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COMMUNITY FORUM

on the

ADMINISTRATION OF JUSTICE

FOR

HOMOSEXUAL PERSONS AND OTHER GROUPS IN NEW ORLEANS

held by the

LOUISIANA ADVISORY COMMITTEE

TO THE

U.S. COMMISSION ON CIVIL RIGHTS

at the

Holiday Inn Crowne Plaza

333 Poydras Street  
New Orleans, Louisiana

on

Friday, May 27, 1988

Reported by:

**SUSAN LEMON**  
Certified Shorthand Reporter

**BORRELLO COURT REPORTERS, INC.**

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- Michael R. Fontham, Chairman
- Melvin L. Jenkins, Director  
Central Regional Division
- Roberta Madden
- Benjamin Jones
- William Quigley
- John Baker
- Sandra McDade
- Jean Adams
- Kay Reiboldt
- Robert Kutcher
- William Muldrow
- Van Hildren Brass

\* \* \* \* \*

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Police Education and Training  
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Municipal Training Academy

Peter L. Munster, Director  
Officer of Municipal Investigation

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1 CHAIRMAN FONTHAM:

2 Good morning. My name is  
3 Michael Fontham. I'm Chairman of the  
4 Louisiana Advisory Committee. And for those  
5 of you in our audience who don't know us, I'm  
6 going to introduce the members of the  
7 Committee and some of the Commission Staff  
8 who are present here today.

9 At the head table here,  
10 beginning from my left, or your right, is  
11 William Muldrow. He's from the Commission's  
12 Kansas City Office and was very instrumental  
13 in putting this particular program together.  
14 And we all want to express our appreciation  
15 of Bill at this time for doing that.

16 The next person at the head  
17 table here is missing right now, one of our  
18 Committee members, Robert Kutcher, but he has  
19 assured me that he's going to arrive shortly  
20 after the beginning of the meeting.

21 Sandra McDade, from Shreve-  
22 port, is also a member of our Committee;

23 Professor John Baker, from  
24 Baton Rouge, a member of the Committee;

25 Benjamin Jones, an attorney,

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1 is a member of our Committee.

2 On my right is Melvin Jenkins,  
3 the Director of the -- Central Division? Is

4  
5 MR. JENKINS:

6 (Mr. Jenkins nods his head  
7 affirmatively.)

8 CHAIRMAN FONTHAM:

9 From Kansas City, who as  
10 agreed to attend our meeting here today;

11 Roberta Madden, another member  
12 of our Committee. She's from Baton Rouge;

13 William Quigley, who's an  
14 attorney from New Orleans, who's a member of  
15 the Committee;

16 Jean Adams, who is the -- are  
17 you still the Vice-Chairman of the Committee?

18 MS. ADAMS:

19 (Ms. Adams nods her head  
20 affirmatively.)

21 CHAIRMAN FONTHAM:

22 Miss Kay Reiboldt -- Kay, are  
23 you from Shreveport? Is that correct?

24 MS. REIBOLDT:

25 (Ms. Reiboldt nods her head

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1 affirmatively.)

2 CHAIRMAN PONTHAN

3 -- is a new member of the  
4 Committee.

5 And Mr. Van Brass,

6 So we appreciate everyone  
7 being here today.

8 I'd also like to express my  
9 appreciation that some of the representatives  
10 of the Commission from Washington are here,  
11 including one of the Commissioners on the  
12 United States Commission on Civil Rights,  
13 Francis Guess (spelled phonetically), who is  
14 seated at the back of the room.

15 And also Susan J. Broddoe  
16 (spelled phonetically), the Acting Staff  
17 Director from the United States Commission on  
18 Civil Rights in Washington is here;

19 And James Corey (spelled  
20 phonetically), from the Office of the Deputy  
21 Staff Director is here.

22 And, in addition, we have a  
23 number of other staff of the United States  
24 Commission on Civil Rights, including Lorenzo  
25 Cervantes (spelled phonetically), Perin

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1 Sanders (spelled phonetically), and Joe  
2 Woodard (spelled phonetically), who is the  
3 assistant to one of the commissioners. So  
4 we're well represented at this meeting.

5 We're here to conduct a  
6 Community Forum to gather information with  
7 respect to the Administration of Justice for  
8 Homosexual Persons and Other Groups in New  
9 Orleans.

10 The jurisdiction of the United  
11 States Commission on Civil Rights includes  
12 discrimination and denials of equal  
13 protection on the upper law because of race,  
14 color, religion, sex, age, handicap, or  
15 national origin and also includes  
16 jurisdiction relating to discrimination in  
17 the Administration of Justice. Information  
18 which relates to the topic of the forum will  
19 be especially helpful to the Advisory  
20 Committee.

21 For those of you in the  
22 audience, the traditional function of State  
23 Advisory Committees has been to serve as  
24 information-gathering mechanisms for the  
25 United States Commission on Civil Rights.

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1 Many people refer to it as "Advisory  
2 Committee serving as the eyes and ears of the  
3 Commission."

4 So we have to receive  
5 information from those of you who have  
6 information in this area with respect to the  
7 topic of this forum.

8 This particular forum is being  
9 recorded by a public stenographer and will be  
10 sent to the Commission for its advice and  
11 consideration, and the information provided  
12 may also be used by the Advisory Committee to  
13 plan future activities of the Advisory  
14 Committee of this State.

15 This is a public meeting. It  
16 is open to the media. It's open to the  
17 general public. We have a very full schedule  
18 today. Quite a few people are going to make  
19 formal presentations, and there is limited  
20 time, but there will be questions of many of  
21 the participants. So we will try to adhere  
22 to the schedule that has previously been  
23 prepared.

24 For those who are not formally  
25 included in the schedule, there will be a

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1 period at the end of the day -- possibly at  
2 the end of the morning, if there is time, but  
3 most certainly at the end of the day, from 5  
4 to 6 P.M. for short presentations by other  
5 interested members of the public.

6 If there is a member of the  
7 public here who wishes to make such a  
8 presentation, that person should contact  
9 either the Members of the Commission Staff  
10 who are at the door or William Muldrow, who  
11 is at the far end of the head table here.

12 Written statements may be  
13 submitted to Committee Members or to the  
14 Staff or by mail to the United States  
15 Commission on Civil Rights, 911 Walnut, Suite  
16 3100, Kansas City, Missouri, 64106. Those  
17 statements may be submitted until June 15,  
18 1988.

19 We ask that all invited guests  
20 who present comments to the Advisory  
21 Committee take care not to defame or degrade  
22 any person or organization. That's against  
23 the Commission's rule. And we hope to insure  
24 that all aspects of the issues are  
25 represented, that knowledgeable persons with

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1 a wide variety of experience and viewpoints  
2 share their knowledge with us  
3 Any person or organization who  
4 thinks they have been defamed or degraded may  
5 contact the members of the staff and will be  
6 given an opportunity to make a response.  
7 Alternately, those persons or organizations  
8 may file written statements for inclusion in  
9 these proceedings.

10 The Advisory Committee  
11 appreciates very much the willingness of the  
12 participants to share their views with us  
13 today. And there will also be a short  
14 statement by Mr. Melvin Jenkins.

15 MR. JENKINS:

16 On behalf of the Central  
17 Regional Division, we want to show our  
18 appreciation to the Louisiana Advisory  
19 Committee for working with the Central staff  
20 in Kansas City to develop this particular  
21 project.

22 Community forums have been a  
23 vehicle used by the Advisory Committees to  
24 bring forth information to share with  
25 Commissioners in Washington, a tool that we

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1 have found useful in the past, and we'll  
2 continue to use the job here in Louisiana  
3 and in other states in the 16-state region so  
4 as to advise Commissioners and the staff in  
5 Washington of civil rights concerns and  
6 views.

7                   So often we have civil rights  
8 problems, but there has been no type of  
9 vehicle to advise the Commission. With the  
10 advent of community forums, we've held --  
11 this is the second forum in Louisiana in the  
12 last 12 months. The first forum was held in  
13 which we received general information on the  
14 status of civil rights in New Orleans. That  
15 information has been forwarded to Washington  
16 and has been shared with the Advisory  
17 Committee. This process of information as  
18 indicated by the Chairperson will be  
19 forwarded to the Commission for  
20 consideration.

21                   Again, I extend my thanks to  
22 the Louisiana Advisory Committee for  
23 development of this particular project.

24                   CHAIRMAN FONTHAM:

25                   The first presentation we have

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1 is a Legislative Overview, which is to be  
2 presented by Mr. Glenn Ducote, who is  
3 Assistant Attorney General.

4 Are you here, Mr. Ducote?

5 MR. DUCOTE:

6 Yes.

7 CHAIRMAN FONTHAM:

8 Okay. It's up to you. You  
9 can either use the podium or sit there at  
10 that table.

11 MR. DUCOTE:

12 I'd like to thank the members  
13 of the Louisiana Advisory Committee for the  
14 invitation to participate in this forum on  
15 what seems to be an important issue facing  
16 citizens around our country and in the State  
17 and City, of course.

18 I've been asked to present, on  
19 behalf of the Louisiana Attorney General's  
20 Office as the Chief Legal Officer for the  
21 State of Louisiana, a brief overview of the  
22 statutes, the legislation which applies to  
23 homosexual persons living in our State.

24 At the outset, I'd like to  
25 point out that the Louisiana Attorney

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1 General's Office has no direct responsibility  
2 in the law enforcement processes of the  
3 State. Those powers, as you members of the  
4 Committee and citizens of Louisiana are  
5 probably aware, are vested in our local  
6 district attorneys.

7                                         There are certain  
8 circumstances in which the Louisiana Attorney  
9 General can and does, on occasions, become  
10 involved in the law enforcement process.  
11 Those are when he is called upon by courts,  
12 directly, or upon the refusal of the local  
13 district attorney when there's a conflict of  
14 interest or other problem, and then our  
15 office can essentially sit as the district  
16 attorney ad hoc and handle criminal  
17 prosecutions.

18                                         Our office does have a  
19 responsibility, and has in the past  
20 participated, in defending Louisiana Statutes  
21 whose constitutionality is challenged in  
22 courts. And there was such a challenge filed  
23 against the Louisiana Statute dealing with  
24 sodomy -- crime against nature is captured in  
25 our law I believe in 1985 -- and that lawsuit

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1 became inactive. I don't believe it has  
2 actually been dismissed. It became inactive  
3 in 1987, after the U.S. Supreme Court ruling  
4 in the Hardwig (spelled phonetically) case,  
5 which indicated that states did have the  
6 right to legislate on such matters.

7 In researching what the extent  
8 of the Louisiana law was that specifically  
9 affected homosexual persons in our State, I  
10 did find the word "homosexual" in the index  
11 to the statutes but I was unable to find the  
12 word anywhere in our statutes. It came as an  
13 interesting surprise to me.

14 There are two areas that I  
15 would like to point out to you where we do  
16 have statutes in place that have specific  
17 effect on homosexual persons: One is the  
18 criminal area and one is the civil area.  
19 I'll first deal with the civil area.

20 And these involve the  
21 relationship of husband and wife or contract  
22 or marriage. There are specific prohibitions  
23 in our laws arising in Civil Code Article 89  
24 which states very briefly and to the point,  
25 "Persons of the same sex may not contract

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1 marriage with each other."

2 ~~This is a fairly recent~~  
3 addition to our law that previous statements...  
4 ~~This was enacted in 1987. Prior to that~~  
5 time, I believe going back to the mid-  
6 Seventies, there was a similar prohibition,  
7 not quite in those same words.

8 But, until the 1970's  
9 amendment of the statute, there had been no  
10 explicit prohibition in our law to that  
11 effect. In the Seventies, as I recall,  
12 having been a news reporter during that  
13 period of time, one of the states -- I think  
14 Colorado -- was considering or had a proposal  
15 which would have sanctioned the same-sex  
16 marriages.

17 And, in response to that,  
18 Louisiana, along with many other states, made  
19 it quite clear that that was not a  
20 possibility under our law. So Civil Code  
21 Article 89 specifically prohibits a marriage  
22 or union sanctioned by State law of persons  
23 of the same sex.

24 Article 96 of the Civil Code,  
25 in the same area, which deals with civil

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1 effects which flow from marriages which for  
2 various technical reasons may be considered  
3 to be null and void -- the term is called  
4 "putative marriages"; they're in good faith  
5 -- specifically states that the purported  
6 marriage between parties of the same sex does  
7 not produce any civil effects.

8           So that while reported  
9 marriage which is technically null or not  
10 completed according to the form required by  
11 law, if it is between man and woman, it can  
12 have civil effects that will blow the  
13 validity of property transaction, validity of  
14 the birth of children, so forth. But a  
15 purported marriage between parties of the  
16 same sex can have no civil effects  
17 whatsoever, according to our civil law.

18           The criminal statutes that are  
19 involved, of course, there is the -- I  
20 mentioned -- referred earlier to the Hardwig  
21 decision and the Louisiana challenge to that  
22 case, which I believe was the case of Ward  
23 versus the State of Louisiana.

24           We have on our books, civil  
25 code -- pardon me, criminal code for

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1 prohibition under the title "Crime Against  
2 Nature." They appear in Section ~~11~~  
3 Section 89, which would make illegal most of  
4 ~~virtually all of homosexual acts and~~ in  
5 addition to that, any acts between persons of  
6 opposite sex which may or may not be  
7 commonplace among the population.

8 But the Louisiana statute is  
9 one of those which applies equally. It  
10 applies to the act and it applies within  
11 marriage, outside of marriage, between man  
12 and woman, between man and man, or between  
13 woman and woman.

14 Some states, legislation in  
15 this area is specifically aimed at homosexual  
16 acts or is specifically aimed at acts outside  
17 of marriage. That is not the case with our  
18 law. It is contained with a very broad  
19 brush, and this is the statute that I  
20 indicated earlier that had been -- the  
21 constitutionality of which has previously  
22 been challenged in Federal Court here in New  
23 Orleans in the Ward case.

24 That case was being tended at  
25 the time it was active by the Louisiana

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1 Attorney General's Office -- not by myself  
2 but by another Assistant Attorney General in  
3 our office, and has become inactive since the  
4 decision by the United States Supreme Court  
5 in the Hardwig case.

6 The Louisiana Constitution has  
7 some very broad and sweeping prohibitions  
8 against discrimination and other statutes --  
9 and statutes enacted in our legislation  
10 pursuant to that and by some of our  
11 municipalities, such as the City of New  
12 Orleans have created some anti-discrimination  
13 prohibitions by ordinance and statute.

14 To the best of my knowledge, I  
15 know that the Louisiana Constitution's  
16 prohibitions do not incorporate prohibitions  
17 against discrimination based on sexual  
18 orientations or "sexual preference," as it's  
19 sometimes referred to. There are, as far as  
20 I know, in none of the statutes, either, any  
21 discriminating -- any prohibitions against  
22 discrimination based on sexual orientation.

23 The New Orleans City Council,  
24 I believe on two previous occasions, has  
25 considered an ordinance which would have

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1 added to its civil rights protections a  
2 prohibition against discrimination based on  
3 sexual orientation, and those ordinances, as  
4 I recall, news reports have been needed. I  
5 have not been active or present for those  
6 debates.

