

9 MS. KIRK: The job accommodation network is a  
10 project of the President's Committee on Employment of the  
11 Handicapped. It was just recently brought in. They <sup>RECEIVED</sup> get a  
12 grant from the Department of Labor and some other  
13 organizations. And that's to help <sup>EMPLOYERS</sup> employees.

14 Let's say you want to hire somebody with a  
15 specific functional limitation. You can call this number  
16 and say, "I want to hire so and so with this particular  
17 functional limitation to do such and such a job. I would  
18 like to know what other employers in a similar business to  
19 mine have done in the way of accommodation for somebody with  
20 that type of functional limitation." And they'll go through  
21 their bank and they'll give you a printout and will also  
22 talk to you on the phone.

23 It is new. It is free. What <sup>THEY</sup> ~~we~~ are requesting  
24 that if you use it you also feed it information in terms of  
25 accommodations that you have made.



from  
Faith  
Kirk

1 has the burden to show that <sup>a particular accommodation</sup> ~~there~~ would be an undue  
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24 that if you use it you also feed it information in terms of  
25 accommodations that you have made.

1 MS. HORNBECK: So that's a very practical thing  
2 that employers can do to try to determine what a reasonable  
3 accommodation will be and how to do it in the least  
4 expensive way as well.

5 MS. KIRK: There's also a lot of material out on  
6 that kind of thing. And that's one of the things that we do  
7 -- some of our training programs. But there is no cookbook.  
8 You can't turn to page 504 and look under "Blind" and it  
9 will tell you, you know, do something to this and something  
10 to that.

11 MR. STEPLER: Thank you. I have another  
12 question.

13 Ms. Hornbeck, your office is in charge of seeing  
14 that there is compliance?

15 MS. HORNBECK: We represent the state agencies.  
16 So we would advise them, as their attorneys, about  
17 compliance with the law.

18 MR. STEPLER: But your office also is in charge  
19 to see that not only do the state agencies comply --

20 MS. HORNBECK: Yes. We would --

21 MR. STEPLER: -- and also private companies?

22 MS. HORNBECK: No, we just represent state  
23 agencies. We are not an enforcement agency for 504 or we  
24 wouldn't take complaints <sup>about private businesses</sup> If a complaint came to us we  
25 would refer ~~them~~ <sup>it</sup> to the Human Relations Commission.

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2 that employers can do to try to determine what a reasonable  
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23 agencies. We are not an enforcement agency for 504 or we  
24 wouldn't take complaints. If a complaint came to us we  
25 would refer them to the Human Relations Commission.

1 MR. STEPLER: My next question, and I really  
2 don't know who to address it to, is that this morning we  
3 heard that the law was not being applied as it was intended.  
4 There were many complaints that we heard this morning. And  
5 I would want to know am I in the right department by asking  
6 somebody why are these charges being made and are they  
7 justified, and why isn't anybody doing anything about it, if  
8 they are justified?

9 MR. LANCASTER: I did not hear the charges but I  
10 can sit here and tell you right now that as the 504  
11 coordinator for the State of Maryland, that the State of  
12 Maryland is not in compliance with Section 504 of the  
13 Rehabilitation Act of 1973 in many areas.

14 I would hazard to guess that ~~the~~ the Federal  
15 Government, in fact it's not a guess, I know, is not  
16 following their own regulations that cover themselves. And  
17 I do not know of a state in the Union that is yet in  
18 compliance with that law.

19 We're doing better in Maryland but we still have a  
20 large number of cases of employment discrimination. We have  
21 yet to make all of our buildings and facilities accessible  
22 to physically impaired persons, although we're getting  
23 there. We have a long way to go in the area of allowing the  
24 full participation in government activities of hearing  
25 impaired and deaf persons. And we have a long way to go in

1 terms of persons who are blind or sight impaired.

2 And a whole other area I think we are going to  
3 start to see the regulations further litigated is in the  
4 area of whether or not there's discrimination in the sense  
5 of the service delivered to ~~types of~~ disabled persons in  
6 terms of the adequacy of the services delivered and whether  
7 or not all disabled people within the class of disabled  
8 people that a particular service is intended to serve, ~~if~~ <sup>are</sup>  
9 ~~they're serving anybody.~~ <sup>being served</sup>

10 ~~And~~ I get into the areas of delivery of services  
11 for persons with extreme mental health problems, with mental  
12 retardation, with a lot of our institutionalized  
13 populations. So there are big problems out there still. I  
14 think we've come a long way in the last five to six years.

15 MR. STEPLER: What's holding the implementation  
16 back and how do you get rid of the hold back or how do we  
17 get rid of whatever is retorting it to get on the move?

18 MR. LANCASTER: Some of the issues are resource  
19 issues. ~~So~~ there's got to be a willingness on the part of  
20 the people of Maryland and on the part of the bureaucracy to  
21 spend more money. I mean, that's a reality. Part of it is  
22 resource issues.

23 The other part of it, ~~I think, is twofold, one of~~  
24 ~~it's~~ <sup>15</sup> ~~an attitude, no problem.~~ It's ~~that whole area~~  
25 that a lot of our society isn't thinking in the 1980's yet



1 in terms of being willing or knowing how to include the  
2 disabled population in the mainstream. Yet, we know how to  
3 do that. It's just getting that word out to everybody and  
4 changing their attitudes.

5 And then the other part of the problem, at least  
6 in government, is what I'll call bureaucratic inertia. You  
7 know, they've been doing things one way for X number of  
8 years and now they've got to change it, and it's slow to  
9 change. We need more political pressure from the grass  
10 roots on government. And I think we need a little bit more  
11 enlightened leadership within government.

12 *disabled* ~~MS~~ I think ~~also~~ disabled people right now, the  
13 ~~A~~ citizens themselves, ~~and I see this where I am~~ for one  
14 reason or another aren't standing up for their rights.  
15 They're not filing a complaint. They're not making that  
16 step forward. Now, I'm not sure of the why of all of that.  
17 In some cases they don't know that there is regress  
18 available to them. I'm clear that that's part of the  
19 problem.

20 ~~MS~~ I think another part of the problem is that  
21 they themselves have their own attitude and perceptions of  
22 themselves and are not aggressive enough in, ~~you know,~~  
23 addressing their grievances.

24 MS. JOHNSON: Mr. Lancaster, are there any  
25 penalties for non-compliance of Section 504 written into the

1 rules and regulations?

2 THE INTERPRETER: Repeat that.

3 MS. JOHNSON: Are there any penalties written into  
4 Section 504 for non-compliance of it?

5 MR. LANCASTER: Well, the basic main remedy that  
6 the Federal Government has over recipients for non-  
7 compliance is to cut off federal financial assistance. I do  
8 not know of any case in the country where that has ever  
9 happened.

10 MS. JOHNSON: How about with state?

11 MR. LANCASTER: The state has --

12 MS. JOHNSON: If they're not in compliance.

13 MR. LANCASTER: The state could also withhold  
14 funding to a sub-recipient, if you will, of a federal  
15 program if they weren't in compliance. And also, of course,  
16 under the Human Relations Commission there are definite  
17 remedies, at least in terms of the employment situation.

18 MR. OKURA: What about in the co-private sector  
19 that receives no money from federal, state, city, county on  
20 strictly, completely private, like all of your big  
21 department stores, et cetera, et cetera? Now, you don't see  
22 too many handicaps working in those places. Is there any  
23 kind of law that covers that?

24 MR. LANCASTER: Yes. Again, that's what we call  
25 Article 49(b) of the Maryland Code Annotated. And that's

1 Our Human Relations law. ~~And that~~ does include mentally and  
2 physically handicapped persons within its protection. So  
3 yes, there definitely is regress there.

4 MS. HORNBECK: ~~And~~ *many private companies are covered* also under 503, I have a  
5 pamphlet here that tells about 503 and 504. According to  
6 this pamphlet, over half the businesses in America are  
7 covered by 503. So a lot of private businesses would be  
8 covered that way, as well as by 49(b).

9 MR. WHITTINGTON: Mr. Lancaster, you keep  
10 referring to the Human Relations Commission. I understand a  
11 little bit about the Human Relations Commission plus the  
12 other agencies that are represented here.

13 One of the complaints that we have often heard is  
14 that the complaints are not readily sought. In other words,  
15 there is a backlog. And I understand that too because of  
16 resources. What is the normal length of time that it takes  
17 a complaint to go through the necessary processes?

18 MR. LANCASTER: I might hold off -- David Glenn, I  
19 believe, is going to speak today.

20 MS. JOHNSON: Would you hold off a moment? The  
21 recorder has to change the tape before you answer that  
22 question.

23 MS. JOHNSON: All right.

24 We're going to close out this session after this  
25 answer so we can move on to the next panel. And some of

1 these questions can be answered in the next panel with some  
2 of the --

3 MR. LANCASTER: Just briefly, in my experience,  
4 I've known some cases that take up to a year and half with  
5 the Human Relations Commission. They have been making a  
6 dent in their backlog and I know it's not as bad as what it  
7 use to be. But I think that one could safely say that it's  
8 probably going to take at least six months for an  
9 investigation and a hearing and everything to work its way  
10 through the Human Relations Commission, depending, again,  
11 how far it goes in the process, but David Glenn, if he's  
12 here, the executive director of the Human Relations  
13 Commission will be able to speak to that much better than I.

14 MR. WHITTINGTON: I'm sure of that. But don't you  
15 think that accounts for some of the reasons why people  
16 aren't filing complaints because of --

17 MR. LANCASTER: Without a doubt that contributes  
18 to it, there's a frustration there and I think that's  
19 definitely another reason, I think disabled people see the  
20 whole complaint process as long and lengthy and with the  
21 exception of the employment area there's often little  
22 redress for the discriminatory situation that they  
23 experienced. You know, someone may say -- and say I'm sorry  
24 and six months after the fact what good does it do the  
25 person who wanted to get into the restaurant or whatever.

1 MS. HORNBECK: <sup>At</sup> ~~Many~~ times our office gets  
2 complaints about state agencies and something they're doing  
3 related to discrimination against <sup>a</sup> ~~the~~ handicapped person or  
4 other discrimination, ~~and~~ <sup>we</sup> in our role of advising those  
5 agencies try to, in the preventive law way, address those  
6 problems and not bring it to the point <sup>at</sup> ~~to~~ which people have  
7 to go to the Human Relations Commission or to court to get  
8 some redress.

9 One example recently was ~~a group~~ made known to our  
10 office, ~~that~~ <sup>Some</sup> of the parks in Maryland were not  
11 handicapped accessible and the Assistant Attorney General  
12 who represents the Department of Natural Resources has  
13 worked very closely with the Department of Natural Resources  
14 to develop handicapped accessible parks for various kinds of  
15 handicaps. So that's the way in which our office can  
16 respond to those kinds of complaints even though we don't  
17 have any enforcement powers.

18 MR. WHITTINGTON: Just one other comment.

19 This morning and again this afternoon we've heard  
20 the same kind of discussion about changing of attitudes and  
21 no one has been very specific, as far as I'm concerned,  
22 telling us so many kinds of things the various agencies are  
23 doing to help change attitudes, to -- you did mention change  
24 of attitude is necessary. Can you respond to some things  
25 that your agency may be doing which may --

1 MR. LANCASTER: To the extent that we have time, I  
2 do a lot of going around the state speaking to public and  
3 private organizations and addressing those sorts of issues.  
4 Also the Governor's Committee on Employment of the  
5 Handicapped does trainings throughout the year in that whole  
6 area. In fact, they have been working closely with the  
7 State Department of Personnel in that regard in doing -- how  
8 many trainings have you done in the last year?

9 MS. KIRK: Due to lack of anticipation I'm doing  
10 one tomorrow. Over the last -- we have done 12.

11 MR. LANCASTER: Twelve. So we're doing that sort  
12 of thing within state government. And it's, frankly,  
13 something that we probably could do more of. I think there  
14 has been a lot of progress in that area.

15 MS. HORNBECK: I think one of the -- there is  
16 beginning to be a revolution in attitude towards handicapped  
17 persons but it won't be complete until people, our  
18 neighbors, all of us <sup>3</sup> don't think it's any big deal to work  
19 and live with people who are handicapped. And I think the  
20 biggest thing we can do is have affirmative action programs  
21 ~~with jobs~~ and address the issue of housing because ~~I think~~  
22 if we're living and working together then a lot of the other  
23 issues, transportation and other issues, will ~~kind of~~ take  
24 care of themselves.

25 So I would see housing and employment as being the

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6 area. In fact, they have been working closely with the  
7 State Department of Personnel in that regard in doing -- how  
8 many trainings have you done in the last year?

9 MS. KIRK: <sup>NOTE - WE HAD TO CANCEL 3 DUE TO</sup>  
<sup>LACK OF PARTICIPATION</sup> ~~Due to lack of anticipation~~ I'm doing  
10 one tomorrow. Over the last <sup>2 YEARS</sup> we have done 12.

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21 with jobs and address the issue of housing because I think  
22 if we're living and working together then a lot of the other  
23 issues, transportation and other issues, will kind of take  
24 care of themselves.

25 So I would see housing and employment as being the

1 two areas that will do away with the stigma because the  
2 stigma will be done away with when we see each other as  
3 individuals.

4 MS. JOHNSON: I've been apprised that we have two  
5 people in the audience from Human Relations Commission that  
6 deal with the handicapped area, and maybe some of the  
7 committee members' questions can be answered by one of them.  
8 I don't have your name but if you come up to the mike and  
9 state it clearly we will --

10 MS. BANKS-CROWDER: My name is Ruth Banks-Crowder,  
11 I'm the director of the Housing Division at the Human  
12 Relations Commission, which, until about a year and a half  
13 ago, handled mainly housing complaints. We now handle  
14 investigations of practically all the handicapped employment  
15 complaints that are filed with the commission. I currently  
16 have a staff of five investigators, three of whom at the  
17 present time deal exclusively with handicapped employment  
18 cases. The other two also take housing as well as  
19 employment.

20 Generally, what we are doing now is trying to get  
21 the cases investigated as quickly as possible. ~~And~~ I think  
22 that the concerns that have been expressed here today about  
23 the length of time that cases are in our system <sup>are</sup> ~~is~~ very well  
24 taken. That's one of the main reasons that our  
25 administration decided that one unit would handle all of the





1 handicapped cases so that we could try to get those *cases*  
2 investigated as quickly as possible.

3 At the present time I think my unit has about 150  
4 to 175 cases that have been filed in the past year or year  
5 and a half. Every complaint that has been filed I believe  
6 since September of last year is presently assigned to an  
7 investigator. Some of our cases may be a year old and have  
8 not yet been completed but some of them are being completed  
9 within six months of the time that they are filed with our  
10 intake department, and I'm not talking about them sitting  
11 around six months after they have come into the system, *before being assigned*  
12 they are being resolved *within six months of being filed.*

13 The kinds of remedies that are available -- and  
14 I'm sorry if my voice is cracking up. This mike, I think,  
15 has a short or something in it so I hope that everyone can  
16 understand what I'm saying. The remedies in our employment  
17 cases are much better for any Complainant who comes to our  
18 commission than *are* ~~our~~ remedies in our housing cases. Under  
19 our law Article 49.B we are able to provide back pay up to  
20 two years from the time the complaint was filed until the  
21 complaint is resolved. We also can see that Complainants  
22 get the job that they wanted in the case of applicants or be  
23 restored to a job *from which* that they were terminated or laid off.

24 They can get benefits restored, seniority, that  
25 kind of things can all be part of a remedy. ~~That can be a~~

1 remedy that's obtained near the beginning of our process  
2 through what we call predetermination settlement, which is  
3 sort of a no-fault agreement in that under this process, the  
4 Respondent company does not admit to having violated the  
5 law and <sup>the Complainant agrees to withdraw the complaint.</sup> This is before we get very far into investigating  
6 all of the facts.

7 In the event our cases cannot be resolved in that  
8 manner and we do proceed with an investigation, if we find  
9 probable cause that discrimination did take place as alleged  
10 then we can order, through a conciliation agreement depending  
11 upon the facts of the case, back pay, restoration of job and  
12 other benefits.

13 Unfortunately, at the present time, the remedies in  
14 our housing cases are much more limited and this has  
15 nothing to do with the fact that a Complainant has a  
16 handicap. This has to do with the limitations in Article  
17 49.B.

18 At the present time, we can not give monetary  
19 damages in housing cases. When a Complainant comes in, if  
20 the property the Complainant was seeking is still available  
21 we try to get them ~~either~~ that unit, and <sup>we</sup> we can pursue that  
22 by, depending upon the circumstances, asking our general  
23 counsel's office to go into court to request a temporary  
24 restraining order to keep the property from being sold or  
25 rented prior to our investigations being completed.

1           If that isn't a remedy that needs to be taken and  
2 the property, by the time the Complainant has even come to  
3 us, is already gone, we can ask the Respondent to give them  
4 the next available housing unit provided the Complainant is  
5 still interested.

6           We can have the Respondent agree to enter into  
7 affirmative action provisions that would require -- keep in  
8 mind that the law as is presently written already requires  
9 that they affirmatively market their property. ~~But we can~~  
10 ~~require~~ that they take more specific steps to affirmatively  
11 market their property; ~~to~~ have, for instance, waiting lists  
12 of people who come to see property. ~~We~~ We can ask that they  
13 report to us on a quarterly basis ~~of~~ a list of people who  
14 have come to them inquiring about property. We can have  
15 them report to us whether or not people are renting  
16 property and that kind of thing so that we can have a  
17 mechanism through which we can monitor what their practices  
18 are.

19           If Respondents want to give monetary damages, for  
20 instance, most of our housing complaints deal with rental  
21 property and if a Complainant who was planning to move  
22 into the Respondent's property had to then move some place  
23 else, perhaps into an apartment that was more expensive and  
24 they incurred expenses they would not have had to pay had  
25 the Respondent given them the apartment, then they could ask

1 that they be given this money as damages. If the Respondent  
2 wants to do that, that's fine with us although at no point  
3 in our process can we order monetary damages.

4 There <sup>have</sup> ~~has~~ been some efforts in the General  
5 Assembly over the past two or three years to add monetary  
6 damages to the housing provision of the law, however, that  
7 has not yet been done.

8 Are there any other questions or things I may not  
9 have covered?

10 MS. BLACKSPEAR: If I could ask you. First,  
11 before my other questions on the new area of fault risk. Do  
12 you find Respondents who are desirous of providing monetary  
13 consideration?

14 MS. BANKS-CROWDER: Damages?

15 Well, let me say this. The housing division has  
16 been in existence as a separate division for almost five  
17 years and we have a contract with HUD much the same as the  
18 contract we have with EEOC for Title VII cases and during  
19 that time we have had monetary damages being given by  
20 Respondents.

21 Whether or not Respondents are desirous of giving  
22 monetary damages I can't answer, but some times that may be  
23 the quickest way for them to resolve a case.