7 This basically is a very brief  
8 overview of Louisiana law. These are the  
9 only statutes that I have found which are  
10 specifically applicable to the subject that  
11 you have under your consideration, and we'd  
12 like to try to respond to any questions which  
13 you may have for these provisions of  
14 Louisiana law which we have found applicable

15 CHAIRMAN FONTHAM:

16 Thank you very much, Mr.  
17 Ducote.

18 Does anyone at this table, on  
19 my left, have any questions?

20 MR. JONES:

21 I have one. Mr. Ducote, had  
22 you planned to submit for the Commissioners  
23 for the Advisory Committee's use a copy of  
24 your prepared speech this morning?

25 MR. DUCOTE:

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No, I have not, Mr. Jones. If  
~~you'd like, I'll be glad to properly present~~  
a summary of those in writing.

MR. JONES:

It would be, I think, helpful  
to the work product that we hope to do if we  
could have that information in writing, if  
it's not too much trouble for you.

MR. DUCOTE:

I'd be glad to do that.

MR. JONES:

With respect to the question  
of the way the law, both our civil law and  
our criminal law responds to the homosexual  
orientation, are you aware of any existing  
legislative committee or any other State  
level committee or commission that is looking  
actively at the question of whether or not  
there might be a reason to think that there  
ought to be perhaps a more enlightened  
response in the State of Louisiana to  
homosexual personalities?

MR. DUCOTE:

No, sir, I am not aware of any  
such legislative or other task force or

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1 executive committee considering those issues  
2 There is a -- in these times, it's hard to  
3 separate consideration of homosexual issues  
4 and the issue of AIDS. And there is a  
5 legislative task force which was created  
6 during the March Special Session of the  
7 Legislature that is reviewing AIDS-related  
8 issues. And I know from seeing the agendas  
9 of those meetings that they include some  
10 rather broad-ranging subjects that touch  
11 perhaps on subjects such as these, but that  
12 is not specifically within the charge of that  
13 committee.

14 MR. JONES:

15 One follow-up question, if I  
16 might: Would you agree that the apparent  
17 harshness of our Civil Code Division and our  
18 Criminal Code Division seem to be based on  
19 the assumption that homosexual conduct and  
20 practices are simply a preference for  
21 voluntary involvement rather than something  
22 more -- something for involuntary  
23 regulations?

24 MR. DUCOTE:

25 From the cold words of the

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1 statutes, Mr. Jones, it's hard to divine  
2 anything that would suggest what the  
3 motivation or what the presumptive base of  
4 these statutes are.

5 It's my impression from  
6 hearing legislative debates that -- on issues  
7 related to AIDS over the last couple of years  
8 that that certainly is an issue that's heavy  
9 and high in the minds of some legislators.  
10 Yes, sir. But I don't think that the  
11 statutes that have been enacted that I have  
12 referred to, the civil statute dealing with  
13 marriage or the criminal statute dealing with  
14 homosexual acts, would give us a hint as to  
15 what is the motivation behind that.

16 MR. JONES:

17 Thank you.

18 Professor?

19 MR. BAKER:

20 I just want to comment on the  
21 historical basis. It's not a recent thing.  
22 It's been in the Code from the beginning, and  
23 the terminology, "Crime Against Nature," is  
24 something that speaks. Others often have  
25 difficulty with it. It's historical

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1 tradition orientation. And why the crime is  
2 distinguished from other crimes, it is the  
3 judgment, long-standing, homosexual acts are  
4 against nature, and that is historical and  
5 based on philosophic concepts running  
6 centuries back.

7 MR. DUCOTE:

8 I would point out, in response  
9 to that, that there are -- I think that's  
10 quite correct. It goes all the way back,  
11 that I know of -- I mean our ordinance has  
12 always been there, since the early -- first  
13 enactments of criminal sanctions in  
14 Louisiana.

15 There are now, I understand 23  
16 other states that still have in their  
17 statutes prohibitions against homosexual  
18 acts, and that change has been gradually  
19 coming over the last few years. But there  
20 are now less than half the states, according  
21 to my understanding, that still have  
22 prohibition against homosexual acts.

23 CHAIRMAN FONTHAM:

24 Okay. We have one or two  
25 minutes. Does anyone at this table have a

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1 question?

2 Mr. Jenkins?

3 MR. JENKINS:

4 You mentioned the Criminal  
5 Code applies to the act as opposed to the  
6 person. What has been your experience during  
7 the past enforcement, whether or not the  
8 actual enforcement has been towards  
9 homosexuals or to heterosexuals as opposed to  
10 the acts?

11 MR. DUCOTE:

12 I haven't seen the statistics  
13 on that, Mr. Jenkins. I don't know that they  
14 even exist in our State. To judge from usual  
15 courts, this statute is not greatly enforced  
16 against either, and perhaps the only time  
17 that I have been aware that comes into play  
18 is when these acts occur in public places  
19 where it becomes a scandalous situation or an  
20 offensive situation to the public at large.

21 I don't recall in recent years  
22 hearing in this State of the enforcement of  
23 this statute against parties doing -- being  
24 charged with committing these acts in  
25 private. Of course, those were the facts of

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1 the Hardwig case, but that's not in  
2 Louisiana. I'm not aware of prosecution in  
3 Louisiana which have arisen charging people  
4 for this conduct in private.

5 CHAIRMAN FONTHAM:

6 I think we need to move on.

7 MR. BAKER:

8 I just want to give a response  
9 to the question.

10 CHAIRMAN FONTHAM:

11 We're supposed to ask  
12 questions.

13 MR. BAKER:

14 Do you want information or  
15 not?

16 CHAIRMAN FONTHAM:

17 Well, it's okay with me, if  
18 you've got a short response.

19 MR. BAKER:

20 Okay. In --

21 CHAIRMAN FONTHAM:

22 We're already five minutes  
23 behind.

24 MR. BAKER:

25 In New Orleans in the period

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1 '73 to '74, there was a lot of litigation  
2 over this question in the New Orleans  
3 District Attorney's Office. The issue was  
4 litigated in the State Supreme Court at that  
5 time. There were many prosecutions under  
6 Article 89 at that time. I know I prosecuted  
7 a lot of them.

8 One prosecution came in our  
9 section of a homosexual act. All the other  
10 prosecutions were of heterosexual acts, and  
11 they involved a well-known, well-publicized  
12 vice undercover operation in the French  
13 Quarter in which the statute was used against  
14 the prostitutes who had been convicted of  
15 misdemeanors, and it was used for the purpose  
16 of getting felony convictions on them, and  
17 some prostitutes, as a result of that, were  
18 given 20 years in Angola. But there were  
19 many, many cases under the statute at that  
20 time.

21 CHAIRMAN FONTHAM:

22 Mr. Ducote, we appreciate your  
23 attendance.

24 MR. DUCOTE:

25 Thank you.

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CHAIRMAN FONTHAM:

Thank you for taking time to  
come.

MR. DUCOTE:

Thank you very much.

CHAIRMAN FONTHAM:

The next presentation is  
really two presentations of community  
representatives, and we're going to ask the  
two participants to both come to the table  
here, but we will take your presentations one  
at a time.

We have John Ognibene  
(pronounced "Onna-ben") -- is that --  
(John Ognibene approaches podium.)

MR. OGNIBENE:

Ognibene (pronounced "Og-ni-  
bennie).

CHAIRMAN FONTHAM:

Ognibene. Okay. Thank you.  
And Stewart Butler.

Mr. Ognibene, I'm informed  
that your remarks -- it's totally up to you  
if you'd rather sit or stand to make your  
presentation, but we do have a tape recorder

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1 going and your remarks will be picked up a  
2 little bit better if you're at the podium.  
3 But it's not such a big deal that if you  
4 don't want to, you don't have to.

5 MR. OGNIBENE:

6 It's quite all right. It's  
7 the first time I was going to get to sit down  
8 at this hour of the morning in about five  
9 years, but --

10 CHAIRMAN FONTHAM:

11 We have about 45 minutes for  
12 the two of you, so -- and I'm sure there will  
13 be some questions. So, if you could make  
14 your remarks something like 15 to 20 minutes,  
15 that would be helpful.

16 MR. OGNIBENE:

17 I'll try to read quickly.

18 My name is John Ognibene, and  
19 I'm a 45-year-old businessman who's lived in  
20 New Orleans for ten years. I'm a homosexual.  
21 I'm also gay. And I would like to define  
22 those two terms before we proceed here today  
23 because I feel that the definitions are  
24 relevant to the topic under discussion.

25 A homosexual is someone who is

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1 sexually attracted to another person of the  
2 same sex. A gay person is a homosexual who  
3 has made a conscious choice to accept his or  
4 her homosexuality as a fact and to live his  
5 or her life as a full human being.

6 Generally, this conscious choice is known as  
7 "being out" or "out of the closet."

8           It is possible, therefore, to  
9 be homosexual and not gay. I am a gay  
10 person. I have been aware of my  
11 homosexuality, although not by that title,  
12 for as long as I can remember. I have been  
13 gay since my sophomore year in college.

14           As a gay man, I've been in th  
15 Gay Civil Rights Movement for just over 21  
16 years. Here in New Orleans, I've been an  
17 active member of the Louisiana Gay Political  
18 Active Caucus; founding President of the  
19 Crescent City Coalition, a Gay Civil Rights  
20 organization; and Director of Development for  
21 the New Orleans AIDS Task Force.

22           Also as a gay man, I have been  
23 refused employment and been terminated from  
24 employment for being gay. My significant  
25 other or lover was threatened with dismissal

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1 from employment when it was learned that he  
2 was living with me, an openly gay person.

3 I have also been called upon  
4 to assist other gay men and lesbians in their  
5 attempt to obtain fair and equal treatment  
6 under the law. I hope, therefore, that I can  
7 shed some light on the issue before us here  
8 today.

9 One of the first questions I'd  
10 like to address is "Why are we addressing the  
11 issue of homosexuality in the legal system?"  
12 As an openly gay man, I have often been told  
13 by my friends, my parents, employers,  
14 whoever, that I am a fool to admit to my  
15 gayness. I have also been accused of using  
16 my gayness to seek publicity.

17 Let me assure each and every  
18 person in this room that I would like nothing  
19 more than for my sexuality to cease to be  
20 anyone's business but my own. Yet each time  
21 I have tried to live my life as a truly  
22 private citizen, I have been -- quote --  
23 "uncovered" as being a fag or queer, or I  
24 have been asked to stand by and watch my  
25 fellow brothers, gay brothers and lesbian

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1 sisters, my fellow human beings being  
2 verbally or physically abused, denied their  
3 right to even visit their own children,  
4 assist -- arrested and incarcerated, beaten  
5 and sometimes even killed simply because they  
6 are -- quote -- "different."

7                   It is an irony that in a  
8 country which publicizes its commitment to  
9 human rights that what is conservatively  
10 estimated as one-tenth of its own citizens  
11 are denied those same human rights. Why is  
12 it that in a country that boasts "justice for  
13 all," the "all" seldom, if ever, includes  
14 justice for gay men and lesbians?

15                   I will also bring to this  
16 Committee's attention that in your own  
17 statement, you are delegated to investigate  
18 issues that concern discrimination based on  
19 sex, but nowhere does the words "sexual  
20 orientation" appear.

21                   First and, to me, the most  
22 absurd is the fact that to engage in a sexual  
23 act with a person of your own sex makes you a  
24 -- I'm sorry, I skipped. I should never get  
25 up.

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There traditionally have been certain myths that have been used as a rationale for dispensing of unequal justice for gays and lesbians in the legal system here in Louisiana. The first and, to me, the most absurd is the fact that to engage in a sexual act with a person of your own sex makes you a felon in this State.

The reasoning goes, therefore, that since you are a felon already and the system of justice is different for you. The same justification is not used for other felons, however. Therefore, the true reason must be that homosexuality is, in and of itself, so terrible that the normal system of justice need not apply.

This fear of homosexuality, this homophobia, is based on the acceptance of certain myths as facts, and no discussion of legal rights for lesbians and gays can proceed unless these myths are explored and laid to rest. I cannot hope to do that in the short period allotted to me, but I can touch on some of the most relevant.

Myth No. 1: There is no real

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1 discrimination against homosexuals in  
2 Louisiana and in New Orleans, particularly in  
3 the legal system. I hope that before you  
4 leave here today you will be convinced of the  
5 inaccuracy of this myth. Also, I hope that  
6 you will be aware of how what you will hear  
7 today will only touch the surface of the  
8 actual problem.

9 Remember that the public  
10 revelation of even a single homosexual  
11 experience can result in a person being  
12 labeled "degenerate" and, in this State, a  
13 "felon," and thus subject to social  
14 sanctions, including the loss of employment  
15 and housing. There is no protection.

16 By merely coming forth to  
17 report an injustice, a gay person puts his  
18 entire life in danger. Gay people who have  
19 stood up for their rights have been  
20 threatened not only with physical violence  
21 but with blackmail. These threats, if left  
22 unheeded, could and have resulted in the loss  
23 of livelihood, friends, and family.

24 So, please, do not let the  
25 absence of large numbers keep you from

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1 believing that there is discrimination.  
2 ~~Myth No. 2: This is a problem~~  
3 only unique only to one city in this State or  
4 to only one area of that city. Homosexuality  
5 occurs everywhere, in communities of every  
6 size, at every social level, in every  
7 profession, and among people of every walk of  
8 life. It is because of rampant homophobia in  
9 America today that it is understandable that  
10 most gays find it necessary to conceal this  
11 particular part of their lives.

12 Homosexuality is a sin, and in  
13 this City and in this State, this seems to be  
14 the argument that comes up over and over  
15 again. Aside for the obvious argument for  
16 sin being the business of the church and the  
17 separation of church and state, there is  
18 another argument that can be made.

19 Other sins, including eating  
20 pork, smoking, driving a car, drinking  
21 coffee, and allowing whites to marry blacks,  
22 or vice-versa, depending on the religion in  
23 question, are sins. For some churches,  
24 homosexuality is a sin; for others, it is  
25 not.

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1                    Those who argue that our  
2 justice system is based on a Judaeo-Christian  
3 ethic sometimes are highly selective in their  
4 applications of biblical sanctions and ignore  
5 how much these concepts have evolved. For  
6 example, being a non-virgin bride is no  
7 longer a capital offense, although it may be  
8 a sin.

9                    Myth No. 4: Homosexuality is  
10 a mental illness and, therefore, falls into  
11 some crack in the judicial system and the  
12 justice system.

13                   In 1935, Sigmund Freud wrote,  
14 "Homosexuality is assuredly no advantage, but  
15 it is nothing to be ashamed of. No vice, no  
16 degradation, it cannot be classified as an  
17 illness." That's from Freud's letter to an  
18 American mother.

19                   Forty years later, in "The  
20 Homosexual Matrix," a well-recognized book by  
21 C.A. Tripp (spelled phonetically), I will  
22 quote: "There is no known cure for  
23 homosexuality, nor are there likely to be,  
24 since this phenomenon which comprises --  
25 since the phenomenon which comprise it are

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1 not illnesses in the first place."

2 On December 15, 1937, the  
3 American Psychiatric Association Board of  
4 Trustees voted to remove homosexuality from  
5 the category of "Mental Illness." So that  
6 myth should be debunked.

7 Myth No. 5: Homosexuals harm  
8 children. All scientific research on the  
9 subject agrees that child molestation is  
10 primarily the activity of neither homosexuals  
11 nor heterosexuals but a distinct category  
12 known as "pedophiles."

13 Pedophiles are exclusively  
14 attracted to children without regard to their  
15 sex. It is noted in all studies that the  
16 majority of those apprehended for molesting  
17 young boys also have a history of molesting  
18 young girls.

19 Though some cases of child  
20 molestation are not committed by homophiles,  
21 the myth that homosexuals commit -- are more  
22 likely to have such lapses in judgment and  
23 control is disproved by statistics.  
24 Homosexuals join heterosexuals in agreeing  
25 that young people, as well as adults, must be

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1 protected from unwanted sexual advances.

2 ~~The idea that the homosexual~~  
3 is least trustworthy is just another example  
4 of society's refusal to see gay men and women  
5 as responsible human beings.

6 Myth No. 6: Homosexuals  
7 choose their sexuality and try to recruit  
8 others to their lifestyle. And this, I  
9 think, refers to what we were just  
10 discussing, what was being discussed by the  
11 panel.

12 Gender identity begins at  
13 birth. At age five, children have very clear  
14 ideas as to what gender role is appropriate  
15 for their sex, and gender differences are  
16 perceived more intensely and are held in  
17 sharper emotional focus than by adults.

18 Depending on how the myriads  
19 of -- depending on how the myriads of input  
20 are internalized and depending on how they  
21 reinforce each other, a sexual orientation is  
22 formed at a very early age. Once fixed, this  
23 orientation is not subject to change. It is  
24 just as impossible to turn heterosexuals into  
25 homosexuals as it is to change homosexuals

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1 into heterosexuals.

2 ~~Current studies are being~~  
3 conducted that point to sexual orientation  
4 being predisposed at birth through heredity.  
5 If, indeed, sexual orientation is determined  
6 at birth, or even shortly thereafter, but  
7 before the legal age of reason and it is  
8 unchangeable, how can homosexuals continue to  
9 be denied their constitutional rights?

10 How do these myths affect the  
11 treatment of gay men and lesbians within the  
12 legal system in this State? Firstly, these  
13 myths contribute to gay bashing, or violence  
14 against gays.

15 There have been several  
16 incidents of gay men and women being  
17 physically attacked on our City streets.  
18 That these attacks are directly related to  
19 the victim's sexual orientation is clear  
20 because the attackers were also verbally  
21 abusive with direct references to sexual  
22 orientation. Victims who have reported these  
23 crimes to the police have been treated much  
24 the way women who have been raped were once  
25 treated; that is, the victim is partially, if

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1 not totally, responsible for the attack.  
2 In addition to be belittled by  
3 police officers, many victims have been  
4 verbally abused by the very police officers  
5 they have called for help. It is not unusual  
6 for New Orleans Police Officers to refer to  
7 gay -- some New Orleans Police Officers to  
8 refer to gay men as "fags" or "queers" and  
9 lesbians as "butch" or "dykes" to their  
10 faces.

11 In one incident which was  
12 reported to be me by a victim, an officer  
13 told him that's what faggots got for being on  
14 a street outside the French Quarter. The  
15 victim, although bleeding, was told to get  
16 off the street. The policeman, after having  
17 taken the victim's name and address, refused  
18 to give his badge number.

19 The victim was afraid to try  
20 to pursue reporting the incident through  
21 official channels or the OMI here in the City  
22 because, one, the policeman knew who he was  
23 and where he lived; two, any publicity that  
24 resulted might result in his loss of job;  
25 three, perhaps he should not -- this is what

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1 the victim told me: "Perhaps I should not  
2 have been outside the French Quarter."  
3 It's a sad comment that  
4 citizens of this country are beginning to  
5 believe, because of the legal system and the  
6 way they are treated, that there may be  
7 ghettos that they must stay in.

8 Other calls for help have  
9 proceeded -- have produced police who have  
10 frisked the victims and demanded that they  
11 produce identification. Even -- in one case  
12 this was done, even after the victim had  
13 reported that his wallet was stolen,  
14 including his identification. The police  
15 officer simply told the victim that he was a  
16 "drunken queer" and that he should "go home  
17 and sleep it off." The victim reported this  
18 to me shortly after it happened, and he  
19 didn't sound drunk.

20 I will also tell you that  
21 reasons that people have told this to me was  
22 that part of my responsibility as being  
23 president of a Gay Civil Rights Organization  
24 was to compile statistics like this and also  
25 to try to find help for these people. I just

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1 don't -- people just don't walk up to me and  
2 tell me these things.

3 Gay people in the City have  
4 learned that the response they get from  
5 police is less than enthusiastic, even when  
6 it is a simply -- when a simple burglary is  
7 involved, and that response diminishes if the  
8 victim is gay. My own experiences have  
9 proved this.

10 I reported a break-in in my  
11 own home. The police who responded were  
12 polite until, through questioning, they  
13 learned that I was sharing the premises with  
14 another man. Their manner changed, and I was  
15 told that maybe it was someone that I had  
16 invited home late one night who had cased my  
17 home and returned to rob it, the inference  
18 being that the burglary was, at least in  
19 part, my fault.

20 When I refused to accept this  
21 as a valid reason for their inactivity in  
22 continuing to investigate, I had to threaten  
23 to call the Superintendent of Police and a  
24 judge who happens to be a personal  
25 acquaintance of mine before there was any

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1 action taken by the police to continue the  
2 investigation. The treatment I received  
3 after threatening to call an official, of  
4 course, was first rate.

5 Many incidents that have been  
6 reported to me have not gone any further  
7 because the victims are simply afraid. There  
8 have been several instances of crimes  
9 committed against gay people being brought to  
10 trial, and the District Attorney's Office has  
11 handled the case in a less than vigorous  
12 manner. There have been murders that were  
13 not fully investigated until the gay  
14 community contested. The victims of these  
15 murderers -- of these murders were known  
16 members of the gay community.

17 Legal experts in the community  
18 have shared their concern that, even in an  
19 open-and-shut murder case, the defendant was  
20 not charged with murder but with a lesser  
21 crime because the victim was gay.

22 There have also been instances  
23 -- and I'm sure that you will -- I hope that  
24 you will hear directly from some of these  
25 people today -- where someone was -- a young

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1 lady was raped and the handling of the case  
2 was deplorable because she was suspected or  
3 admitted -- and I will leave that up to her  
4 if she chooses to identify herself and talk  
5 about it -- she was identified as being a  
6 lesbian. And the whole case was appalling,  
7 but I won't get into specifics. I hope that  
8 you do.

9                   There is a fear on the part of  
10 the gay community that simply because they  
11 can be identified as "homosexual" and,  
12 therefore, "a felon," that it is best to keep  
13 a safe distance from the police and the court  
14 system. The police and the D.A.'s Office has  
15 demonstrated a disregard for the rights of  
16 gay people by doing things to harass them.

17                   An ordinance that the police  
18 can exercise discretion as to either issue a  
19 warning, a summons, or an arrest, they have  
20 historically chosen arresting gay people.  
21 Some of these arrests have been made for  
22 carrying an open drinking container or  
23 blocking the sidewalk. It is obvious that  
24 these arrests are made in front of gay bars  
25 and warnings are given in front of non-gay

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1 establishments and arrests are not made.

2 I will also tell you that the  
3 D.A.'s Office usually -- or the police  
4 usually drop the charges on these cases.

5 And, in response to what you  
6 were just talking about as far as crimes of  
7 nature, I will tell you that the mere fact  
8 that the crimes of nature statute is on the  
9 books is a very important harassment tool.  
10 Police will threaten to arrest people with a  
11 crime -- which I don't even know if the crime  
12 exists, but the crime that they are harassing  
13 people with is "attempted crimes against  
14 nature": "If you continue to stand here, I  
15 will arrest you on an 'attempted crime  
16 against nature' charge."

17 There have been incidents  
18 which have been reported to police of  
19 policemen engaging in what we felt was  
20 entrapment, using the "crimes against nature"  
21 thing. Many of these charges do not get  
22 prosecuted, not because the prosecution --  
23 and the prosecution figures will show  
24 nothing, but what happens is a gay person is  
25 arrested and held in Central Lockup either

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1 overnight or for longer periods of time.  
2 ~~Discrimination in our jails is~~  
3 something else. There is a separate unit of  
4 ~~our City jail for gay people. Now, I can~~  
5 argue on both sides of that question. Is it  
6 to protect gay people from other criminals  
7 who are incarcerated? Indeed, it may be  
8 that, but the treatment that these people who  
9 are incarcerated there get is very different  
10 from the treatment that other people in City  
11 Lockup get.

12 There have been reports -- and  
13 I hope that there are people here today who  
14 will corroborate this with statistics, but  
15 there have been reports of there being no  
16 water on the gay portion of Central Lockup  
17 for as long as a week, in the middle of the  
18 summer, no drinking water. The terms are not  
19 -- I hate to use this, but -- separate but  
20 equal. They are separate but totally  
21 unequal.

22 And I also point out that if  
23 the prison is being run correctly, then if  
24 someone attempted to rape someone or to  
25 sexually abuse them and they were sharing the

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1 same cell, then that person should be  
2 separated from the other person, whether that  
3 person is predominantly heterosexual or  
4 homosexual.

5 Perhaps the most dramatic  
6 example of disregard for the rights of gays  
7 and lesbians in this State was a case which  
8 involved two lesbian mothers. Both women had  
9 been married and divorced, each with at least  
10 one child. Although there was no proof ever  
11 entered into evidence that any wrongdoing --  
12 I'm sorry -- ever entered into evidence of  
13 any wrongdoing, one of the mothers was denied  
14 even visitation rights simply because she  
15 admitted to being a lesbian.

16 Thankfully, after much  
17 litigation and many legal fees, the Crescent  
18 City Coalition and other Gay Organizations  
19 assisted in having the judge reverse this  
20 ruling. But it was a situation which existed  
21 not far from the New Orleans area, although  
22 it was in another parish, where all that an  
23 ex-husband had to do was call a judge and  
24 say, "My ex-wife, the lesbian, is seeing her  
25 own children," and the woman was arrested --

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1 over and over and over again.

2 I hope that I have given you  
3 insight into why this is a problem, and I  
4 hope that one of the reasons that this forum  
5 is being held here is because this Committee  
6 already sees that there is a problem and that  
7 some day lesbian and gay men will live in a  
8 country, in a state, and in a city where the  
9 words "sexual orientation" will be there to  
10 provide them with the backup that they need  
11 so that they can enjoy the full rights and  
12 privileges that are granted to every other  
13 citizen in this country.

14 CHAIRMAN FONTHAM:

15 Thank you. What we're going  
16 to do is hold our questions till after both  
17 of the formal presentations have been given.

18 Mr. Butler, you may want to  
19 give us just a short description of who you  
20 are or who you represent, if you want to.  
21 And I remind you, I hope you can save a few  
22 minutes at least so we can ask you and Mr.  
23 Ognibene some questions.

24 Mr. Ognibene, don't leave that  
25 head table there because we're going to need

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1 you in a minute.

2 (Stewart Butler approaches podium.)

3 MR. BUTLER:

4 I describe myself as being a  
5 gay activist. I happen to be currently the  
6 Secretary of the Louisiana Gay Political  
7 Action Caucus. But, contrary to the papers  
8 that you were -- just received, I am not  
9 officially representing the Louisiana Gay  
10 Political Action Caucus. That would be for  
11 the person of the co-chairperson.

12 MS. REIBOLDT:

13 Would you mind using the  
14 microphone a little bit?

15 MR. BUTLER:

16 Is that better?

17 MS. REIBOLDT:

18 Yes.

19 MR. BUTLER:

20 Mr. Chairman, ladies and  
21 gentlemen, I appear here today at the  
22 invitation of the Louisiana Advisory  
23 Committee to the U.S. Commission on Civil  
24 Rights to plead the case of gay men and  
25 lesbian women regarding the Administration of

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1 Justice for Homosexual Persons in New  
2 Orleans.

3 It is a mixed blessing that  
4 this Community Forum is being conducted  
5 mixed blessing because, on the one hand, it  
6 is tragic that people hate other human beings  
7 for reasons beyond their control, such as  
8 race, color, sex, age, handicap, national  
9 origin, or sexual orientation, therefore  
10 making necessary such forums for the airing  
11 of grievances; on the other hand, promising  
12 -- promising in that you, the honest and good  
13 people of the Louisiana Advisory Committee  
14 and, in particular, Robbie Madden, have the  
15 courage and convictions to pursue  
16 relentlessly your commitment to conduct this  
17 forum in the face of overwhelming and  
18 bewildering opposition from the Commission  
19 Staff in Washington, D.C.;

20 Promising, also in that,  
21 maybe, just maybe, the agency of the Federal  
22 Government most responsible for protecting  
23 the civil rights of citizens is finally  
24 cracking the door, allowing us to come in  
25 from the cold.

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1 To many, the promises of the  
2 Civil Rights Commission ring hollow when  
3 commissioners will not even listen to the  
4 cries of citizens who are being denied equal  
5 protection of the laws.

6 The disappointing history  
7 behind this Committee's struggle to conduct  
8 this forum mocks the images that this great  
9 nation presents to the world community,  
10 including the promise of equal justice for  
11 all.

12 Great strides have been made  
13 in the United States in securing for all  
14 people -- for all citizens -- equality before  
15 the law. The Civil Rights and Voting Rights  
16 laws of the Sixties sparkle as shining  
17 examples of what this country is capable, but  
18 the battle is not won.

19 Until gay men and lesbian  
20 women are guaranteed equal opportunity in  
21 jobs, housing, public accommodations, and  
22 every other freedom that heterosexual people  
23 enjoy, the American dream will continue to be  
24 only that: a dream. Until gay men and  
25 lesbian women can walk the streets of the

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1 French Quarter without fear, without  
2 harassment, without danger, the American  
3 dream will never be real.

4 It has taken two years of  
5 great --

6 CHAIRMAN FONTHAM:

7 Mr. Butler, let me interrupt  
8 you.

9 MR. BUTLER:

10 Sir --

11 CHAIRMAN FONTHAM:

12 I would appreciate it if you  
13 would hop over the next two paragraphs. The  
14 history behind the delays in having this  
15 forum are subject to, I'm sure, many views.  
16 But I think from Washington's standpoint,  
17 they're viewed as merely a jurisdictional  
18 problem. But we do have rules against  
19 describing motives to people on a specific  
20 basis, and we're kind of short of time. So  
21 would you mind --

22 MR. BUTLER:

23 Certainly not.

24 CHAIRMAN FONTHAM:

25 Thank you, sir.

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1 MR. BUTLER:

2 Today, we do not come before  
3 you asking for passage of amendments to Civil  
4 Rights Laws that would prohibit discrim-  
5 ination based on sexual orientation -- but we  
6 should. Today, we do not come before you  
7 asking for repeal of laws that exclude gay  
8 people from immigrating to the U.S. -- but we  
9 should. Today, we do not come before you  
10 asking that the unjustified sodomy statutes  
11 based on religious intolerance be repealed  
12 throughout this land -- but we should.  
13 Today, we do not come before you asking for  
14 an increased effort to fight AIDS -- but we  
15 should.