24 MS. BLACKSPEAR: What recourse does the state  
25 have, is the recourse basically pulling licenses or what?

1 MS. BANKS-CROWDER: Our agency does not have the  
2 authority to pull the licenses of real estate people,  
3 however, the state real estate commission can do that, ~~and~~  
4 I believe about two years ago our law was amended to allow  
5 our commission to forward to the real estate commission  
6 information on Respondents where there had been a probable  
7 cause finding issued. So ~~that~~ if the real estate commission,  
8 in implementing its own law, wanted to pull a license of an  
9 offending agent and/or broker, ~~that~~ the real estate  
10 commission would have the power to do that.

11 MS. BLACKSPEAR: Are they generally responsive to  
12 recommendations that you might forward or do you forward  
13 recommendations of just the case?

14 MS. BANKS-CROWDER: As of this moment I don't  
15 believe that we've had to forward such information because  
16 we've resolved cases at earlier steps in our process so  
17 we've not gotten to a point of a probable cause finding  
18 where that has has to be done.

19 MS. BLACKSPEAR: This morning in the testimonies  
20 that were provided a comment was made about limitations in  
21 getting insurance, limitations as are related to getting  
22 credit. Is that the type of thing also that you deal with  
23 and if so, in what way have you responded to complaints that  
24 have come forward?

25 MS. BANKS-CROWDER: Well, our agency does have

1 jurisdiction over the the insurance industry. To my  
2 knowledge, most of the insurance complaints we have had so  
3 far have probably dealt with sex. I don't know that we've  
4 had any that have dealt with physical or mental handicap.  
5 And I think at this point I should say that one of the  
6 reasons -- I think there's several reasons why people,  
7 handicapped or not, don't come to our agency to file  
8 complaints.

9 And I think one reason is that a lot of people  
10 don't know about our agency in spite of all the efforts  
11 we've made in the recent few years, particularly the past  
12 three or four years, to do public service announcements, to  
13 circulate flyers, to do a lot of things to publicize our  
14 agency and still a lot of people don't take advantage of us.

15 Sometimes, particularly in the housing area, I  
16 think that's because people are discriminated against every  
17 day in housing and they don't know that because those people  
18 who will discriminate are much more subtle. They no longer  
19 say I don't rent to blacks, I don't rent to blind people or  
20 what have you. They will be very cordial to you and be very  
21 nice and will tell you they don't have housing available,  
22 and you go away thinking well, gee, wasn't that person nice  
23 and you go to the next person.

24 And somebody who's not a member of your protected  
25 class, who's not handicapped, who's not female, or a male,

1 because our law talks about sex it doesn't say only females  
2 can be discriminated against; <sup>what</sup> whatever your protective  
3 class is, someone comes behind you who is not a member and  
4 is told yes, we have plenty of apartments, how soon do you  
5 want to move in.

6 So because it's more subtle I think a lot of  
7 people don't file housing complaints, and also because a lot  
8 of people, <sup>who</sup> for whatever reason, are not aware that we exist,  
9 don't come to us. And I'm sure if everyone in this state  
10 who's been discriminated against within this past month  
11 would come to us, we would be so inundated we would have  
12 difficulty taking all the complaints and handling the  
13 investigations.

14 But one thing we do try to do is to education <sup>e</sup> all  
15 of the community through the public service announcements.  
16 We go out on speaking engagements, we talk to lots of people  
17 to let them know what the law is because we try, as the AG's  
18 office does, ~~is~~ to prevent a violation of our law by letting  
19 people know what the law is so that they will be sure to  
20 comply with it.

21 MS. BLACKSPEAR: So you receive no complaint  
22 either as it relates to credit difficulties?

23 MS. BANKS-CROWDER: We receive credit complaints  
24 mainly in relation to housing complaints. Someone will  
25 come in and say he or she has applied for credit, many times

1 it's a female, he or she has applied for an apartment, for  
2 instance, or a house, a rental property, and has been told  
3 that the property is not available because the credit check  
4 was very negative.

5 In that respect, we get involved with credit but if  
6 you were, as <sup>a</sup>the rule, denied credit by a local department  
7 store, that isn't a complaint that normally would come to us.  
8 There are some other agencies that would handle that, I  
9 think Consumer Protection, which is a division of the  
10 Attorney General's office, would handle such complaints on  
11 the state level and there are also federal agencies that  
12 would handle that particular issue.

13 MS. BLACKSPEAR: Thank you.

14 MS. JOHNSON: Any other questions?

15 MR. OKURA: Yes, one.

16 In terms of a person filing a complaint, having  
17 gone through the procedure so many times, one ends up that  
18 the person who made the complaint is the one who's put on  
19 trial and, you know, I think that's why we don't find  
20 minorities, handicapped and others that are victims really  
21 making that much of an effort to complain because our  
22 judicial system is such that unless you have a high-powered  
23 attorney who's willing to fight all the way to the Supreme  
24 Court if necessary, those of us that are in that kind of  
25 position find it -- well, after once, two times, three times



1 you say forget it because you end up as the person who's  
2 being accused and you're put on trial.

3 Now, that's my personal experience and I don't  
4 know whether the handicapped people have over come that or  
5 do they find it pretty much the same?

6 MS. BANKS-CROWDER: I can only speak for the  
7 Maryland Human Relations Commission and I don't know that  
8 our process comes across that way to anyone. A lot of  
9 people think that we're an advocacy agency, we're not. As I  
10 tell people all the time, we take neither the Respondent's  
11 side nor the Complainant's side. We're there to see whether  
12 or not the law was violated.

13 Everybody is given a fair shake in providing as  
14 much information as possible to prove his side of the story,  
15 whether he's the Respondent or the Complainant.

16 One of the things we have found is that a lot of  
17 employers, indeed the public in general, <sup>are</sup> ~~is~~ not aware of the  
18 whole concept of handicapped discrimination and reasonable  
19 accommodation. So what we find is that we're educating  
20 Respondents as well as other people about that concept, ~~and~~  
21 ~~I would say where we have to go beyond our initial~~  
22 ~~investigative stage of trying to resolve a case through what~~  
23 ~~we call the predetermination process.~~ <sup>I don't recall what I</sup>  
<sup>intended here.</sup>

24 When we get into an investigation and if we see  
25 that more than likely the person was discriminated against

1 as alleged, generally we are able to get remedies for the  
2 Complainant that are satisfactory to the Complainant.

3 We also find that sometimes employers may have to  
4 have us provide training for their other employees to make  
5 them equally sensitive to the needs of the handicapped, ~~and~~  
6 I think someone talked earlier about the fact that a lot of  
7 people have problems dealing with handicapped persons simply  
8 because they don't know very much about <sup>a given condition</sup> it, and, I think, are  
9 embarrassed to even talk about it to find out what kinds of  
10 limitations, for instance, you might have because you have a  
11 certain condition. <sup>what</sup> kinds of changes <sup>you</sup> would ~~you~~ need in  
12 a job so that you can work.

13 And I think a lot of employers think that a lot of  
14 money is necessary to make accommodations so person can  
15 work, and that isn't always the case. Sometimes you might  
16 need something as inexpensive as putting a hinge, for  
17 instance, on a telephone so a person who has cerebral palsy  
18 or some other problem that affects their limbs can use their  
19 wrists to hang up a telephone and be perfectly able to carry  
20 out the other functions of ~~a~~ job. Sometimes a lot of money  
21 might be involved but usually the changes that have to be  
22 made are common sense things that can adapt a job to a  
23 persons handicapping condition.

24 So -- at the commission, the staff has learned a  
25 lot about the various conditions, limitations that may be

1 involved and the kinds of things that may be able to be used  
2 so that all persons, whether they have a physical or mental  
3 handicap, can be a productive members of the work force if  
4 that's what they desire.

5 MS. JOHNSON: Thank you.

6 We are running behind time and we haven't heard  
7 from our last panelists and the listening post, and we have  
8 two members of the committee that have to be excused to make  
9 a flight. So please make it short. We have to close out  
10 this session and go on to the next panelist.

11 Go ahead.

12 MR. STEPLER: After sitting here for as many  
13 hours as we've been sitting here, I see that we have so many  
14 commissions and so many agencies and there is so much  
15 overlapping, is there any way that this whole process can  
16 be simplified so when somebody has a problem or a complaint  
17 they know where to go first. They don't know where to go,  
18 there's a myriad of organizations, I wouldn't know where to  
19 go myself.

20 MS. BANKS-CROWDER: May I say this briefly about  
21 the commission. The Maryland Commission is the single state  
22 agency that has the authority through the General Assembly  
23 and the governor to take complaints of discrimination in  
24 housing, employment and public accommodation on the basis of  
25 race, sex, color, religion, national origin, sex, marital

1 status, physical and mental handicap *and age.*

2 And we have the sole responsibility at the state  
3 level for investigating those kinds of discrimination  
4 complaints. So, that if you think that you've been  
5 discriminated against because of a physical or mental  
6 handicap, we would be the first agency that you could  
7 contact to find out whether or not there is a complaint that  
8 can be filed. It may be that there are some aspects of your  
9 situation that may need to be handled by some other  
10 agencies, but in terms of just a general complaint of  
11 discrimination, "I was denied a job because I'm in a  
12 wheelchair, *for example,* we are the state agency that you would come to.

13 MR. LANCASTER: I'd just like to add to that that  
14 my office also does a state-wide information and referral  
15 service and while we do not do actual case work or  
16 represent individuals anybody comes to us with that type of  
17 a problem and we stay with the person until they've gotten  
18 the representation if they need it, an attorney if they need  
19 it, an advocate if they need it of some sort. We make sure  
20 that they know how to file a complaint with the Human  
21 Relations Commission or with appropriate with the proper  
22 office, federal agency, Office of Civil Rights or whatever  
23 federal agency.