16 Today, we do come before you  
17 to merely tell you about the harassment and  
18 abuse we receive in the streets from police;  
19 about the violence we experience in our homes  
20 and neighborhoods from homophobic madmen; and  
21 about the unequal treatment we receive in the  
22 courts. What we tell you is common  
23 knowledge to those of us in the gay  
24 community, for we are the victims and we are  
25 a close family, under siege.

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It is impossible for us to give you statistics about the situation in New Orleans. And, though those of us in the forefront of the gay political movement hear again and again of more and more anti-gay violence and discrimination -- of people being chased through the French Quarter by homophobes with bats, of people losing their jobs and apartments -- no organization gathers this data. But other organizations around the country do gather statistics, and the story they tell us is, indeed, grisly.

According to a 1984 National Gay and Lesbian Task Force study, "More than one in five gay men and nearly one in ten lesbians reported that they had been physically assaulted, and approximately the same ratios suffered from some form of police abuse."

Additionally, a recent U.S. Department of Justice study shows -- a recent U.S. Department of Justice study of violence based on sexual orientation, race, religion, and ethnicity concluded that hate crimes are widespread and appear to be increasing.

1 According to the report, which I ask to be  
2 entered into the record, "The most frequent  
3 victims of hate violence today are blacks,  
4 Hispanics, Southeast Asians, Jews and gays  
5 and lesbians. Homosexuals are probably the  
6 most frequent victims."

7                   Having this information at its  
8 disposal, it is therefore reprehensible and  
9 abominable that at its meeting on February  
10 12, 1988, the U.S. Commission on Civil Rights  
11 voted unanimously to ask Congress to delete  
12 the words "sexual orientation" from the  
13 proposed Hate Crime Statistics Acts.

14                   In the words of Kevin Berrill,  
15 Director of the Anti-Violence Project of the  
16 National Gay and Lesbian Task Force, "How can  
17 the Commissioners do this when the Justice  
18 Department finds that the most frequent  
19 victims of hate crimes are lesbians and gay  
20 men?" These ludicrous actions by the Civil  
21 Rights Commission are to be condemned as  
22 hypocrisy at its most obvious.

23                   In January, when one member of  
24 this panel was told that the gay community  
25 would like to see this Committee endorse the

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1 Hate Crime Statistics Act, this member  
2 replied that "Every crime of violence on a  
3 person is a crime of hate and some armed  
4 robberies are crimes of hate." and that "Hate  
5 goes to motivation and there's no way to get  
6 to the truth."

7 This thinking contradicts that  
8 of the National Institute of Justice, the  
9 research arm of the Justice Department,  
10 which has studied hate crimes and found that  
11 "Crimes of bias are far more serious than  
12 comparable crimes that do not involve  
13 prejudice because they are intended to  
14 intimidate an entire group." Its study  
15 noted that almost none of the statutes that  
16 address crimes of bias include gay and  
17 lesbian victims of bias.

18 Another member of this  
19 esteemed Committee said at your January 21st  
20 meeting, "I don't believe that the civil  
21 rights of anybody should be violated, but I  
22 don't think the Administration of Justice for  
23 Homosexuals is within the mandate of this  
24 Committee."

25 If you who are charged with

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1 fact-finding don't include lesbians and gays  
2 in your studies, how will you ever know  
3 whether or not we are being victimized? If  
4 the classification "homosexual" is not  
5 included in the Hate Crime Statistics Act,  
6 how will data ever be collected that prove  
7 that a grave problem does, indeed, exist in  
8 American for its gay and lesbian citizens?

9                   Sitting in a bleak jail cell  
10 in Birmingham, Alabama, the great Civil  
11 Rights Leader, Dr. Martin Luther King, had  
12 words that Civil Rights Commissioners should  
13 heed: "Injustice anywhere is a threat to  
14 justice everywhere."

15                   Ladies and gentlemen, there is  
16 injustice in New Orleans, Louisiana. There  
17 is violence against people simply because  
18 they are gay or perceived to be gay, and  
19 there is an insidious unfairness in a system  
20 of justice that discourages victims from  
21 seeking a redress. The entire matter cries  
22 out for your attention, for correction. The  
23 issues are basic to our democracy and,  
24 without change, our democracy cannot endure  
25 and flourish.

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1 Adolph Hitler did not come  
2 upon the world scene with trumpets blaring  
3 and marching bands. He came slowly, quietly,  
4 like a snake that stalks its prey, waiting to  
5 attack. That same Hitler is with us, still.

6 Today, his name is "homophobia" --  
7 homophobia: the irrational fear of  
8 homosexuals and homosexuality.

9 Homophobia is like a wheel --  
10 a homophobic wheel of evil -- whose spokes  
11 interlock in an intricate web of cause and  
12 effect. The unequal Administration of  
13 Justice is only one spoke of that wheel; but  
14 it is impossible to discuss that spoke  
15 without discussing the others.

16 The homophobic wheel of evil  
17 includes a spoke for the denial of our First  
18 Amendment Right of free speech and  
19 expression. We have a Constitutional right  
20 to express the most basic part of our being,  
21 the part that makes us gay and lesbian. We  
22 are denied that right by a hypocritical and  
23 homophobic government that not only won't  
24 protect us but, in fact, sanctions and  
25 sometimes even promotes the discrimination,

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1 violence, and other forms of retribution  
2 which are more likely to occur against those  
3 of us who do protest.

4 The homophobic wheel of evil  
5 includes sodomy laws in 26 states which make  
6 it illegal for human beings to sexually  
7 express their love for one another in ways  
8 that millions and millions of people -- both  
9 straight and gay -- find satisfying and  
10 intensely human.

11 Simply put, sodomy statutes  
12 are no more than the grotesque invasion of a  
13 citizen's right to privacy by an intrusive  
14 government. These intrusions provide the  
15 excuses homophobes use to deny anti-  
16 discriminatory protection to gay men and  
17 women and also provide another vehicle by  
18 which the police can harass and intimidate  
19 us. Sodomy statutes also promote a  
20 favorable climate for anti-gay violence.  
21 And, finally, to underscore the hypocrisy of  
22 sodomy laws, in five states, heterosexual  
23 sodomy is legal while homosexual sodomy is  
24 illegal. These barbaric laws must be  
25 repealed.

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1 The homophobic wheel of evil  
2 ~~includes religious oppression. One had only~~  
3 be a witness to the hatred and venom spewed  
4 ~~forth by those supposedly representing God at~~  
5 the New Orleans Public Hearing on the  
6 Proposed Civil Rights Ordinance, December 4,  
7 1986. Preacher after preacher and a  
8 representative of the Catholic Archbishop of  
9 New Orleans argued against human rights for  
10 gay people and for secular conformance with  
11 individual religious beliefs. This violates  
12 the cherished American doctrine of the  
13 separation of church and state.

14 The homophobic wheel of evil  
15 includes a perception of promiscuity among  
16 gay people and its concomitant lack of  
17 societal support for gay relationships in  
18 the gay community. We are damned if we do  
19 and damned if we don't.

20 The homophobic wheel of evil  
21 includes a large spoke for the hysteria  
22 surrounding the AIDS epidemic and the pitiful  
23 responses of our Government to a crisis until  
24 it was perceived that that crisis could also  
25 involved heterosexuals.

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1 Contrast, on the one hand, the  
2 article by LeRoy Walters, Director of the  
3 Center for Bioethics, Kennedy Institute at  
4 Georgetown University, writing in the  
5 February 5 issue of Science magazine, and the  
6 shameful behavior of City Councilman Mike  
7 Early on December 4, 1986. Mr. Walters asks  
8 that the fight against AIDS be given every  
9 advantage, including the repeal of sodomy  
10 statutes and the enactment of laws  
11 prohibiting discrimination against persons  
12 based on sexual orientation, both cited by  
13 Mr. Walters as examples of things lawmakers  
14 could do to aid medical people in fighting  
15 AIDS.

16 While Mr. Walters advocates  
17 laws --

18 CHAIRMAN FONTHAM:

19 Excuse me, Mr. Butler. I'm  
20 going to ask you again, with respect to these  
21 specific comments about individuals, I think  
22 the person about whom you're going to comment  
23 isn't here, and we are required under our  
24 rules to give anyone who is discussed an  
25 opportunity to respond.

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1 So I'd appreciate it if you'll  
2 skip over that. The written statement will  
3 be filed into the record. And I would ask --  
4 we're going to want to ask you questions  
5 and we're going to run out of time in about  
6 -- well, both your presentation and Mr.  
7 Ognibene's presentation in about 15 minutes.  
8 So I'm going to probably stop you in about  
9 three or four minutes. If you could get the  
10 high spots in, it would be very helpful to  
11 the Committee.

12 MR. BUTLER:

13 The homophobic wheel of evil  
14 includes youth suicide. We don't hear  
15 anything about this attacking gay people  
16 because, again, the conspiracy of silence  
17 enters in.

18 But, on only by chance, during  
19 the first six months of 1987, there were  
20 three gay victims of youth suicide in three  
21 different Southern Louisiana communities who  
22 killed themselves. Even when it is known or  
23 suspected that homosexuality may have been a  
24 factor, it's not reported, thus contributing  
25 to the spoke bearing the title "Conspiracy of

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1 Silence."

2 The homophobic wheel of evil  
3 includes a conspiracy of silence. In  
4 October, 1987, the largest civil rights  
5 demonstration ever seen in the United States  
6 saw a half-million people gather before the  
7 U.S. Capitol demanding to be treated equally.  
8 This event was ignored by Time, Newsweek, and  
9 U.S. News and World Report.

10 The homophobic wheel of evil  
11 includes the anti-gay discrimination and  
12 violence which are increasing every year. Two  
13 years ago, in New Orleans, a lesbian woman  
14 was raped by two men, one of whom was caught  
15 in the act by police. The jury found the men  
16 not guilty, expressing the sentiment that the  
17 woman got what she deserved because she was  
18 lesbian.

19 One month ago in the 1000  
20 block of Bourbon Street, two men were  
21 savagely beaten by homophobes who, again and  
22 again, yelled that the two victims deserved  
23 the beating because they were faggots and  
24 spreading AIDS.

25 I am asking that a 1986 report

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1 by the National Gay and Lesbian Task Force,  
2 entitled "Anti-Gay Violence: Causes,  
3 Consequences, Responses," be entered into the  
4 record, which speaks to discrimination and  
5 violence and specifically police abuse and  
6 negligence, anti-gay violence in jails and  
7 prisons, and justice denied in the criminal  
8 justice system.

9                   And, finally, the homophobic  
10 wheel of evil includes unequal Administration  
11 of Justice. We in the gay community know  
12 that this justice is unequal. We know it  
13 because we are its victim, and we charge this  
14 system with hypocrisy.

15                   In many cities, studies  
16 indicate that 80 per cent of anti-gay  
17 violence, attacks and violent crimes go  
18 unreported to the police. There's too much  
19 to lose to make such a report: a job, a home,  
20 a family.

21                   There is only one way for you  
22 to determine if our charges are valid or not,  
23 and that is for this beginning today to  
24 continue.

25                   According to your own

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1 literature, the Civil Rights and Voting  
2 Rights Acts and various court decisions  
3 reflect findings and recommendations  
4 resulting from Commission hearings and  
5 studies. It is within your mandate to  
6 recommend to the Congress that laws be passed  
7 to protect the civil rights of American  
8 citizens. We are citizens.

9                   And, though I mentioned  
10 earlier on in my remarks that we had not come  
11 here asking for anything other than the  
12 opportunity to speak to you about the  
13 Administration of Justice for Homosexual  
14 Persons, we would hope that you would  
15 consider an examination of the attitudes and  
16 prejudices which prevent "sexual orientation"  
17 from being added to those categories of  
18 citizens now protected from discrimination by  
19 the great Civil Rights Laws of the Sixties  
20 and Seventies.

21                   It is neither fair nor right  
22 nor American that gay men and lesbian women  
23 can only be heard by this Committee on the  
24 subject of the Administration of Justice.  
25 There can be no true justice in a system that

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1 allows the perpetration (sic) of intolerance  
2 discrimination, oppression, harassment,  
3 intimidation, and violence. If you allow  
4 these evils to continue, then the seed is  
5 sown for another Holocaust.

6 Thank you for this opportunity  
7 to speak to you today. Our hope is for you,  
8 that you act with compassion, speak with  
9 wisdom, do both with courage and, above all,  
10 demand fairness. Thank you very much.

11 CHAIRMAN FONTHAM:

12 Thank you, Mr. Butler. We  
13 will receive your documents, the various  
14 documents you submitted for the record.

15 Now, we have, it looks to me  
16 like -- we're running a little behind  
17 schedule. We have seven to ten minutes for  
18 questions. Is there anyone at this table on  
19 my right that has some questions.

20 MR. KUTCHER:

21 This is address to either one  
22 of you gentlemen. The focus of the hearing  
23 today that we've been allowed to explore is  
24 criminal justice in the justice system. In  
25 looking at other civil rights actions by

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1 women's groups, minority groups over time,  
2 one of the keys to making some progress in the  
3 criminal justice system has been changing of  
4 the personnel in the criminal justice system,  
5 by more women, more blacks, more Hispanics,  
6 and the like.

7 I ask you whether in terms of  
8 law enforcement people that you are as active  
9 as -- in communication with, are there a  
10 number of homosexual or openly gay people who  
11 are on the forums, the police department or  
12 any of the other law enforcement agencies in  
13 this area or who are part of the District  
14 Attorney's Office or part of the criminal  
15 justice system -- is there people that you  
16 can go to routinely that will be able to  
17 sensitize some of the other people in the  
18 City?

19 MR. OGNIBENE:

20 If I can answer that -- I wish  
21 I had the ad that appears frequently in the  
22 Times-Picayune for Deputies for the Civil  
23 Sheriff and Criminal Sheriff's Office which  
24 reads, as close as I can remember it,  
25 "People -- only people of good character

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1 must apply."  
2 ~~By definition, a homosexual~~  
3 particularly an open homosexual, is a felon,  
4 and I doubt very much whether that's an  
5 invitation for someone to submit themselves  
6 to investigation, for they would have to  
7 admit to being a felon, with the likelihood  
8 that a felon would not be defined as someone  
9 of good character.

10 So there is this crazy thing.  
11 Are there people that we have worked with who  
12 have sensitivity to and who may or may not be  
13 gay? From time to time, there have been.  
14 But history will reflect that anytime anyone  
15 has shown an open sensitivity to gay people  
16 in this City, it has been used against them  
17 by their opponents. And, since most of the  
18 people in top positions -- District Attorney,  
19 Civil Sheriff, or Criminal Sheriff, Judges --  
20 are elected officials, it's a very chancy  
21 kind of thing.

22 Again, there is no protection  
23 under the law for someone to say, "I am  
24 championing the civil rights of a recognized  
25 minority" or "a recognized group that is

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1 entitled to this civil rights." You cannot  
2 hide behind that. You cannot use that  
3 because there is no such thing.

4 MR. BUTLER:

5 I can only second that. As  
6 far as the justice system in general, maybe  
7 this personal experience or feeling of  
8 intimidation on my part might shed some  
9 light. I go around my normal course of  
10 business -- not always but often -- wearing  
11 this "Gay Vote" button. I go to the bank, to  
12 the Post Office, the supermarket, out to  
13 dinner, wherever one goes in one's normal  
14 course -- to the doctor's office.