24 So we do do that service. We help people, you  
25 know, work through that myriad of stuff that's out there

1 status, physical and mental handicap.

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3 level for investigating those kinds of discrimination  
4 complaints. So, that if you think that you've been  
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6 handicap, we would be the first agency that you could  
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17 a problem <sup>then</sup> ~~and~~ we stay with the person until they've gotten  
18 the representation ~~if~~ they need ~~it~~, an attorney if they need  
19 it, an advocate if they need it. ~~of some sort.~~ We make sure  
20 that they know how to file a complaint with the Human  
21 Relations Commission or with appropriate ~~with the proper~~  
22 office, federal agency, Office of Civil Rights or whatever  
23 federal agency.

24 So, we do do that service. We help people, you  
25 know, work through that myriad of stuff that's out there

1 providing they at least know to call us.

2 MS. JOHNSON: Thank you.

3 We'll now deal with the legislative needs. We're  
4 cgoing to forego the break and try to make up some time and  
5 move on.

6 We do not want to cut your presentation short  
7 because you're the last then. The people before you did get  
8 ample time but we would like anything that is repetitive not  
9 to repeat and to cut it as short as we can.

10 MS. MAZZ: Yes, I'll go first HRC had their  
11 turn, thanks Joanne.

12 I was asked to address legislative needs so  
13 that's --

14 MS. JOHNSON: I'd like to have your name and your  
15 organization.

16 MS. MAZZ: My name is Marsha Mazz, I'm president  
17 of Maryland Alliance of Advocates with the Handicapped.  
18 We're a state-wide coalition, consumer oriented coalition  
19 and we primarily lobby and -- we don't lobby nobody heard  
20 that. We advocate and we track state legislation and  
21 during the legislature we publish a bi-weekly summary of  
22 legislation affecting people with disabilities and this  
23 last session we published summaries of over 300 bills.

24 With respect to so many of these questions that  
25 have come up, I'd like to say first is that I think

1 attitudes is a real problem. I don't think that we do  
2 accomplish very much at all by simply addressing attitudes.  
3 I think that there is a lot of room for a great deal more  
4 legislation and streamlining of the legislation we have an  
5 implementing of the legislation that we have. We do not  
6 have any state-wide across-the-board compliance monitoring  
7 or quality assurance.

8 I think that should be real obvious although I  
9 keep the commissioners here ask that over and over again. I  
10 hope by now that it's real clear to you all that we do not  
11 have any single point of entry in order to deal with that.  
12 I think that it would be wonderful if we did have state-wide  
13 compliance monitoring with respect to 504, with respect to  
14 the education for all handicapped children, 94.142, and the  
15 FOLK ED Acts and we don't have it.

16 Beyond compliance monitoring we have nothing that  
17 looks like quality assurances and I think we need to think  
18 about that a great deal because quality assurances is really  
19 where it's at. You can have a program and you can do  
20 compliance monitoring, like our state does with 94.142, the  
21 education for all handicapped children, and that has  
22 absolutely no relationship and no bearing to the quality of  
23 the education that handicapped children receive.

24 There is absolutely no relationship between the  
25 evaluation of that child, the implementation of that child's

[ ]  
1 educational plan and ultimately whether that child learns  
2 and that's what we call quality assurance although the state  
3 may, in fact, be in compliance. They may have filled out  
4 all the right forms and all the right signatures might be in  
5 all the right places, that still does not mean that we have  
6 handicapped children learning.

7 Now, I'll get to my wish list, and I'll try to  
8 move quickly.

[ ]  
9 Faith talked about you federal folks as models. I  
10 hate this microphone. The new proposed HUD regulations are  
11 an example of the dilution and the outright assault on 504  
12 regulations by our federal government. The proposed HUD  
13 regulations would, in fact, allow for an applicant who  
14 applies for HUD housing section 8 or 202 housing for the  
15 manager of that housing to go and consult that individual's  
16 doctor as to whether that individual is fit to live in a  
17 housing unit.

18 I thought it was interesting that the woman from  
19 the Community Housing Resources Board cited that as an  
20 example of something that would be illegal and an invasion  
21 of privacy when, in fact, the proposed HUD regulations would  
22 allow for exactly that kind of invasion.

23 Additionally, I think that the people with mental  
24 retardation and people with mental health problems are going  
25 to be specifically singled out under these new HUD

[ ]



1 regulations and under broadside attack.

2 The Civil Rights Restoration Act is failing at the  
3 federal level it didn't pass last year, it doesn't look  
4 like it's going to pass this year and we're in deep  
5 trouble with respect to making clear the intent of Congress  
6 with respect to Civil Rights legislation. And the reason  
7 we're in deep trouble is because the Courts are interpreting  
8 the intent of Congress and the executive orders are  
9 interpreting or bypassing the intent of Congress. And I  
10 think that it's high time we really begin to get back to  
11 Congress and have Congress make clear what they intended.

12 At the Maryland State level I'd like to suggest  
13 some legislation with respect to -- there is a bill in the  
14 legislature, federal bill, I think it's 1523 but I'm working  
15 from memory, which addresses the right to attorneys fees for  
16 parents who prevail in disputes over the appropriateness of  
17 educational placements for their handicapped children.

18 The Congress was very clear in crafting 94.142  
19 along the same lines as other Civil Rights legislation, that  
20 people had to exhaust all sorts of due process remedies  
21 before they could go to court and at this point this  
22 federal legislation is not going to allow parents to recoup  
23 attorneys fees if they prevail during the due process  
24 hearing and I think that's criminal. That puts parents of  
25 handicapped children in a real bind when they have to make a

1 decision as to whether or not to allow their child to  
2 languish in an inappropriate educational or what they regard  
3 as an inappropriate educational placement for a great deal  
4 of time while the due process thing is going on. You've  
5 got one parent stacked up against the whole State of  
6 Maryland or the whole local educational district, and the  
7 resources are certainly inequitable.

8           Also with respect to education, many states have  
9 implemented laws which disallow participation as hearing  
10 officers by persons who have been associated with the policy  
11 making aspects of the educational law and I think the  
12 State of Maryland ought to look into knocking anybody who  
13 has participated in any way either paid or voluntary with  
14 the making of educational bylaws and whatever from  
15 participating as hearing officers, it's just a case of  
16 vested interested. And I don't think that all hearing  
17 officers are completed impartial. Once again, it's a  
18 situation where parents are stacked up in unfair balance  
19 against a strong institution.

20           If I had all my wishes, I would have a log which  
21 gave us all entitlement to community services. Right now we  
22 have, I think, approximately 6,000 mentally retarded and  
23 non-retarded developmentally disabled persons on community  
24 waiting lists in the State of Maryland for services, that's  
25 obscene, there's just no other word for it. What are these

1 folks to do while they wait for services? Many people lose  
2 skills that they developed in 21 years of education or 18  
3 years of education, and in many, many boards of ed in many  
4 schools are doing good jobs with folks, but at age 21  
5 there's nothing there. There's absolutely no place to go  
6 and you sit on a community waiting list for five years. The  
7 school's good work is wasted.

8           Additionally, I'd like to see compensatory  
9 education for the over 21 population. I think that just  
10 artificially cutting education off at 21 doesn't make a  
11 whole lot of sense, especially for people whose skills need  
12 to be reinforced.

13           I would like to revamp the discrimination system,  
14 and Joanne will have lots to say about that I'm sure, so  
15 that one can bring an action directly in circuit court  
16 rather than having to go through HRC. It's nice that HRC  
17 is there available but I think that it would be just fine if  
18 people had the option of bringing a private action.

19           Let's see, transportation and parking, we've  
20 talked an awful lot about transportation and parking and all  
21 these other services. I feel that we have cornered  
22 ourselves into this paratransit versus mainline accessible  
23 transportation debate, and it's an absurd debate because  
24 when we're talking about accessible mass public  
25 transportation we're talking equal access to what exists.

1 And I don't feel that we need be cornered into choosing  
2 between paratransit systems and mainline accessible  
3 transportation I think, frankly, we ought to have both.

4 One is an issue of equal access to the benefits  
5 and services that all other persons who pay taxes get and  
6 the other issue is an issue of something beyond or different  
7 from that which other people get. So I would like to  
8 separate the issue in terms of the transportation, and that,  
9 of course, is under the federal level and we don't know  
10 what's happening, we have an interim final rule from the  
11 Department of Transportation. We have lots of interim final  
12 rules and lots of proposed regs that we're dealing with  
13 right now and most agencies are feet up floating with the  
14 tide waiting to see what happens and mean while folks are  
15 not getting to work and not getting where they need to get.

16 Let's see, I'm almost there folks. The building  
17 code, we have narrowed this wonderful law that the  
18 Governor's committee and Faith worked very hard on, which  
19 grants penalties for infractions of the Maryland State  
20 Building Code for the Handicapped. However, in most  
21 counties the licenses and permits people issue the license  
22 and after the permit is issued on a new building or a  
23 building that has been substantially remodeled, the  
24 inspection of that building, especially housing, that  
25 responsibility is shifted over to another department and so

1 we have a big gap there. License and permit people are not  
2 going to be the people who are levying these \$500 fines.