15 But, when I go down and deal  
16 with the criminal court system, either in  
17 Traffic Court or to go down to Central Lockup  
18 to bail somebody out, I make sure this button  
19 isn't on.

20 MR. OGNIBENE:

21 I just have one more thing:  
22 In addressing the Police Department on this  
23 particular question about going out and  
24 seeking openly homosexual people, the  
25 response has been they cannot legally do it

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1 because of the felon issue; also, that they  
2 do not think that would be a good moral  
3 issue. It would propose a moral problem in  
4 the Police Department to have someone who is  
5 openly gay.

6 They do say, however, if  
7 someone does apply to the Police Department  
8 and it is discovered that they are gay, that  
9 would not be grounds, as far as they are  
10 concerned, for dismissing them. However, the  
11 one instance that I do know where there was a  
12 gay policeman, he was harassed to the point  
13 by his fellow officers and there was no  
14 official reprimand from the superiors so that  
15 he did leave the force, that he felt, under  
16 the threat of his own life.

17 CHAIRMAN FONTHAM:

18 Any other questions?

19 MS. ADAMS:

20 Very quickly, do you think  
21 that the kind of statistics or information  
22 that we really need about violence against  
23 gay people would be a Federal role, or should  
24 the State pass legislation, or could it be  
25 done on a local level?

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1 MR. OGNIBENE:

2 I think I'm a Democrat, so  
3 I think everything should be done on a  
4 Federal level. So what can I tell you? But  
5 I think that to the real issue, I can tell  
6 you that I think that it must be done on the  
7 Federal level.

8 I think that this is a  
9 problem which is a Federal problem and that  
10 your statistics would be much more accurate  
11 if it were done in areas that are much more  
12 sophisticated which would help to balance off  
13 the areas which are not so sophisticated;  
14 i.e., your statistics would be much heavier  
15 in San Francisco, where there is felt to be  
16 some sort of legal protection for gay people,  
17 as opposed to in Louisiana, where there is no  
18 legal protection for gay people. Therefore,  
19 the statistics will balance out, and you're  
20 be able to generalize from those statistics.

21 MR. MULDROW:

22 You talk a lot about New  
23 Orleans, but I know in terms of the  
24 activities of your organization that you're  
25 in communication with people outside of New

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1 Orleans in Louisiana.

2 How do you compare the  
3 Administration of Justice for openly  
4 gay/lesbian people in New Orleans versus  
5 other places in the state? Do you have any  
6 information about that you can share?

7 MR. BUTLER:

8 You're going to find precious  
9 few openly gay people in other areas of the  
10 State. In my years of experience, I can only  
11 think of about three, leaving Baton Rouge out  
12 of it, perhaps. But, when you get on beyond  
13 there -- I mean people who would be willing  
14 to be identified as being a gay person in the  
15 newspaper or going on TV.

16 We know that these problems  
17 occur in other parts of the State as well as  
18 here. There was a gay bar in Raceland,  
19 Louisiana, that was burned to the ground New  
20 Year's Eve, 1986. Early last year, I was in  
21 communication with a TV person from  
22 Shreveport, Louisiana, who wanted to do a TV  
23 series on anti-gay violence, but he had to  
24 drop the subject because no one would speak  
25 to him, including gay people.

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1 This conspiracy of silence  
2 about which I speak is not limited to the  
3 community at large, but it runs rampant  
4 within the gay community, itself, because of  
5 the fear of loss of jobs, and so forth and so  
6 on, and a conditioning to internalized  
7 homophobia where many gay people do, in fact  
8 -- at least subconsciously -- feel as though  
9 they're not quite as good as other people.

10 MR. OGNIBENE:

11 It seems an absurdity to me  
12 that statistics are even needed to do what  
13 you want to do. If, indeed, there is no  
14 discrimination against gay people, what would  
15 be the problem to adding "sexual orientation"  
16 to all Civil Rights Laws? And, if there is a  
17 problem with discrimination against gay  
18 people, if you add those two words, you will  
19 have people who will have legal sanction and  
20 legal protection to come forward and to  
21 verify that those two words are, indeed,  
22 needed.

23 So it seems to me that as much  
24 as we all spend our time here and with good  
25 purposes in mind, that this whole thing is

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1 truly an absurdity. It doesn't make any  
2 difference whether or not you can prove it or  
3 not.

4 ~~If you add those two words,~~  
5 you will then, if you need statistics for  
6 funding or for justification for being away  
7 from your legal offices, or whatever you need  
8 them for, you'll have them. But, if you  
9 don't add those two words, we will all spend  
10 our lives going around treading water and  
11 getting nowhere and wasting human resources.

12 Human resources are much too  
13 valuable. A mind is a terrible thing to  
14 waste. A life is a terrible thing to waste.  
15 We can't afford to continue doing it.

16 CHAIRMAN FONTHAM:

17 Anyone else at this table?  
18 Anyone at this table have a question?

19 MS. McDADE:

20 Since I was quoted, I would  
21 like to take just a moment to go ahead and  
22 respond to the quote that was used in my  
23 statement.

24 I made the statement that I do  
25 not believe that the civil rights and the

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1 Administration of Justice of homosexuals was  
2 within the mandate of this committee. If you  
3 will remember, I went on to say, in light of  
4 the laws, the laws on the books, the statutes  
5 of Louisiana Government prohibiting  
6 homosexual acts, I felt it was inappropriate  
7 to hold such a program or forum here in the  
8 State of Louisiana.

9 I would like to also say that  
10 I went on to say that I had a fear that it  
11 would degenerate into a litany of requests  
12 for changes in laws that do not fall within  
13 the Administration of Justice. And I think  
14 that has happened.

15 I would ask a question: Would  
16 you explain to me the use of the term  
17 "homophobia"? To me, it implies, "phobia,"  
18 "mental illness." Are you implying that a  
19 person with a deeply held religious feeling  
20 -- that homosexual activity is wrong, has a  
21 phobia and, therefore, mentally ill? Or  
22 explain your view or version of that term.

23 MR. OGNIBENE:

24 Unless I'm incorrect, the word  
25 "phobia" means an "unjustified fear"; it does

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1 not mean "mental illness." It is often used  
2 to describe a mental illness case, but I  
3 think the real word means "an unjustified or  
4 unfounded fear." And, therefore, the word  
5 "homophobia" simply means "unjustified or  
6 unfounded fear of homosexuals."

7 MR. BUTLER:

8 I would only second that,  
9 that, for instance, we speak of  
10 claustrophobia as being an irrational fear of  
11 being closed in. It doesn't mean a person's  
12 crazy.

13 MS. McDADE:

14 Well, what you're saying,  
15 then, is a person with it -- the word  
16 "homophobia," which is a fairly recent  
17 addition to our language -- is a person, even  
18 if they have deeply held feelings and doubts  
19 about this particular topic -- not the people  
20 but the activities, you are saying then that  
21 they have a homophobia attitude, is that  
22 correct?

23 MR. BUTLER:

24 Yes. But let me draw this  
25 distinction: I am not impugning their

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1 integrity or good intentions.

2 MS. McDADE:

3 Thank you.

4 MR. OGNIENE:

5 Just one other thing. -- well,  
6 two other things: Number one, if not you,  
7 who? If you are not the people to discuss  
8 this issue, then if you would clearly define  
9 for me who the hell are the people to address  
10 this issue, I will gladly spend my time much  
11 more profitably with them.

12 Number two is the question of  
13 separating the people from the acts. I have  
14 heard that in just what you said: people with  
15 the acts but not the people. We are what we  
16 do. I don't care what anyone else says. We  
17 are what we do.

18 It is impossible for you to  
19 look at me -- you cannot accept me as a full  
20 human being knowing that I go home and I  
21 make love to another man. If that is  
22 repugnant to you, then this idea of  
23 separating is a legal issue, but it is not  
24 something to be considered in a civil rights  
25 position.

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1 CHAIRMAN FONTHAM:

2 Thank you.

3 Okay. - We're ready. I warn my  
4 questioner in advance, we are not going to  
5 have any follow-ups and I require that this  
6 be brief.

7 MR. BAKER:

8 There seems to be some desire  
9 to collect statistics, and I want to know  
10 whether you would be in favor of the criminal  
11 justice system, the police or the D.A.'s  
12 Office asking every victim of a crime whether  
13 they were homosexual or not. Or, if you are  
14 in favor of that, would that be a violation  
15 of their civil rights to intrude into their  
16 privacy by asking that question?

17 MR. BUTLER:

18 I don't think that it's  
19 necessary to ask that question. I think,  
20 though, that the statistics should be  
21 collected where the information is  
22 volunteered or where it's obvious.

23 If you go into a murder scene  
24 and you find written on the bathroom wall,  
25 "You deserved to die, faggot," that's a

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1 pretty strong indication that homophobia had  
2 a little bit to do with it.

3 MR. OGNIBENE:

4 I would only answer your  
5 question by asking you a question: If you  
6 knew you were in a situation where your  
7 answer to your question was going to submit  
8 you to further physical abuse, separation  
9 from other people, you would be treated  
10 terribly by the District Attorney's Office or  
11 the Police Department if you said, "Yes, I'm  
12 a homosexual," would volunteer that  
13 information -- so, the answer to your  
14 question is it's a ridiculous question  
15 because that's not the place to gather  
16 statistics.

17 MR. JONES:

18 Mr. Ognibene, I'd like to know  
19 this: You mention in your comments that  
20 something in the vicinity of 10 per cent of  
21 the population is homosexual. I am very  
22 interested in knowing the methodology for  
23 developing that personal figure, and give us  
24 some kind of idea as to how you came up with  
25 that because it is important to define the

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1 numbers of people affected by the particular  
2 ~~problems that might exist in society.~~ I  
3 think it has a bearing on the reaction of  
4 ~~decision makers to such a problem.~~

5 MR. BUTLER:

6 My statistics -- when I quoted  
7 them, as I mentioned, they were very  
8 conservative -- are the statistics that are  
9 used that come from Kindsey Research and  
10 have been verified since then, over and over  
11 again. It is a broad figure and does not  
12 pertain particularly to large urban areas  
13 because homosexuals have a tendency to seek  
14 large urban areas because they can get lost  
15 in the population.

16 So the number is even higher  
17 -- in Louisiana are probably much higher than  
18 10 per cent, but I can give you, in my  
19 statement, where that came from and I can get  
20 you several other sources that you would be  
21 able to verify that. It is at least 10 per  
22 cent, generally, throughout the population of  
23 America. It is probably much higher here in  
24 New Orleans.

25 Again, there is no census, so

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1 I cannot verify that down to a per cent or  
2 even close to that figure. But we have to  
3 use generalizations.

4 CHAIRMAN FONTHAM:

5 We have one more, one or two  
6 more questions from Kansas City.

7 You indicated there were  
8 instances of where police have used city  
9 ordinances to arrest -- you indicated there  
10 had been several ordinances, perhaps from the  
11 French Quarter, to arrest homosexuals out of  
12 gay bars, things of that nature. Have those  
13 laws included other minorities, particularly  
14 blacks, things of that nature?

15 MR. OGNIBENE:

16 To my knowledge, I do not know  
17 whether or not they have, but I will tell you  
18 there was an instance, probably the most  
19 dramatic, where over 100 gay men and women  
20 were arrested in one night for being on the  
21 sidewalks of the French Quarter. They were  
22 arrested under a City ordinance, which was  
23 "blocking the sidewalk."

24 I invite you people, any of  
25 you not from New Orleans, on any day of the

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1 week, to go by St. Peter Street, where Pat  
2 O'Brien's is, where there are persons who are  
3 knowingly -- lots of supposedly  
4 heterosexuals, even people who do literally  
5 block the sidewalks. To my knowledge, there  
6 has never been an arrest.

7                   The portion for homosexuals in  
8 Central Lockup simply plans -- again, I have  
9 never ever been -- I wish I had been at  
10 Central Lockup as a visitor so I can report  
11 first hand. To my knowledge, there is not a  
12 separate section for minorities based on  
13 ethnic background or religious background.

14                   CHAIRMAN FONTHAM:

15                   If I am not mistaken, there  
16 was a court order in the early Seventies  
17 which would prohibit the practice.

18                   MR. BUTLER:

19                   There is this separation. I  
20 was once arrested and asked did I want to be  
21 in a gay section, and I said, "No" and I  
22 wasn't gay. I denied the truth because I  
23 feared more from the authorities than I would  
24 my supposedly fellow inmates who might  
25 endeavor to rape me or something.

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CHAIRMAN FONTHAM:

Gentlemen, thank you for appearing. We appreciate your time. I'm sure we have plenty more questions for you, but we're already 15 minutes behind our planned scheduled, and we'll receive your written comments into the formal record.

And, Mr. Butler, I do very much appreciate your shortening your written comments in order to comply with our schedule.

MR. BUTLER:

Is that the last name mentioned? I apologize for any oversight which I may have committed. Thank you.

CHAIRMAN FONTHAM:

Our next group is our three representatives of the community organizations, and I again hope they're all here. I would ask that all three come up to the front table. But we'll again take statements from each of you, one at a time.

We have Richard T. Devlin, who I believe is from the Louisiana Gay Political Action Committee. He's not here? Well,

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1 we'll have a little bit more time, then, for  
2 you two.

3 Reverend Shelley A. Hamilton  
4 is here from the Metropolitan Community  
5 Church, and Leonard Green, Co-President of  
6 the Langston/Jones Society is here.

7 Is Mr. Devlin coming?

8 Okay. I don't know what you  
9 had planned, but, again, I would suggest that  
10 something in the range of 20 minutes or less  
11 would help us as far as being able to ask  
12 questions and do our business here.

13 (Rev. Shelley Hamilton approaches podium.)

14 REV. HAMILTON:

15 I think I can manage that.

16 CHAIRMAN FONTHAM:

17 Well, please proceed.

18 REV. HAMILTON:

19 My name is Shelley Hamilton,  
20 and I'm an ordained minister within the  
21 Universal Fellowship of Metropolitan  
22 Community Churches. We are a denomination  
23 that was founded 20 years ago in Los Angeles,  
24 California. We are an Ecumenical Christian  
25 denomination and we have a special ministry

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1 into the gay and lesbian community. And I'm  
2 also the Co-Chair of the Louisiana Gay  
3 Political Action Caucus.

4 I've been told that the  
5 purpose of this forum is to collect  
6 information for advising the U.S. Commission  
7 on Civil Rights and the U.S. Congress on the  
8 Administration of Justice for Homosexual  
9 Persons in New Orleans. I've been asked to  
10 present information from my own observations  
11 and experience.

12 I was advised that this is a  
13 fact-finding mission, that the U.S.  
14 Commission wants statistical data. And, at  
15 the same time, I was told that a litany of  
16 times, places, and incidents is not wanted.

17 And what I hear in that is  
18 "Prove to us the validity of your lives.  
19 Prove to us that you have a right to exist,  
20 to live, to love, to equal protection under  
21 the law. Prove this to us. But don't really  
22 tell us the story."

23 And we do have a story, and a  
24 history, a culture, an identity. The pages  
25 of history are filled with the persecution,

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1 violation, oppression, and injustice  
2 perpetrated against lesbian and gay people.  
3 You wish us to speak only of issues that  
4 directly relate to the Administration of  
5 Justice and, in so doing, you fail to  
6 understand that oppression and injustice  
7 affects us on every level of our lives. You  
8 fail to understand that everything to do with  
9 life in this society has to do with the  
10 Administration of Justice.

11           Is it not an issue of justice  
12 to lose a job or a place to live? Is it not  
13 an issue of justice when children are  
14 harangued to their deaths because they  
15 "appear" to be gay or lesbian? Is it not an  
16 issue of justice when a mother or father  
17 lose their children because they are gay or  
18 lesbian? Is it not an issue of justice when  
19 people suffer trauma and abuse because of how  
20 they look or simply how they are perceived to  
21 be?

22           Life in this country, in this  
23 world, is about the Administration of  
24 Justice. And, in our country, it's supposed  
25 to be about justice for all. And that's what

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1 we want, and we will not ever again accept  
2 less.

3           Hear this: Two years ago a lesbian  
4 was raped in New Orleans by two men.  
5 Throughout her trial, the defense attorneys  
6 continually made references to her sexual  
7 orientation. The rapists were acquitted in  
8 the face of conclusive evidence that they  
9 had, indeed, violated this woman. The  
10 message: It was and is all right to rape  
11 women who are lesbians.

12           In 1986, a woman was accosted  
13 and arrested as she left a New Orleans  
14 lesbian bar. The police harassed her,  
15 verbally and physically abused her, and then  
16 released her. Do you think that she felt  
17 safe enough to go to the police station and  
18 file a report on this incident?

19           In 1986, a woman from Baton  
20 Rouge was raped and beaten as she left a  
21 lesbian bar here in New Orleans. She said  
22 the disrespect she experienced from the  
23 police was as brutal and traumatizing as the  
24 rape, itself. Her life since then has been  
25 in total isolation from the world.

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Right now in the City of New Orleans in this moment, a lesbian woman is being denied full visitation rights for her child even though she shares equal custody.

A young woman in Baton Rouge, recently released from jail, was separated from the other women while she was incarcerated. When she dared to ask why, she was told that they didn't want any queers spreading diseases. And this completely ignores the reality that lesbians are the category of people least likely to contract or transmit sexually transmitted diseases.

This same woman, while in prison, was put in isolation for 30 days for sitting on another woman's bed, having her hair cut. She was accused of trying to influence the other woman to be gay.

Another woman in Baton Rouge, while in custody, was taken into a sergeant's office and told that she was demon-possessed and was going to burn in hell because she's a lesbian. The Bible was read to her and she was told that she would never be released from jail until she repented of her sin.

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In March of this year, a lesbian in Baton Rouge was picked up on a charge of violating her probation. She was forced to appear before a judge, spent several weeks in jail, until it was realized that her probation period had already ended.

Six months ago, two gay men were arrested and jailed and harassed for several hours. Their crime? One of them whistled at a police officer. Heaven knows why. How many heterosexual men do you think have ever been arrested for whistling at women?

In the last six months alone, I've been told of three teenagers who have been committed to mental institutions because they're gay. And these incarcerations occurred now, 15 years after the American Psychiatric Association abandoned its definition of "homosexuality" as "an illness."

In 1986, three men dressed in drag were arrested for obstructing the sidewalk.

In addition to pastoring a

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1 church, I'm also a therapist. I have the  
2 ~~awesome responsibility of trying to help~~  
3 people put their lives back together after  
4 ~~experiencing a lifetime of abuse and~~  
5 oppression -- first, by their families, and  
6 then by a society that makes criminals out of  
7 us because of who and how we love.

8 I'm working with women right  
9 now who have been violated by their families  
10 and by strangers and then further violated by  
11 the police when they sought help. In the  
12 past six weeks, I've not talked to a single  
13 lesbian or gay man -- and I've talked to many  
14 -- who, if they didn't have a personal horror  
15 story, themselves, regarding the police or  
16 the courts, knew of someone who did.

17 These incidents are all  
18 Louisiana-related and very recent, but I've  
19 pastored for 13 years -- I've pastored in New  
20 York City, and Philadelphia, in Los Angeles,  
21 and Boston. A litany -- I could sing you a  
22 dirge that would echo through the hills and  
23 valleys of the world forever and ever. I've  
24 worked in hospitals, in jails, in colleges,  
25 in shelters for homeless people, churches and

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1 schools, and everywhere I go, gay and lesbian  
2 people suffer injustice.

3 I have been afraid since I was  
4 a child that someone would find out I was a  
5 queer. Most of my sisters and brothers grow  
6 up with this fear. It's so deep within us  
7 that we allow ourselves to be raped,  
8 humiliated, beaten, without trust that we  
9 have any options.

10 We've learned that the  
11 "justice for all" doesn't mean gay and  
12 lesbian people. We've learned if we're  
13 beaten up or raped, we'd best not call the  
14 police because, if they find out we're a  
15 faggot or a dyke, we might get raped or  
16 beaten again -- or worse.

17 My first experience with the  
18 Administration of Justice in this society was  
19 25 years ago. I was sitting in a gay bar in  
20 Baton Rouge, Louisiana, and the police threw  
21 tear gas into the bar and arrested everyone  
22 of us that was there. We were charged with  
23 disturbing the peace.

24 My experience over the years  
25 and my experience these past six months in

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1 New Orleans tells me that my freedom, my  
2 individual right to justice and equal  
3 protection under the law, is just as  
4 precarious as it was 25 years ago.

5 I think it's an indictment  
6 against the greatest democracy in the world  
7 that such a forum as this has to be held.  
8 Newspapers, magazines, television, radio, and  
9 the movies have been documenting for several  
10 years the violence that's being committed  
11 against gay and lesbian people on a daily  
12 basis. The Justice Department, itself,  
13 recently released a study indicating that  
14 violence against gay and lesbian people is  
15 widespread and is daily increasing.

16 It both angers and saddens me  
17 that once more our society is demanding  
18 salvation from its victims. Homosexuality is  
19 an identity. It's about a holistic way of  
20 being in the world. We who are gay or  
21 lesbian don't learn to be this way; we are  
22 born this way.

23 Did you know that homosexuals  
24 are at greater risk of suicide than  
25 heterosexuals? That gay and lesbian youth

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1 are two to three times more likely to be  
2 suicidal than are heterosexual youth, and  
3 that the greatest risk factor in any gay  
4 youth suicide is that stigmatization of and  
5 discrimination against us by society?

6 I think the tragedy of this  
7 kind of forum is that we who are lesbian and  
8 gay are on stage defending our right to be  
9 who we are, to live in the world. We're  
10 talking about, we're reported about, we're  
11 studied about. The Kindsey Report is a  
12 classic example of that. And, when the  
13 world looks at me, it says "lesbian." That  
14 translates into "sex." I become defined by  
15 what you think I do sexually. Your laws  
16 become different for me because I'm a  
17 lesbian. You see a lesbian. My friends, my  
18 people, my colleagues, my peers, they see me  
19 as a preacher, a teacher, a therapist, a good  
20 cook, a fun-loving woman just trying to live  
21 a good life, to be a kind neighbor and a  
22 friend.

23 There was a time when we lived  
24 in shame and fear because we believed the  
25 lies that we were taught. We believed that

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1 we were less than others, that we were  
2 sinners and outcasts. And we've broken  
3 through the lies and we have shattered the  
4 silence. We no longer stand alone in the  
5 universe as once we did upon this Earth. We  
6 have reclaimed our past. We learn now to  
7 celebrate and affirm our lives, and we will  
8 not be shut out or denied. We have chosen  
9 not to die in silence, shame, or  
10 humiliation. We challenge you with our hope  
11 and with our sense of dignity, for we have  
12 chosen to transform our lives into something  
13 graceful, into something beautiful.

14 Thank you.

15 (Leonard Green approaches podium.)

16 MR. GREEN:

17 First, allow me to say "good  
18 morning" to everyone that's here. And the  
19 Langston and Jones Society certainly  
20 appreciate, among the other gay community,  
21 appreciate you coming to hear our grievances.

22 My name is Leonard Green. I'm  
23 the Co-Chair of Langston/Jones Society. I'm  
24 on the board of Liepack (spelled phoneti-  
25 cally). I am the Chairman of Impact,

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1 Minority People, AIDS Concerns, and I am the  
2 Director for the City of New Orleans AIDS  
3 Prevention Program.

4 ~~Langston/Jones Society was~~  
5 formed on May 5, 1984. The organization was  
6 created by pioneering black gays and lesbians  
7 to address issues as they relate to black  
8 gays, lesbians, and the community --  
9 community at large in Metropolitan New  
10 Orleans. The fundamental purpose of the  
11 society is to promote a positive image for  
12 lesbians and gays through networking within  
13 our community and through coalition-building  
14 with other groups that share our objectives.

15 From a historical perspective,  
16 the organization is a local chapter of the  
17 National Coalition of Black Gays and  
18 Lesbians. The name was selected from the  
19 namesakes of James Langston Hughes and Mary  
20 Jones. Hughes, one of the most prolific  
21 writers of the 20th Century, gained fame  
22 during the Harlem Renaissance of the 1920's,  
23 a period of thriving black artistic and  
24 important period in terms of achievement.

25 Mary Jones is a dynamic and

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1 asserted community -- I'm sorry. I'm nervous  
2 here. Mary Jones is a dynamic and assertive  
3 communicator who is dedicated to improving  
4 the quality of life of all lesbians and gay  
5 people. Jones, now living in North  
6 Carolina, has been a strong advocate of gay  
7 rights in New Orleans. She is a founding  
8 member of the Langston/Jones Society and, in  
9 1984, was the first lesbian delegate elected  
10 to the National Democratic Convention,  
11 serving as a supporter for the Reverend Jesse  
12 Jackson. She also was a plaintiff  
13 challenging the State's Crime Against Nature  
14 Statute.

15                   From a national perspective,  
16 people throughout gay America devote an  
17 enormous amount of energy on a one-  
18 dimensional level which assumes that black  
19 gays and lesbians enjoy the party syndrome,  
20 social functions, and the non-political  
21 participation attitude. On the contrary,  
22 black gays and lesbians in America are  
23 concerned about sociopolitical exploitation  
24 by gay, mainstream America. The black gays  
25 and lesbians exist in the form of a sleeping

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1 giant, waiting to be aroused by a supportive  
2 system from within their own rank and file.  
3 They are willing to accept the challenge of  
4 life.

5 On October the 2nd, 1987  
6 (sic), the Langston/Jones Society received a  
7 resolution from the Civil Rights Ordinance  
8 Commission that stated -- and this is what  
9 I'm about to read here. You get a copy for  
10 your files:

11 "It is resolved that the  
12 Committee to amend the Civil Rights Ordinance  
13 desports (sic) -- I'm sorry -- desports (sic)  
14 the discrimination that blacks and women  
15 still suffer in some establishments in the  
16 gay community and will work, through  
17 legislation and advocacy, to end the practice  
18 by some establishments of requiring the  
19 production of forms and identifications on a  
20 racially and gender discrimination basis.

21 "Be it further resolved that  
22 the Committee will work to promote the  
23 participation of members of the racial  
24 minority groups in leadership roles in the  
25 gay and lesbian community."

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1 The Civil Rights Ordinance

2 ~~Committee never -- and I repeat, The Civil~~  
3 Rights Ordinance Committee never lived up to  
4 ~~their responsibility and continues to be~~  
5 directed without input from the black gay  
6 and lesbian community. It is a (sic) void of  
7 any effective direct -- sorry -- it is a  
8 (sic) void of any effective degree of  
9 sensitivity to our needs and culture.

10 The administration of equal  
11 and fair justice for the gay community at  
12 large is difficult to explain, especially  
13 for the black lesbian and gays who are still  
14 struggling to stop white-owned gay  
15 establishments from discriminating against  
16 us.

17 An anti-discrimination effort of  
18 black gays centered around organizations such  
19 as the National Association of Black and  
20 White Men Together (NABWMT) led the  
21 enactment of new laws in several cities,  
22 including laws in Atlanta and Washington,  
23 D.C., that stopped bar owners for (sic)  
24 requiring multi-forms of identification from  
25 potential black patrons. However, in

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1 Metropolitan New Orleans, several gay-owned  
2 establishments require multi-forms of  
3 identification from potential black  
4 customers seeking to gain admission. This  
5 effort for this practice is being done to  
6 prevent blacks from gaining admission to  
7 predominantly white, gay establishments.

8           If -- for an example, if or  
9 when blacks manage to enter gay-owned  
10 establishments in the New Orleans area, their  
11 drinks are watered down. Many bar owners  
12 would make this statement to fellow  
13 employees: "It's getting dark in here."  
14 This implies that too many people of color,  
15 or blacks, are in the place of business.  
16 Consequently, the person on the door would  
17 casually begin asking black patrons to  
18 produce multi-forms of identification. I  
19 have been asked for several identification  
20 cards on some occasions when entering gay-  
21 owned establishments in New Orleans.

22           Nine months ago, one local gay  
23 bar refused to allow transpersons or cross-  
24 dressers in their gay-owned establishment  
25 because they perceived it would make other

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1 patrons uncomfortable. This was an act of  
2 discrimination. If ownership perceived their  
3 patrons felt uncomfortable with black  
4 lesbians and gays in the place of business,  
5 the ownership would make it more difficult  
6 for them to enter such an establishment.

7 Moving to other areas of  
8 discrimination: Jim Xavier, a black PWA  
9 (person with AIDS), was evicted from his  
10 apartment because the owner discovered he was  
11 diagnosed seropositive with AIDS. His  
12 history is one of about 20 cases I have heard  
13 of recently.

14 In the New Orleans area  
15 recently, a case involving two black men --

16 CHAIRMAN FONTHAM:

17 Sir, you mention people by  
18 name.

19 MR. GREEN:

20 No, sir. I need to mention  
21 these are not real names, by the way.

22 CHAIRMAN FONTHAM:

23 Oh, okay.

24 MR. GREEN:

25 Okay. I wouldn't do that to

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1 anyone.

2 ~~In the New Orleans area~~

3 recently, a case involving two black men

4 ~~participating in same sexual activities with~~

5 each other ended on a murderous note.

6 Leonard Adams murdered Terry Williams because  
7 Adams was informed that his sex partner had  
8 Acquired Immunodeficiency Syndrome. The  
9 local justice system failed to seriously  
10 address the issue. Leonard Adams received a  
11 one-year reduced sentence, which has been  
12 suspended. He will be placed on parole for  
13 the remaining time. This is another sign of  
14 unfair justice to a black, possibly gay,  
15 dead person.

16 Joseph Pitwater, a black  
17 cross-dresser, experienced unfair justice by  
18 a local police officer on a charge of  
19 entrapment (sic) to solicit prostitution.  
20 The officer did not inform Joseph that he was  
21 a police officer. This is referred to as  
22 "gay baiting without just cause." Several  
23 black cross-dressers experience this --  
24 encountered this with local police officers  
25 periodically but are afraid to fight in

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1 court; therefore, they become another  
2 statistic in a system with no perceived  
3 recourse for fair justice.