3 And as recently as last week I spoke with people  
4 in the Department of Environmental Protection in Montgomery  
5 County, Maryland and they still don't know who is going to  
6 routinely inspect new construction after licenses and  
7 permits have been issued. And yet we see condominiums, we  
8 see apartments where the handicapped parking has been  
9 painted out, the grab bars have been removed, doors have  
10 been reswung, the vanities have been put in place and we no  
11 longer have handicap accessible apartments yet Department of  
12 Environmental Protection washes their hands of that  
13 responsibility because they have issued the permit and the  
14 place was accessible when they issued the permit.

15 So the housing stock that was built to be  
16 accessible and was accessible at the time the permit was  
17 issued is no longer accessible.

18 We have lots of instances where non disabled  
19 people are living in subsidized housing, which was intended  
20 with people with disabilities, and it isn't the resident  
21 managers fault and it isn't the disabled people's fault.  
22 It's because there's no single point of access . It's like  
23 trying to find a needle in a haystack. There's absolutely  
24 -- the odds of finding an accessible vacant apartment in  
25 Montgomery County, which is our most wealthy county I

1 believe, are something like one in 1,500.

2 So, unless we have a single point of entry, some  
3 sort of affirmative marketing and some kind of vehicle for  
4 communication between the disabled people, the resident  
5 managers that situation will continue to exist. As far as  
6 we know we have about 20 unsubsidized apartment units in  
7 Montgomery County, Maryland which are fully accessible, 20.  
8 There's a lot more disabled people in Montgomery County,  
9 Maryland than 20 who need to rent homes.

10 In the area of employment we've talked a lot about  
11 the state employment policy. I don't think we need to go on  
12 too much more about that except that it is a disappointment  
13 to disabled people that we came to find out the word special  
14 optional eligible list meant that it was special because  
15 disabled people were on that list. It was optional because  
16 it was optional whether or not department heads wanted to  
17 use it.

18 And you were eligible because voc rehab said you  
19 were eligible not because you took the same tests that  
20 everybody else took to qualify for state employment. You  
21 just were signed off by a voc rehab counselor. That was a  
22 real disappointment and we don't know that that has  
23 substantially changed at this point.

24 We have a situation in Maryland where the, I don't  
25 use this word by the feds do and the state does, where the

1 Crippled Childrens Services has run out of money and so new  
2 children who would be eligible under Crippled Childrens are  
3 not going to be served until we get the new monies in place.  
4 And there has been sort of a rank ordering of needs that  
5 will be filled and they're not well individualized.

6 MS. JOHNSON: Excuse me a moment. We have to  
7 change the tape.

8 It's time also.

9 MS. MAZZ: We're getting close to the end here.  
10 Okay.

11 We talked about the Federal Government as a model.  
12 I'd like to point to a victory that disabled people recently  
13 celebrated. It was a real short victory, or at least we  
14 feel it will be a real short victory, and that is we found  
15 now privately owned air lines will be subject to Section  
16 504 and interesting enough the Civil Aeronautic Board,  
17 which doesn't exist any more, their authority got  
18 transferred over to Department of Transportation.

19 Department of Transportation didn't seem to want  
20 to buck that too much. They seemed pretty happy to see air  
21 lines under Section 504 and having to accommodate people  
22 with disabilities, but the Justice Department enforces DOT  
23 -- or represents DOT in these cases. The Justice Department  
24 is appealing that ruling and so we're once again back where  
25 we were with respect to the air lines or we expect shortly

1 to be.

2           Respite Care Services. It seems apparent that  
3 children with mental health disabilities are not being  
4 served under Respite Care in the State of Maryland or many  
5 counties are not being served under Respite Care and I  
6 think that it was quite clear in the beginning at least,  
7 under the legislation that those children should be included  
8 in services.

9           I have one last note, let me see if I can make it  
10 out. Well, we'll skip it. We'll wait for questions.

11           MS. JOHNSON: Thank you.

12           MS. MAZZ: Thank you.

13           MS. EVANS-ANDERSON: I'm JoAnne Evans-Anderson,  
14 representing the Maryland Commission of Human Relations on  
15 behalf of David L. Glenn, the executive director. And for  
16 the sake of time I'll try to be extremely brief. I think  
17 it's what, quarter of four right now?

18           MS. JOHNSON: Yes.

19           MS. EVANS-ANDERSON: And I understand you have  
20 planes to catch.

21           Ms. Crowder explained pretty well what our  
22 jurisdiction is, and I'd just like to touch on some areas  
23 that we've come across in which it appears we have  
24 jurisdiction but we've found that we haven't had  
25 jurisdiction and one particular area is the area of public



1 accommodations.

2 Most people believe that in Maryland and  
3 throughout this country all places that serve the public are  
4 open to the public. But in the State of Maryland any one of  
5 you could walk into a retail store and be denied entrance  
6 into that retail store either because of your race, your  
7 age, your sex, your handicap and for the last three years  
8 Marcia and every other advocacy group here in this audience  
9 have been trying to change the state law to open these  
10 places of public accommodations up to all people and  
11 ironically, last year, 1984, the bill failed because there  
12 was no definition of reasonable accommodations, as Mr.  
13 Stempler -- I believe you had some questions about what is a  
14 reasonable accommodation.

15 And thanks to the wit of Marcia Mazz I took -- the  
16 definition actually came from her testimony -- we adopted  
17 her definition into the bill and incorporated it in, and we  
18 thought it would be acceptable to all parties.

19 It was acceptable to all parties except the great  
20 State Department of Transportation. They, in fact, and I  
21 will say publically, killed our bill and I'm not  
22 embarrassed but I'm very disappointed that a state agency  
23 literally lobbied to kill the bill.

24 Basically, their concern was that we would require  
25 that every bus and Metro would have lifts equipment on the

1 bus. So, they weren't satisfied with the language of  
2 reasonable accommodation in fact, put over, I believe, it  
3 was \$5 million, \$50 million fiscal note that killed the  
4 bill.

5 The concern of the legislature at the time was,  
6 and deferring or owing to them a political compromise, we  
7 exempted the Department of Transportation out of the bill.  
8 We would have jurisdiction over the Department of  
9 Transportation but we could not order any remedy in which  
10 they would incur monetary expense. However, the legislators  
11 felt that if we exempted the State Department of  
12 Transportation, local jurisdictions should also be exempted  
13 out.

14 And there were a number of compromises that went  
15 on and finally we came up with some, I believe, acceptable  
16 language and unfortunately it did not make it through at the  
17 last hour to my chagrin.

18 But that is one area, the area of public  
19 accommodations, in which we don't have jurisdiction. You  
20 might wonder what do we have jurisdiction over. Very  
21 succinctly we have jurisdiction over any place serving food  
22 or dealing with overnight lodging. But taxi cab services,  
23 ambulance services, retail stores, gasoline stations which  
24 do not have restaurants there we do not have jurisdiction  
25 over.

[ ]

1 I believe Ms. Blackshear raised a question  
2 about insurance companies. Do we have jurisdiction over  
3 them. Yes, we do have jurisdiction and yes, we do have  
4 cases based on physical handicap. Those cases are very  
5 involved because of our front logs and backlogs, they're not  
6 in the investigation, unfortunately. I have read personally  
7 about ten of them and they deal with -- well, different  
8 types of physical conditions in which an insurance company  
9 refuses to insure the person. And it's usually not based on  
10 any type of actual justification; it's pure blatant  
11 prejudice.

[ ]

12 The other thing I'd like to mention dealing with  
13 legislation, Marcia mentioned that we did not have a private  
14 course of action for a person who's been discriminated  
15 against and that's true. But we do have under Article  
16 49(b), in our process when a complaint is taken and a no  
17 probably cause determination is made, the Complainant may  
18 appeal that decision to the executive director.

[ ]

19 The executive director may dismiss it, may either  
20 have the case re-investigated if they find that the  
21 exceptions or the appeal is with merit. If the executive  
22 director determines that the determination was made with  
23 merit in the no probably cause can stand, any Complainant  
24 that does not have a counter federal private right of action  
25 may go into the Circuit Courts in Maryland.

1           And to put that in lay terms, any Complainant who  
2 is filing on the basis of handicap, marital status, physical  
3 handicap, I think that's it, may file an appeal of our no  
4 probably cause determination in the state court. However,  
5 it will not be a -- the review will be based on what is  
6 commonly known as abusive discretion. They won't take the  
7 case from scratch and re-investigate it; it would just be a  
8 determination whether the executive director abused this  
9 discretion.

10           So in a sense you do have a right to get into  
11 court but you're not dealing with questions of fact, you're  
12 basically dealing with questions of law in court. In  
13 comparison, if you had a private right of action it would be  
14 a full-blown trial.

15           But we do have that. We have for the last -- not  
16 this past General Assembly '85, but in 1982, and '83, we  
17 have put in a bill for private right of action. Sometimes  
18 the problem is with the Governor's Office, we're a state  
19 agency and we must submit our legislative package to the  
20 Governor. Sometimes it doesn't come out of the Governor's  
21 Office and when it does come governor's office our  
22 legislators are rather conservative in giving individual  
23 citizens or residents of Maryland the right to go into court  
24 to sue.

25           And we do have a large front log and backlog at

[ ]

1 our agency. Right now we just recently asked for 12  
2 additional positions. Out of the 12 addition permanent  
3 positions we got 12 contractual positions and in reality it  
4 boiled down to five contractual positions. We're in dire  
5 need of employees. And if we did have a private right of  
6 action individuals could go in to court and sue.

7 I believe public accommodations, trans -- oh,  
8 public utilities is another area in which we don't have  
9 juris -- any type of place that opens itself open to the  
10 public, if it doesn't have a lunch room counter or if you  
11 can't sleep overnight there, we do not have jurisdiction.  
12 In the realm of employment we only have jurisdiction over  
13 employers with 15 or more employees.

[ ]

14 Just in closing I believe someone said they were  
15 confused about which agency to go to. The question came  
16 from this area, I'm not too sure who asked the question.  
17 But in closing I'd like to say that we are the state agency  
18 for Civil Rights in Maryland. We do have enforcement  
19 jurisdiction. We only have authority to award monetary  
20 damages in employment. We do not have the authority to  
21 award in public accommodations or in housing; however,  
22 there are other Civil Rights agencies in Maryland.

23 There's a sum total of 17 local Human Relations  
24 Commission in the State of Maryland; five of them have  
25 enforcement jurisdiction and in many instances have greater

[ ]

1 powers to award remedy. They're not many; it's Baltimore  
2 City, Montgomery County, Prince Georges County, Howard  
3 County and Hartford County.

4 Did I do it in two minutes?

5 MS. JOHNSON: Any questions?

6 MS. EVANS-ANDERSON: I thoroughly confused  
7 everyone, right.

8 MS. BLACKSHEAR: Speaking on the last point you  
9 were making. If the business has employees less than 15?

10 MS. EVANS-ANDERSON: Yes.

11 MS. BLACKSHEAR: You have no jurisdiction?

12 MS. EVANS-ANDERSON: Yes.

13 MS. BLACKSHEAR: Aren't most of our small business  
14 of the nature --

15 MS. EVANS-ANDERSON: Okay.

16 We have a legal definition of a small business.  
17 In Maryland I believe that you have to have assets over \$50  
18 million to be a small business. There is a legal definition  
19 of that.

20 MS. BLACKSHEAR: Let me try it again.

21 Aren't most of our mom and pop corner stores less  
22 than 15?

23 MS. EVANS-ANDERSON: Yes, definitely. And we have  
24 no jurisdiction when dealing with employment there.

25 And those local Human Relations Commissions that

1 don't have limits like that, we refer those complaints to  
2 them. But usually they don't have enforcement authority.

3 Yes, sir?

4 MR. ARIES: Isn't that 15 employees, isn't that  
5 the same as Title VII?

6 MS. EVANS-ANDERSON: Yes, sir.

7 MR. ARIES: Could I ask you this question. What's  
8 the relationship between the 17 local Human Relations  
9 Commissions and your state commission?

10 MS. EVANS-ANDERSON: Okay.

11 Unfortunately, there's no formal type of  
12 relationship. And I'm glad you mentioned that because there  
13 was one area that I failed to mention, and that deals with  
14 confidentiality of our process.

15 If someone, let's say hypothetically, is coming  
16 from Montgomery County is discriminated against they can by  
17 law file a complaint with Montgomery County and file a  
18 complaint with us. And you can have two investigations  
19 going on at the same time, which is a duplication of efforts  
20 and a waste of money, time and energy.

21 Our commission cannot talk to the Montgomery  
22 County Commission and say we have a complaint against XYZ  
23 Corporation, why don't you let us handle it or why don't  
24 Montgomery County handle it. We are bound by  
25 confidentiality whereas the Montgomery County Human

1 Relations Commission can share information with us but we  
2 cannot share it with them. We have tried. We didn't put it  
3 in this year but for the three preceding years we have tried  
4 to give us the authority to communicate with other agencies  
5 like out agency, and the Maryland Chamber of Commerce  
6 opposed that. They thought it would generate complaints  
7 rather than cut down on the number of complaints.

8 MS. MAZZ: From the point of view of a consumer,  
9 we would want to retain that separation or at least that in  
10 Montgomery County Human Relations law because Montgomery  
11 County Human Relations law does have a definition of  
12 reasonable accommodations in public accommodations. So we  
13 would not want to see the Montgomery County Human Relations  
14 taken over by the state at all because that's a better law  
15 than the state in that area.

16 MS. JOHNSON: Don't you think that that's two  
17 different issues? Sharing information and taking away  
18 powers from Montgomery County are two separate issues.

19 I think the sharing of information would expedite  
20 the cases more so than --

21 MS. MAZZ: But you see, when we don't have a  
22 private right of action we like to keep an "ace in the  
23 hole." So being from Montgomery County, Prince George's or  
24 Howard is your ace in the hole. You can always go from your  
25 local to the state.



1 MS. EVANS: All we're asking is the ability to  
2 share whereas the Montgomery County and Prince George's  
3 County can call us up and say we have a case against XYZ  
4 Corporation. We can't even confirm or deny that information  
5 because all our cases are confidential. And we've attempted  
6 to give us the authority to discuss this with other Civil  
7 Rights agencies.

8 The only two agencies that we do share information  
9 with are EOC and HUD, and that has never been challenged.  
10 But I suspect that if it was ever challenged, we probably  
11 couldn't do it either.

12 MS. JOHNSON: No more question?

13 In the interest of time, I thank you.

14 We're going to move right on to the Listening Post  
15 session. We have two people that have signed up, and I  
16 don't have their names.

17 And while we have this break, I'm going to excuse  
18 the committee members, DeWayne Whittington and Patsy  
19 Blackshear. So if you leave, we understand why.

20 MR. DARDEN: Calling Mr. Joseph Kendall and Lora  
21 Barnes.

22 The first is Mr. Joseph Kendall, the second is  
23 Lora Barnes.

24 MS. JOHNSON: Mr. Kendall?

25 MR. KENDALL: My name is Joseph P. Kendall of 3117

1 been developed and approved for legal sufficiency." It is  
2 CITCAA's contention that the language contained in the  
3 aforementioned results in discrimination against the  
4 handicapped, the elderly and constitutes a 504 violation.

5 It should be further noted that a meeting held on  
6 6/4/85 between CITCAA and the State of Maryland, the State  
7 of Maryland representative admitted that the signees of the  
8 consent form would be accused of contributory negligence  
9 should they initiate litigation at a future date relating to  
10 an asbestos disease caused by their employment and that the  
11 consent form would be introduced as evidence.

12 The State of Maryland who admittedly conducts an  
13 unsafe place of employment in violation of the 1970  
14 Occupational Safety and Health Act has saw fit to implement  
15 punitive actions against present employees who choose not to  
16 work with a known carcinogen, asbestos, or who, because of  
17 their age or handicap, could not wear the respiratory  
18 apparatus needed to protect themselves from immediate  
19 contamination.

20 This form also denies employment to the elderly and  
21 handicap who are unable to wear the so-called protective  
22 gear. The consent form also contradicts the Government's  
23 Executive Order No. 01.011983.09 that states in section  
24 four, paragraph 83, last sentence, "The employee will not be  
25 subjected to adverse personnel actions because of his or her

1 inability to be exposed to asbestos."

2 And the policy decision section of that Executive  
3 Order part five, section B relating to medical examination.  
4 An examination that states, "An employee cannot be exposed  
5 to work with asbestos will not be discriminated against."

6 The expected state argument to legitimized these  
7 discriminatory actions will no doubt be that the cost of  
8 accommodation removal of the asbestos is excessive. It has  
9 no merit in that the state legislature refused appropriate  
10 money for that purpose and chooses instead to invest the tax  
11 payers' money in numerous non life-threatening projects.

12 CITCAA contends that the lives and healths and  
13 civil rights of state employees are as important as the horse  
14 racing industry. CITCAA wired Governor Hughes on 6/7/85  
15 regarding the above matter and as of this date has received  
16 no meaningful response. A copy of that wire was sent to the  
17 Maryland Attorney General.

18 I bring these comments to this body to illustrate  
19 the hypocrisy employed by the State of Maryland  
20 representatives who publically proclaim their concern for  
21 the handicapped. It is the intent of CITCAA to formally  
22 file a 504 complaint with the U.S. Department of Justice and  
23 Treasury. This is the end of my comments on CITCAA.

24 Now, as a disabled worker and concerned citizen, I  
25 will address the inadequacies of the Maryland Committee on

1 Human Relations, which as a matter of practice fail to  
2 inform handicapped Complainants that have been terminated  
3 from their employment because of a job incurred disability  
4 that they have a right to file a like complaint with the  
5 Office of Federal Contract Compliance.

6 The overall business bias of the Commission  
7 Relations regarding unrepresented workers is supported by  
8 statistics. At the present I have been assisting a disabled  
9 worker who cannot read and has been terminated from his  
10 employment. The termination was caused because of his  
11 inability to work while under a physician's care. The  
12 physician's care was necessitated by an on-the-job accident,  
13 exposure to toxic chemicals.

14 The employer's workmen's compensation carrier, who  
15 is also the State of Maryland, has controverted his claim  
16 for total permanent disability. The worker had filed a  
17 complaint with HRC and had been waiting for a hearing which  
18 was the result of a finding or a reconsideration since  
19 September 1983, 23 months ago.

20 If there are any questions, I'd be glad to answer  
21 them.

22 MS. JOHNSON: Any question?

23 MR. KENDALL: I would like to add one thing. I  
24 heard the last lady here state that the Maryland Commission  
25 on Human Relations was the state agency. I have a letter

1 from their attorney telling me that that's not true. That  
2 they don't answer to the Attorney General's office. That's  
3 it's not a department of the state.

4 MS. JOHNSON: Ms. Crowder?

5 MS. BANKS-CROWDER: I would like to comment on  
6 that.

7 Our attorneys, there are five of them on staff  
8 including the General Counsel, are not a part of the  
9 Attorney General's office but we are a state agency. So  
10 maybe there was some miscommunication there.

11 But we are one of the two or three state agencies  
12 whose attorneys are not part of the Steve Sachs' office but  
13 we are a state agency.