4 ~~We will not continue to be~~  
5 used and demobilized as window-dressers for a  
6 system that tolerates tokenism for potential  
7 acceptance. We are a part of a larger wave  
8 (sic) of the fabric of life. We continue to  
9 live with the struggles, frustrations, and  
10 misplacement that life deals to you as black  
11 gays. The black gay community accepts its  
12 identity crisis, its concepts of dualism in  
13 order to survive in a world that perpetuates  
14 injustice.

15 Being a black gay man or  
16 female in America is a harsh endeavor in  
17 terms of dealing with realities and without  
18 gay and non-gay mainstream America heaping  
19 it's unjustices, we continue to have  
20 problems. It's time for the "powers that be"  
21 to release the holds of exclusion in the gay  
22 community in this country and allow whites,  
23 blacks, and other minorities to function as  
24 full participants under the laws of this  
25 nation.

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1 Thank you. And I welcome your  
2 questions and comments.

3 CHAIRMAN FONTHAM:

4 Okay. I understand. I have  
5 a message here -- Richard Devlin is going to  
6 submit a written comment to the Committee and  
7 will not make an oral presentation.

8 Starting on this side of the  
9 table with questions, does anyone at this  
10 table have a question?

11 MS. McDADE:

12 I just have question.

13 You touched on something, Mr.  
14 Green, that I'm interested in, and I've asked  
15 some questions of law enforcement, you know,  
16 in several areas and gotten some interesting  
17 answers. How prevalent is the situation of  
18 violence of homosexuals towards other  
19 homosexuals? Is this a problem in New  
20 Orleans or in this City?

21 MR. GREEN:

22 In terms of -- to answer your  
23 question, yes, it is a problem here in the  
24 City of New Orleans. When we begin to look  
25 at the problem in terms of how the large

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1 community, and particularly blacks, gays, and  
2 lesbians, we seem to have a motto that is  
3 "Live and let live," in terms of our  
4 community.

5                   There have been cases where  
6 people of color have been attacked. There's  
7 one case right now where a young man was --  
8 is a cross-dresser and he was approached by a  
9 police officer and was not told he was a  
10 police officer. He was arrested. The person  
11 had no recourse at all. He decided that to  
12 plead guilty just not -- so he wouldn't go  
13 through the headaches. It's just a lot of  
14 headaches, and he didn't want to go through  
15 them.

16                   There are other people who are  
17 cross-dressers in the large community of this  
18 town who have also gone through this very  
19 same process.

20                   CHAIRMAN FONTHAM:

21                   Professor?

22                   REV. HAMILTON:

23                   I'd just like to say something  
24 to that question.

25                   CHAIRMAN FONTHAM:

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Sure.

REV. HAMILTON

There's a subtle implication in that question that whenever violence is perpetrated upon -- when violence is perpetrated within a minority by that minority, that it -- somehow, it's more acceptable. I don't think that there's any more incidents of gay violence on gay violence than there is heterosexual violence on heterosexual violence.

In the case that Mr. Green just cited in his statement is a clear example of how the justice system said, in the handing down of a very light sentence, a murder was committed, and this man received a year of sentence, and implicit in that sentencing was that because the implication was that both of these men were gay, it was acceptable, this was an acceptable way to deal with it.

It doesn't seem to be a relevant question.

MS. McDADE:

That's certainly not what I

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1 was implying. I had read some statistics  
2 from some information in Washington  
3 indicating that some people do consider the  
4 homosexual lifestyle to be violent, and I  
5 was simply curious as to whether or not you  
6 perceived a lot of violence, as you just  
7 said, similar violence as to the heterosexual  
8 community or less violence. That was the  
9 nature of my question.

10 REV. HAMILTON:

11 I would be really interested  
12 in the nature of that study and who released  
13 it because, in my 30 years of experience in  
14 the gay and lesbian community, I find gay and  
15 lesbian people to be the least violent people  
16 in our society.

17 CHAIRMAN FONTHAM:

18 Professor Baker?

19 MR. BAKER:

20 In regard to you four  
21 speakers, now, I've really yet to hear  
22 anything about the criminal justice system  
23 and discrimination. In Mr. Green's  
24 presentation, most of it was discrimination  
25 by certain gay groups against other gays.

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1 The killing here was that one  
2 gay against another. One could interpret the  
3 light sentence as unequal in the sense of  
4 more favorable treatment.

5 The example of Pitwater, it  
6 seems to me, is no different from other  
7 examples of undercover operations regarding  
8 female prostitution. I can't see where the  
9 treatment is at all unequal.

10 I'd like to hear something  
11 that actually goes to discrimination based on  
12 the fact that a person is gay or lesbian.

13 MR. GREEN:

14 Sir, in response to what  
15 you've just said, I happen to disagree with  
16 you, primarily because Mr. Pitwater was only  
17 walking down the street, going to the store,  
18 and he was approached by a police officer who  
19 did not identify himself as a police officer,  
20 and then asked the person to get in his car  
21 with him and would he do certain favors for  
22 him. And, after he arrived at the person's  
23 home, he notified him that he was a police  
24 officer.

25 If that's not entrapment, I

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1 don't know what that is.

2 MR. BAKER:

3 It's not entrapment. It's a  
4 matter of law, and it's no different from  
5 what police officers do with female suspected  
6 prostitutes. And you've just given me the  
7 rest of the facts that indicate that they did  
8 go together to a house. And it's a typical  
9 vice operation.

10 And the one thing that strikes  
11 me is that earlier in Mr. Ognibene's  
12 testimony, he talked about similar actions  
13 and where the police dismissed the  
14 prosecution. Well, I can tell you that  
15 against female prostitutes, they don't  
16 dismiss the prosecution.

17 If there's any inequality  
18 here, in terms of suspected prostitution  
19 operations, it seems to me the gays are  
20 getting favorable treatment by not being  
21 prosecuted.

22 MR. GREEN:

23 Well, I understand that's your  
24 opinion. Everyone's entitled to their  
25 opinion.

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CHAIRMAN FONTHAM:

Any questions on

MS. MADDEN:

I would like to ask both

representers --- to Reverend Hamilton: Do you feel more discriminated against as a woman or as a lesbian? And to Mr. Green: Do you feel more discriminated against or does your organization feel more discriminated against as black persons or gay persons? Could you both comment?

REV. HAMILTON:

That's a very complex question, and it's difficult for me -- like I am a lesbian woman, and the oppression, the discrimination that I experience, there's different kinds of oppression that I -- you know. Usually, when I just walk down the street, I experience, frequently, harassment or verbal abuse. Sometimes it's directed at me because I'm a woman, sometimes it's directed at me because I'm perceived to be a lesbian woman.

It's difficult for me to separate out my lesbian identity. My basic

1 gut-level experiences taught that all of the  
2 ugliness that I experience in the context of  
3 this society has to do with the fact that I'm  
4 perceived to be a lesbian, that I'm being  
5 stereotyped and being identified by how I  
6 look, how I dress, how I walk down the  
7 street. That's always been there.

8 I really can't -- it's  
9 difficult for me to try to separate that.  
10 In fact, I think there is no separation.

11 MR. GREEN:

12 Here again, I think it's a  
13 difficult question, but I'm going to attempt  
14 to answer it. I think on two -- on two  
15 notes: One, my organization, the  
16 Langston/Jones Society, the members of the  
17 organization at some point feel discriminated  
18 against in terms of not just being black but  
19 in terms of being gay, twofold:

20 When I look at the gay  
21 organizations in this town, there are not a  
22 lot of blacks that are part of those  
23 organizations. May it be for discriminatory  
24 reasons or whatever reasons, they're not a  
25 part of the process.

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When the genders are set, then  
people of color are asked or have been asked  
in the past to become a part of the process.  
That's changing a little bit.

In terms of whether I'm being  
discriminated against on a personal basis,  
when I discovered that I was a gay man, I had  
a lot of problems in terms of people pointing  
fingers and saying, "Oh, that's a faggot."  
But, over a period of time, you sort of get  
used to that and you set up in your mind that  
you're going to be strong in spite of what  
people are going to say.

There aren't any other people  
that are out in my community, aside from  
someone else that's a spokesman for Langston  
and Jones Organization.

Blacks cannot risk their  
livelihood in this town -- and other people,  
as well, but blacks in particularly. Number  
one, they are family oriented and certainly  
they're religious oriented. They don't want  
to lose that close niche with their families,  
so they're more -- they stay undercover.

CHAIRMAN FONTHAM:

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1 Does someone else have a  
2 question?

3 MS. REIBOLDT:

4 ~~Just a clarifying question~~  
5 Mr. Green, according to your testimony, I,  
6 too, saw it as testimony taken in two forms:  
7 One, the discrimination that you received in  
8 the gay community and, two, the  
9 discrimination that you received as a gay  
10 person.

11 So, just to clarify the  
12 points, when you make a point about the fact  
13 that when you would enter a bar, sometimes  
14 you were asked for an identification card,  
15 could you tell me what that is, please, what  
16 kind of --

17 MR. GREEN:

18 Sure.

19 MS. REIBOLDT:

20 -- identification you're asked  
21 for?

22 MR. GREEN:

23 I'm basically asked for a  
24 picture I.D., like a driver's license. In  
25 some cases, that's not adequate. I'm asked

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1 for three or four I.D.'s, which just doesn't  
2 apply to me but other people of color, as  
3 well. They're asked for several I.D.'s  
4 ~~It's kind of crazy because~~  
5 what happens is that they are asked for these  
6 I.D.'s because there are a number of us who  
7 are in the bar and, as I said earlier, the  
8 bartender may say -- he'd use a phrase, "It's  
9 getting dark in here." It's to imply that  
10 there are too many blacks there in a  
11 particular bar. As a result of that, the  
12 person at the door will begin putting  
13 pressure on people who come to the door in  
14 terms of asking them for one, two, three,  
15 four I.D.'s.

16 MS. REIBOLDT:

17 To prove what?

18 MR. GREEN:

19 To prove -- well, it's just  
20 harassment, basically. That's all it is.  
21 It's fundamental harassment in terms of  
22 getting entrance into that particular bar.  
23 And it's basically to deter them from coming  
24 in. That's the whole process: deter them  
25 doing it.

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1 There was an incident that  
2 occurred here recently, nine months ago,  
3 where a particular bar in the French Quarters  
4 had a problem with cross-dressers coming in  
5 and -- because the patrons decided at some  
6 point -- well, management said that the  
7 patrons had a problem with cross-dressers  
8 coming in the bar.

9 And I approached that business  
10 and asked, "What if your patrons decided that  
11 they weren't comfortable with blacks coming  
12 in? Would the same principle apply?" There  
13 was no comment.

14 MS. REIBOLDT:

15 Well, I was really just trying  
16 to determine why you were excluded from the  
17 bar. Because you were gay? Because you were  
18 black? Because --

19 MR. GREEN:

20 I would have to say that --

21 MS. REIBOLDT:

22 -- of age? I mean what would  
23 be the --

24 MR. GREEN:

25 Well, because of black.

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1 What's on the identification cards is  
2 basically your age, your sex, when you were  
3 born, general kinds of things. And I think  
4 that I don't look like I'm 16 years old.  
5 And, for someone to as a 32-year-old man for  
6 his I.D., I have real problems -- real, real  
7 problems with that. And I think that a lot  
8 of people --

9 MS. REIBOLDT:

10 I don't think they need to see  
11 your identification card to determine your  
12 color, so I'm just a little confused --

13 MR. GREEN:

14 To the Chairman -- to the  
15 chairman --

16 MS. REIBOLDT:

17 To the second question --  
18 that's all right. I understand. The second  
19 question, and just for a clarification point,  
20 that the man who was asked to move out of the  
21 apartment --

22 MR. GREEN:

23 Yes.

24 MS. REIBOLDT:

25 -- was that a discrimination

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1 based upon the fact that the owner of the  
2 apartment was gay or just the fact that the  
3 man who was asked was gay?

4 MR. GREEN:

5 The man that was asked to move  
6 was gay. He was diagnosed with AIDS. And,  
7 because of homophobia, the owner asked him to  
8 move.

9 MS. REIBOLDT:

10 So the owner found out. How?  
11 Do you know?

12 MR. GREEN:

13 No, I don't.

14 MS. REIBOLDT:

15 So you would --

16 MR. GREEN:

17 I assume it was through a  
18 process of some rumors and he just sort of  
19 went with those rumors.

20 MS. REIBOLDT:

21 So you're assuming that the  
22 reason he was asked to move out was because  
23 of the fact there could not have been any --

24 MR. GREEN:

25 Well, that's what he told me,

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1 and that's based on what the owner told him.

2 MR. JENKINS:

3 One clarification --

4 REV. HAMILTON:

5 Before you ask that question,  
6 I feel it's very important to make a point  
7 related to the questions you were asking Mr.  
8 Green.

9 The incidents that he cited in  
10 terms of racism that exist within the gay and  
11 lesbian community, the three pieces of  
12 identification are a very common device that  
13 business owners use. Very few people do  
14 carry three pieces of identification. I  
15 don't. It's a way of keeping people out.

16 But I don't think what we're  
17 addressing here today is gay -- is racism of  
18 the gay and lesbian community. Wherever  
19 there are white people, there is going to be  
20 racism. I think that's important.

21 MR. JENKINS:

22 With respect to your  
23 allegation, being denied having to show  
24 I.D.'s, just as a point of information for  
25 me, if you felt that you were being

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1 discriminated because of your color, is there  
2 any mechanism in the City or the State to  
3 file a complaint based on your non-  
4 admittance?

5 MR. GREEN:

6 Yes, there is. Also keep in  
7 mind discrimination is very difficult to  
8 prove. There are a number of people who have  
9 gone to attorneys and attorneys have taken  
10 their cases, but then their friends, some  
11 kind of way, manage -- will talk to some  
12 people who are black and get them to testify  
13 at some point, "Oh, we don't discriminate."

14 And I think it's an  
15 understatement to say that is a common  
16 practice of bars to ask and to check I.D.'s.

17 Let me say for the record -- I  
18 need to say this. It's very important: that  
19 I know your purpose is not here to discuss in  
20 terms of discrimination in terms of what's in  
21 the gay community, itself. It is very  
22 difficult for me to understand that -- how  
23 someone can talk about this -- to talk about  
24 wanting rights in the gay community and yet  
25 within the gay community, itself, there is

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1 discrimination that's going on. And it's  
2 very obvious, it's very blatant at some  
3 point, and it's going on not only in New  
4 Orleans, it's going on around the country,  
5 when you talk about people of color.

6 A perfect example is the March  
7 on Washington. I was on the national board.  
8 I attended a lot of the meetings and we had a  
9 lot of problems at those meetings in terms of  
10 issues, in terms of dealing with Apartheid  
11 and dealing with racism.

12 CHAIRMAN FONTHAM:

13 I am told that there is a  
14 representative of the Louisiana Gay Political  
15 Action Committee, Attorney John Rawls.

16 MR. RAWLS:

17 Yes, Mr. Chairman.

18 CHAIRMAN FONTHAM:

19 I tell you what: If you have  
20 a statement that you'd like to give and you  
21 think you can give it in five minutes or so  
22 -- maybe five to ten minutes, and try to  
23 concentrate on the Administration of Justice  
24 topic, we'll be happy to receive your  
25 statement.

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1 (John Rawls approaches podium.)