14 MR. KENDALL: I'll send you a copy of the letter.

15 MS. BARNES: My name is Lora Barnes. I'm  
16 representing Motivation Group for the Physically  
17 Handicapped. It's a local county advocacy group.

18 I'm going to totally skip my preparation. The  
19 only things that I really want to call to your attention are  
20 that we have been working in the county for seven years on  
21 such issues as accessibility, enforcement of the laws  
22 regarding it, transportation for the handicapped, parking  
23 enforcement. We were instrumental in having a recent bill  
24 by Delegate Taylor introduced into the House. It has been  
25 signed so that's hopefully going to take care of some of the

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23 enforcement. We were instrumental in having a recent bill  
24 by Delegate Taylor introduced into the House. It has been  
25 signed so that's hopefully going to take care of some of the



1 enforcement problems.

2 Before this bill there was absolutely no teeth in  
3 the law. Therefore, builders didn't comply with the law  
4 because it couldn't be enforced.

5 Transportation seems to be the biggest problem in  
6 the county. Right now there's absolutely no specialized  
7 transportation for the handicapped, which is the primary  
8 reason other members of the group are not here. They have  
9 no way to get anywhere when there's not a ~~dollar~~<sup>dial-a-</sup> ride type  
10 service. It takes weeks of preparation to get a ride and  
11 the necessary help to get somewhere.

12 MS. JOHNSON: Are you talking about Allegany  
13 County?

14 MS. BARNES: Allegany County, yes.

15 We find that <sup>for</sup> every issue that comes up, it's as if  
16 butting your head against a brick wall. The Motivation  
17 Group has had to fight for every step that has been made as  
18 far as enforcement and compliance with 504.

19 So we'd like the county to be aware that we are  
20 here, that we are the ones who have worked for issues such  
21 as the parking and even <sup>lowered</sup> water fountains and that sort of  
22 thing <sup>that</sup> ~~no~~ one was complying with. The local library is  
23 accessible but the bathroom facility are not accessible  
24 because a water fountain blocks the doorways. They have  
25 told us rather than comply with trying to make them

1 accessible they'll just close them to the public in general.  
2 That's the sort of opinions that we are coming up against.

3 That's the only thing I'll go into today. I have  
4 some written material from a member that she would very much  
5 like you to consider.

6 MR. ARIES: If I could just ask you to identify  
7 your organization again?

8 MS. BARNES: Motivation Group for the Physically  
9 Handicapped, Incorporated.

10 MR. ARIES: For Allegany County?

11 MS. BARNES: For Allegany County.

12 MR. ARIES: Thank you.

13 MS. BARNES: It's not a county agency; it's just a  
14 private group open to everyone.

15 MS. BLACKSHEAR: I want a clarification, Madam  
16 Chairperson.

17 When would transportation or the lack of  
18 transportation services get into the realm of denial of civil  
19 right when a county, Allegany County, is a recipient of  
20 federal funds for transportation?

21 MR. LANCASTER: I would sell tickets to that event  
22 if I could. If the county is receiving federal financial  
23 assistance, and I know Allegany County is, it comes from the  
24 <sup>federal government</sup> to the State of Maryland's Department of Transportation  
25 and administered primarily through the mass transit



1 administration within the State Department of  
2 Transportation.

3 They in turn fund local jurisdictions in certain  
4 ways for certain capital expenditures and operating  
5 expenditures. And that's how the -- would connect up.

6 And the requirements are under the Federal Urban  
7 Mass Transportation Administration's 504 Regulations that  
8 the local jurisdiction for the administering transit  
9 authority has to be making certain special efforts to serve  
10 handicapped and disabled persons. They have to be  
11 expending, I think, at least three percent of their budget  
12 in that regard or they can take a different option and that  
13 is that if 50 percent of their main line ~~bus~~<sup>bus</sup> fleet is  
14 accessible then they are considered to be in compliance.

15 MS. JOHNSON: If they're not doing that, what is  
16 the penalty?

17 MR. LANCASTER: Well, ordinarily the penalty could  
18 be the withholding of the funds. But other than that ~~there are~~<sup>there are</sup>  
19 penalties, ~~there~~<sup>explicit</sup> the Federal Government can come in and  
20 negotiate with them and put pressure on them, but ultimately  
21 the only penalty is to withhold funds.

22 MS. JOHNSON: Ms. Kirk.

23 MS. KIRK: Again, many of the issues that we  
24 talked about before when we said the leadership in Federal  
25 Government. Yes, they can take funds away but they don't.

1 On every instance both rehab, health department on and on.  
2 They have that right but they don't.

3 I'd like John to talk for a minute. We did work  
4 very hard and got two bills passed this year in the state  
5 legislature 92 and I can't think of the Senate bill number,  
6 275, which does require that the State Department of  
7 Transportation set aside some monies to be used by local  
8 jurisdictions to begin to provide some kind of  
9 transportation services.

10 MR. LANCASTER: You just gave it. All the 24  
11 jurisdictions have about \$1.5 million to split up to augment  
12 their transportation services to provide general purpose  
13 transportation services for disabled and elderly citizens.

14 MS. KIRK: Most of the counties in this state  
15 don't have any public transportation.

16 MS. MAZZ: Another part of our problem is, as John  
17 said, disabled and elderly. That's -- disabled -- comes in  
18 that order and the area of the -- usually --

19 MS. JOHNSON: Thank you.

20 Before we close our forum -- oh, you want to ask a  
21 question.

22 MR. BOSLEY: Mr. Lancaster, I want -- on  
23 transportation. Now you say 50 percent of the main line if  
24 it's accessible that would make them in compliance; is that  
25 correct?

1 MR. LANCASTER: That's correct. Before I give you  
2 a really definitive answer I'd like the opportunity to go  
3 research the <sup>regulations,</sup> it's been a while since I've read those. As  
4 I understand it, 50 percent of the main line fleet, if it  
5 was accessible, it would be in compliance.

6 MR. BOSLEY: Now I noticed, just because I haven't  
7 had a chance to get the bill or read it -- Faith, I believe  
8 it, was today transportation under the elderly and  
9 handicapped. Now is there any break down between X number  
10 of dollars to the elderly or X number of dollars to the  
11 handicapped to keep one organization or one group from  
12 gobbling up the whole pot of gold?

13 This is the trouble we have found in our  
14 organization that making money for the handicapped and  
15 elderly -- the handicapped. This is one of the areas that  
16 I'd like to see explored.

17 MR. LANCASTER: The state bill does not provide  
18 for what percentage should go to elderly or what goes to  
19 handicapped. It does require, however, that the plan that  
20 is submitted by the local jurisdiction, and your county  
21 commissioners and your county administrator have to submit a  
22 plan to the State Department of Transportation, ~~That~~ that plan  
23 has to be developed in your own county with the cooperation  
24 of your local area office for the aging and your local  
25 handicapped community.

1           Also the transportation service that is developed  
2 in that plan has to serve both elderly and handicapped. And  
3 when it gets to the state level before the State Department  
4 of Transportation signs off on it, the plan has to be run by  
5 both my office and the state office on aging.

6           So the only way that handicapped persons could be  
7 left out of the service under this bill is if on a local  
8 level ~~and their local jurisdiction~~ they don't do anything  
9 about accessing funds. If they don't do anything about  
10 accessing the funds and putting pressure on their local  
11 counties to get a piece of the pie, then I can guarantee you  
12 they're liable to be left out. But if they make that push,  
13 they'll get some of the services.

14           MS. JOHNSON: All right.

15           MR. ARIES: Just as a matter of curiosity, Ms.  
16 Barnes, I noticed that there is a sign on several of the  
17 stores in the mall that if requested a certain group will  
18 provide a wheelchair for four hours without charge and  
19 apparently accompany the person. Is your group involved in  
20 motivating who ever is doing that?

21           MS. BARNES: No, I think it's the Lions Club.

22           MR. ARIES: The Lions Club.

23           MS. BARNES: I think they provide some of the --  
24 wheelchairs.

25           MR. ARIES: Okay.

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Is that a plus in your estimation?

MS. BARNES: Yes.

MS. JOHNSON: You want to ask a question?

MR. OKURA: I don't have a question but I'd like to propose something here and see what kind of response would come from this audience.

We all know that with the cut backs in all Human Resource budgets of the Federal Government and the increase in the fight we're having now in terms of the defense budget versus the social service kinds of programs, and we all know that the chances of winning anything for Social Service and Human Resource budgets are pretty nil.

Now, I've been in the whole field of mental health for the last 25 years, both on a state level and on a federal level, and I've retired from the Federal Government. But as I go around the country meeting with mental health and mental retardation groups and other handicapped groups, the cry seems to be for all those that are out in the field working in this whole area find that resources are being cut back. Not only on the federal level, then it affects the state level and on our block grants concept now the state is not going to use it for Human Resources, they're going to use it for highways and rivers and other things.

MR. LANCASTER: Horse racing.

MR. OKURA: Horse racing and so on.

1           However, when it really gets right down to it it's  
2 a matter of resources and finances. Now how are we ever  
3 going to get any more kinds of finances for our needs. The  
4 question then comes up to taxation. Somebody's got to pay  
5 for this. There's only a certain amount of money.

6           Now, how many in this audience would be agreeable  
7 to a tax increase.

8           (Whereupon, a show of hands was called for.)

9           MR. OKURA: That's interesting. Because most  
10 audiences that I face numbering 200, 300 and 400, especially  
11 when the annual mental health and mental retardation have  
12 their annual meetings and we're asked to be a speaker to the  
13 affair, when you pose that question and we go through the  
14 entire rhetoric of the cut backs, -- mental health and  
15 mental retardation programs were started et cetera, et  
16 cetera, and the whole matter of de-institutionalization  
17 comes up now. And it's back into the community, 90 percent  
18 of the audience will say we want all these things but we  
19 don't want increases in taxes.

20           MS. MAZZ: You're talking of a group of people who  
21 are not getting equity for their tax dollar.

22           MR. OKURA: Well, you're never going to get it --

23           MS. MAZZ: You're talking to a group of people who  
24 are already -- who are already not getting their fair share  
25 of the pie. And you're saying to us do you want to take

1 more.

2 MR. OKURA: These people I'm talking to are so-  
3 called -- they're volunteers. They make up all these  
4 organizations and they are putting out their own money to  
5 keep their own organizations going, et cetera. But  
6 somewhere --

7 MS. MAZZ: But they're representing  
8 constituents --

9 MR. OKURA: They're representing constituency.  
10 However, the point I'm making is that the resources have to  
11 come from somewhere. And you're not going to get the  
12 Federal Government to change their position, we all know  
13 that.

14 The mood of this country right now is -- if you  
15 look at the mood of the country, it's retrenchment. You  
16 look at the mood of the country it's conservatism. They  
17 agree with everything the present administration is doing,  
18 they get 90 percent, 80 percent, 70 percent depending on  
19 what poll. They all think our present administration is  
20 doing a tremendous job.

21 MR. KENDALL: -- any objection --

22 MS. JOHNSON: We have to change the tape.

23 And we're getting into an argument, and I think I  
24 have to bring it to order.

25 MR. KENDALL: I would like to bring some

1 submission records for --

2 MS. JOHNSON: Well, I think maybe the issues ought  
3 to be done afterwards because that's not a part of the --

4 MR. OKURA: It's not a part but I just wanted to  
5 find out --

6 MS. JOHNSON: A committee member raised a  
7 question, I realize that.

8 MR. KENDALL: You wouldn't have those tremendous  
9 bills if the next question were being addressed if you were  
10 out there collecting data to prove who was -- disability 17  
11 to 36 million in a decade. Obviously, you're --

12 MS. JOHNSON: Personally, Mr. Kendall, I've been  
13 sitting here today and I've heard of so many state agencies,  
14 so many different places that is overlapping. I think that  
15 if we could do some sharing that we would come up with a lot  
16 of funds to move some of these things about with the present  
17 laws without changing anything at all. That's my personal  
18 opinion sitting here listening and gathering of information.  
19 I think the committee member here had a personal question  
20 that he threw out.

21 And I think as chair I'm going to have to move  
22 that out of order.

23 Let's move on to closing this forum. I would like  
24 to thank all of the panelists and the two organization that  
25 signed up for the Listening Post portion for the



1 information. It was very informative to me and I think to  
2 the committee members.

3 As I stated in my opening state that this advisory  
4 committee will compile a brief or a memorandum based on  
5 information that we've gathered here and learned today. And  
6 we will be submitting it to the United States Commission on  
7 Civil Rights. We will do some follow-up with experts that  
8 were not available for this meeting to add to our brief.

9 And as you can see our proceedings were recorded  
10 and we'll have those transcribed and we will have everything  
11 to work on our brief. And I'm going to call this forum to  
12 an end.

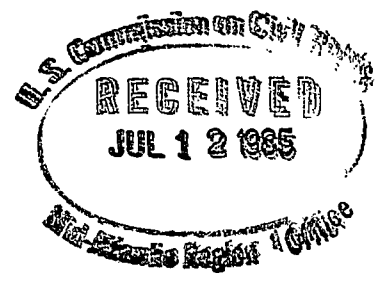
13 Thank you.

14 (Whereupon, at 4:20 p.m., the forum was closed.)  
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Mr. Darden -  
I'm sorry  
this is late. Please  
use this copy for corrections  
on the testimony.  
Thank you.  
J. Kendall

TESTIMONY OF  
JOSEPH P. KENDALL

Maryland State Advisory Committee  
to the U.S. Commission on Civil Rights



June 17, 1985

My name is Joseph P. Kendall of 3117 Belair Road, Baltimore, Maryland 21213. I am here today as a representative of the Citizens' Coalition Against Asbestos, Inc. (hereinafter referred to as "Citcaa"), a private, non-profit organization, located at 350 Bishop Court, Westminister, Maryland 21157, Mr. Michael Yingling, President. I am also here as a disabled worker and a concerned citizen.

My first comments are in regard to the State of Maryland, Department of Personnel Form entitled, "Consent Form for Level II Job Applicants" which states on its page 2, paragraph 7 that "all Level II new employees who fail to be approved for respirator use or successfully pass the Asbestos Training Program during the probationary period will be disqualified for this position." In the Sun newspaper dated June 16, 1985 in Section E, page 12, a column headed "Maryland Requiring Asbestos Work for Promotions", paragraph 11, Dr. Edith Booker, Policy & Administrative Manager for the State Department of Personnel, is quoted as follows, "If current employees refuse to sign the new consent form, they will not be promoted to Level II jobs because most of them require some asbestos exposure."

In a letter dated March 1, 1985 to "Dear Coordinator" and signed by C. Edith Booker, written on State of Maryland letterhead, the first paragraph, last sentence, states that "To that end, a consent form for

Level II job applicants has been developed and approved for legal sufficiency."

It is Citcaa's contention that the language contained in the aforementioned results in discrimination of the handicapped, the elderly, and constitutes a "504 violation".

It should be further noted that at a meeting held on June 4, 1985 between Citcaa and the State of Maryland, representatives of the State admitted that the signees of the "Consent Form" would be accused of contributory negligence should they initiate litigation at a future date relating to an asbestos disease caused by their employment and that the consent form would be introduced as evidence.

The State of Maryland who admittedly "conducts an unsafe place of employment" in violation of the 1970 Occupational Safety & Health Act has saw fit to implement punitive actions against present employees who choose not to work with a known carcinogen, asbestos, or who, because of their age or handicap, cannot use/wear the respiratory apparatus needed to protect themselves from immediate contamination. This form also denies employment to the elderly and handicapped persons who are unable to wear the so-called "protective gear".

The "Consent Form" also contradicts the Governor's Executive Order No. 01.011983.09 that states in Section 4, Paragraph A-3, last sentence, "The employee will not be subjected to adverse personnel action because of his/her inability to be exposed to asbestos." In the Policy Decision, Part V, Section B, relating to the above states that "employees who refuse or cannot be exposed to work with asbestos will not be discriminated against."

The expected state argument to legitimize these discriminatory actions will no doubt be that the cost of accommodation (removal of


asbestos) is excessive, has no merit in that the State Legislature refused to appropriate money for that purpose and choses instead to invest the taxpayers' money in numerous non-life threatening projects. Citcaa contends that the lives, health, and civil rights of State employees are as important as horse racing.

Citcaa wired Governor Hughes on June 7, 1985 regarding the above matters and as of this date, has received no meaningful response. A copy of that wire was sent to the Maryland Attorney General.

I bring these comments to this body to illustrate the hypocracy employed by State of Maryland representatives who publicly proclaim their concern for the handicapped.

It is the intent of Citcaa to formally file a 504 complaint with the U.S. Department of Justice and Treasury.

This is the end of my comments for Citcaa.

  
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Joseph P. Kendall

June 17, 1985

TESTIMONY OF  
JOSEPH P. KENDALL

Maryland State Advisory Committee  
to the U.S. Commission on Civil Rights

June 17, 1985

CONTINUATION

As a disabled worker and concerned citizen, I will address the inadequacies of the Maryland Commission on Human Relations ("MCOHR") which as a matter of practice, fail to inform handicapped complainants that have been terminated from their employment because of a job incurred disability that they have a right to file a like complaint with OFCC.

The overall business bias of "MCOHR" regarding unrepresented workers is supported by statistics.

At present, I have been assisting a disabled worker who cannot read and has been terminated from his employment. The termination was caused because of his inability to work while under a physician's care. The physician's care was necessitated by on the job accidents and exposure to toxic chemicals. The employer's Workmen's Compensation carrier, the State of Maryland, has controverted his claim for total permanent disability. This worker has filed a complaint with "MCOHR" and has been waiting for a hearing, which is resultant of a finding for reconsideration since September 1983, twenty-one months.

Case No. E 682-2023-PH-SX-AG.

1 Bel Air Road, Baltimore, Maryland 21213.

2 I'm here today as a representative of the Citizens  
3 Coalition Against Asbestos, Incorporated, a private non-  
4 profit 501-3(c) organization located at 350 Bishop Court,  
5 Westminster, Maryland 21517, Michael -- president, and as a  
6 disabled worker and a concerned citizen.

7 My first comments are in regard to the State of  
8 Maryland Department of Personnel form entitled "Consent Form  
9 for Level 2 Job Applicants", which states on its page two,  
10 paragraph seven, "All level two new employees who fail to be  
11 approved for respirator use or successfully pass the  
12 asbestos training program during the probationary period  
13 will be disqualified from this position."

14 In the Sun Paper dated June 16, 1985, section E,  
15 page 12, a column had Maryland requiring asbestos work for  
16 promotions, paragraph 11, Dr. Edith Bucker, Policy and  
17 Administrative Manager for the State Department of Personnel  
18 was quoted as follows: "If current employee refuse to sign  
19 the new consent forms, they will not be promoted to level  
20 two jobs because most of them require some asbestos  
21 exposure."

22 In a letter dated March 1, 1985, to Dear  
23 Coordinator and signed by C. E. Bucker, written on state  
24 letterhead, the first paragraph, last sentence states: "To  
25 that end the consent form for level two job applicants has