2 MR. RAWLS:

3 Thank you very kindly. I  
4 think it would be a shame for this committee  
5 to have it's important meeting without an  
6 oral address.

7 My name is John Rawls. I  
8 practice law in the City of New Orleans, and  
9 I am a member of the Executive Board of the  
10 New Orleans Regional Chapter of the Louisiana  
11 Gay Political Action Caucus, sometimes also  
12 called the "Lesbian and Gay Political Action  
13 Caucus."

14 It would be a shame for this  
15 Committee not to have an oral presentation  
16 from the political wing of our community to  
17 tell you from our political point of view  
18 exactly how we are met with discrimination on  
19 a drudgingly routine basis in this community  
20 and in this state.

21 First, within the City of New  
22 Orleans, I think it's obvious that the gay  
23 community is a well-defined community. We  
24 have our own neighborhoods, we have our own  
25 churches, we have our own benevolent

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1 organizations.

2 ~~I'm not trying to make a~~  
3 joke, but we do have our own Mardi Gras crews  
4 ~~which have been prominently featured in books~~  
5 about Mardi Gras in New Orleans. We have our  
6 own special charitable organizations, and I  
7 think what we have done with the NO AIDS  
8 Task Force and similar organizations have  
9 been an inspiration both to charitable  
10 organizations throughout this depressed  
11 economy and at the same time throughout the  
12 country. And certainly the contribution to  
13 the world in terms of the art and literature  
14 produced by lesbians and gay men living in  
15 New Orleans is very well-known.

16 Tennessee Williams, of course,  
17 is merely the tip of a very big iceberg. New  
18 Orleans has traditionally been a center of  
19 culture with a capital "C" for artistically  
20 inclined lesbians and gay men, and it  
21 certainly is a center for gay culture.

22 The Louisiana Constitution  
23 protects culture. No one seriously thinks  
24 that the Louisiana Constitution protects  
25 lesbians and gay men. Culture protects

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1 blacks, culture protects Cajuns, culture  
2 protects Yugoslavian immigrant communities in  
3 Plaquemines Parish. And it should. But  
4 culture does not protect lesbians and gays in  
5 New Orleans.

6                   The Supreme Court of the  
7 United States, to give you another example,  
8 has routinely struck down statutes used to  
9 interfere with citizens just carrying on  
10 their ordinary activities, whether those be  
11 called "loitering statutes" or what.

12                   In a case involving the City  
13 of Cincinnati, they struck down a statute  
14 that comes very close to both a New Orleans  
15 ordinance and a Louisiana statute, which is  
16 called "Obstructing the sidewalk."

17                   Walk past K-Paul's on  
18 Chartres Street and you tell me if the  
19 sidewalk is being obstructed. Walk past Pat  
20 O'Brien's. Well, let me tell you: That's  
21 not obstructing the sidewalk. But a couple  
22 of years ago, nine lesbians standing outside  
23 Charlene Schneider's bar were arrested for  
24 open containers of alcohol in public and  
25 obstructing the sidewalk.

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It's not exclusive to us. The  
~~New Orleans Police Department has also used~~  
this with terrible effect upon the punk bars.  
~~And, in the issue of October, 1986, WAVE, the~~  
New Orleans music magazine, had an article  
where they interviewed Captain Hunter of the  
Vieux Carre Police Department, and he said,  
"Well, we warned them and they stayed there."  
This kind of selective enforcement of a  
statute and an ordinance is, I think, germane  
to your discussion.

Now, what do we do about it?  
Well, I'll tell you what we do about it:  
Every once in a while when Board cops and  
Vieux Carre have nothing else to do, they  
sweep through the French Quarter and they  
arrest men who appear to be gay for  
obstructing the sidewalk.

You'll hear later on from  
another attorney who, like me, has  
represented people on this. Let me tell you  
what happens: In the first place, they  
frequently will beef up the charge, for  
example, by planting one marijuana cigarette  
and one stamp-size packet of cocaine. Now,

1 you tell me how many people walk around with  
2 ~~one marijuana cigarette and one stamp size~~  
3 packet of cocaine. But it's amazing how many  
4 ~~people are arrested for obstructing the~~  
5 sidewalk -- this was, by the way, at 4:00 on  
6 a Sunday morning -- just happen to also have  
7 that.

8           And all of the attorneys in  
9 town who represent gay lawyers, we have a  
10 16-page memo that we routinely file on these  
11 cases. And what happens? If we file the  
12 memo attacking the constitutionality of the  
13 statute, the City Attorney drops the charges  
14 because he doesn't want the statute or the  
15 ordinance challenged in court.

16           Now, the City Attorney is  
17 here this afternoon, and I ask you to ask him  
18 why his City Attorneys in Municipal Court  
19 routinely will drop any constitutional  
20 challenge in an arrest involving the  
21 ordinance and statute. If I'm not making  
22 myself clear, if the guy challenges the  
23 constitutionality, the City Attorney does not  
24 proceed; if he doesn't challenge it, he's  
25 convicted and it goes on his record.

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We wrote the Mayor -- as an  
~~organization, we wrote the Mayor and asked~~  
him to have Superintendent Woodfork here  
~~explain those arrests and City Attorney Jones~~  
here to explain those selective prosecutions.

Superintendent Woodfork will not honor you  
with his presence but you might ask the  
people that he sends in his stead those same  
questions.

Changing to another topic, I  
was in recent discussion concerning the fact  
that this City just, to its credit, elected a  
Jewish woman with an Italian name to a judge.  
And I made the comment about "When will we  
ever get a gay judge in this City?" Let me  
tell you what the consensus was. "Never."

Judges are elected in this  
City. Do you think that any judge who ran as  
an openly gay judge would ever be elected in  
this City -- a gay or a lesbian? We are  
condemned to have our cases heard by  
straights. Do you think that openly gay and  
lesbian jurors are not quizzed on those  
points?

We have to hide in order to

1 protect our rights. We have to "pass for  
2 white," to use an expression. You think that  
3 maybe it's an advantage to us to be able to  
4 hide our gayness. No, it's not. We deny  
5 ourselves, and that's the only way we can  
6 make it.

7 And, as for me as a lawyer,  
8 well, I am openly gay, and I did move from  
9 Jacksonville where I had a successful  
10 practice in my hometown because I knew I  
11 couldn't make it as a gay lawyer there. I  
12 came over here to become a businessman, and I  
13 discovered that there were so many gay  
14 lawyers here that maybe I should try as a ga  
15 lawyer, also.

16 But, under the Sodomy Statute  
17 of Louisiana, I am an uninvited felon, and  
18 anytime anybody wants to cause trouble for me  
19 or any other lesbian or gay lawyer -- and I  
20 know of at least 35 in this City -- or any  
21 lesbian, or gay doctor, or psychiatrist, or  
22 psychologist, or school teacher, or social  
23 worker, or anyone else who requires moral  
24 turpitude as a grounds for State licensure,  
25 all they have to do is pull up the Sodomy

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1 Statute.

2 ~~The Sodomy Statute is~~  
3 selectively used against us and it's  
4 ~~selectively held in place. It's the sword~~  
5 that doesn't have to leave its sheath.

6 So those are some of the ways,  
7 Mr. Chairman and Members of this Committee,  
8 that we feel that we are distinctly  
9 discriminated against in the Administration  
10 of Justice. We have to hide the fact that we  
11 are who we are. We have -- that tells me my  
12 10 minutes are up.

13 We have an ordinance and  
14 statute, unconstitutional in their face,  
15 selectively used against us -- used against  
16 other persons whose lifestyles are not  
17 approved of by "New Orleans Finest," but  
18 we're on the top of the list, and no chance  
19 of ever finding redemption at the voting  
20 booth.

21 I'm open to questions.

22 CHAIRMAN FONTHAM:

23 Are there questions from the  
24 table on my right?

25 Mr. Quigley?

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MR. QUIGLEY:

One of the people on the Committee earlier said that they thought the Crime Against Nature Statute was more enforced against the female prostitutes than anybody else. Is that a -- he said that was like a 73 or something. Is that a fair statement of how the laws are enforced now?

MR. RAWLS:

Mr. Quigley, the real point is not how it's enforced. The fact is it exists. If I were still a married, straight lawyer, I wouldn't have to worry about having my license yanked at anytime. But, because I am openly gay, I can always have somebody allege that I have violated the Sodomy Statute by trying to procure them, and all of a sudden my private life becomes a matter of public investigation by the Louisiana State Bar Association and by a court of law.

And I don't think that's right, particularly in this day and age when men and women living in sin, together, is perfectly acceptable, if you have -- and excuse me for making reference to a

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1 television show -- but, if you have a man and  
2 woman living together as Koonsack (spelled  
3 phonetically) does with his mistress lawyer  
4 on L. A. Law, nobody blinks an eye. But, when  
5 I take my lover to a bar meeting, there's  
6 hell to pay. We were even told it's okay as  
7 long as we don't flaunt it.

8 Do you have your life  
9 companion's picture on your desk? Do you  
10 hold that person's hand in public? Do you  
11 kiss that person in public or otherwise show  
12 affection? If you do, I envy you because we  
13 aren't supposed to do those things. A man  
14 can't put a man's picture on his desk or a  
15 woman a woman's picture on her desk, and we  
16 can't hold hands in public and we can't kiss.  
17 We can't even kiss.

18 CHAIRMAN FONTHAM:

19 Any questions?

20 REV. HAMILTON:

21 Mr. Quigley, it's also, I  
22 think -- I've used -- it's not an enforcement  
23 mechanism so much as it is a harassment  
24 technique.

25 MR. RAWLS:

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1 As a matter of fact, every  
2 ~~time I try to get us to bring some kind of a~~  
3 direct action to test the constitutionality  
4 ~~of the ordinance and the statute, this is~~  
5 what discrimination does to the  
6 discriminator. The opposition I meet -- and  
7 it's well-founded -- is if we get away -- if  
8 we get rid of this thing, which is just a  
9 misdemeanor ordinance, then they will harass  
10 us with something else, and that might be a  
11 felony. It would be better for them to  
12 harass us by arresting us or threatening to  
13 arrest us with a misdemeanor ordinance than  
14 to have them resort to a felony statute.  
15 It's a sad commentary on the state of affairs  
16 in this State.

17 And that's in New Orleans,  
18 which is probably the most enlightened  
19 center. In fact, I can't even begin to  
20 imagine what it's like in other cities and  
21 smaller towns.

22 CHAIRMAN FONTHAM:

23 Are there questions at this  
24 table?

25 Okay. We have another

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1 question.

2 MR. JENKINS:

3 The question is to Mr. Green:

4 Concerning the allegation of being

5 discriminated against in private clubs or  
6 businesses, or what have you, is there an  
7 ordinance that you could charge that  
8 particular club with discrimination? Is  
9 there an agency in town that you could file a  
10 complaint with --

11 MR. GREEN:

12 Yes, there is.

13 MR. JENKINS:

14 Have you filed such?

15 MR. GREEN:

16 Complaints have been filed.

17 MR. JENKINS:

18 Can you name the agency?

19 MR. GREEN:

20 Yeah, ABC, Alcoholic &  
21 Beverage. You can go there.

22 MR. JENKINS:

23 You charged the club with  
24 discrimination, with racial discrimination?

25 MR. GREEN:

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1 Well, what we basically -- do  
2 you want to explain the process?

3 MR. RAWLS:

4 ~~The ABC Office -- and I'm sure~~  
5 they have another name, but that's what every  
6 calls it -- is part of the City of New  
7 Orleans, and they require -- they maintain  
8 all liquor licenses in the City of New  
9 Orleans. They do it by address, by the way.  
10 And, if the complaints were filed with them,  
11 then it would be up to them to review the  
12 license.

13 MR. JENKINS:

14 But there is a mechanism  
15 filed on discrimination, racial discrimi-  
16 nation, or you've been simply filing under  
17 what basis?

18 MR. RAWLS:

19 I don't know. I haven't filed  
20 the complaints. I'll defer to Mr. Green on  
21 that.

22 MR. GREEN:

23 In terms of attempting to  
24 answer your question, when people have a  
25 legitimate complaint in terms of a particular

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1 bar, what they can do is basically -- there  
2 is an office here in town -- I don't know the  
3 name offhand -- where people can file charges  
4 against the business for discrimination. I  
5 don't remember their name offhand.

6                   When I have problems, I  
7 basically go to my attorney, who takes care  
8 of all of that. But, as I've been told in  
9 the past: that it's very difficult to prove  
10 that someone is discriminating against you --  
11 very, very difficult, but -- in terms of  
12 having evidence, solid evidence to support  
13 that.

14                   MR. JENKINS:

15                   Has this happened to you in  
16 straight bars?

17                   MR. GREEN:

18                   No, it has not.

19                   MR. JENKINS:

20                   Just in gay bars?

21                   MR. GREEN:

22                   That's correct.

23                   MR. RAWLS:

24                   A very brief comment: I'm  
25 afraid that I put so much emphasis on my own

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1 community, I forgot the impact of this  
2 ~~Administration of Justice in repression on~~  
3 the other 90 per cent of the adult population  
4 ~~that is straight men and women.~~

5 Just as the repression of  
6 segregation has direct impact on any whites  
7 who were suspected of being too soft on the  
8 issue, men who appear to be -- some  
9 effeminate men and women who appear to be too  
10 masculine, people who don't conform to  
11 society's expectations of getting married and  
12 so forth suddenly find themselves  
13 discriminated against.

14 It's hard to pick out, but you  
15 are not going to find a member running for  
16 judge or a person acting as the District  
17 Attorney or even sometimes a person on the  
18 jury if that person is perceived by other  
19 people as being suspect. And that's how  
20 discrimination affects those who are not even  
21 supposed to be the targets of discrimination.

22 CHAIRMAN FONTHAM:

23 Okay. We very much appreciate  
24 your presentation. I appreciate you coming  
25 up, Mr. Rawls.

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Reverend Hamilton and Mr.

Green, thank you very much.

I believe we have two more presentations of legal representatives. We have James Kellog, who is an attorney, and Mark Gonzalez.

(James Kellog approaches podium.)

MR. KELLOG:

Good morning. My name is Jim Kellog, and I'm pleased to speak to you today concerning gay men and lesbian women and the Administration of Criminal Justice in Louisiana.

I've been practicing law for twelve years, now. All but during the last 18 months have been in New Orleans. I am also pleased to tell you that as of last night I'm again a resident of New Orleans and will soon be re-establishing my practice here.

In those 12 years I'd been involved in a number of civil liberty cases, practically every kind of civil rights case there is. A wide variety of gender cases, the rights of prisoners, the mentally ill and

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1 the mentally retarded, school discrimination  
2 cases, and employment discrimination cases. I  
3 have also represented in a variety of cases  
4 from divorce to child custody issues  
5 including state planning and succession, and  
6 I'm gay. That makes a difference.

7 Before outlining my thoughts,  
8 it's interesting -- 20 minutes is sort of  
9 interesting time to put in the light of a few  
10 years of what I was given --

11 CHAIRMAN FONTHAM:

12 Excuse me, Mr. Kellog.  
13 There's kind of a conference going on in the  
14 room.

15 Perhaps you all could go to  
16 the back of the room or something.

17 Go ahead. Thanks a lot.

18 MR. KELLOG:

19 My name is Jim Kellog, and I'm  
20 pleased to speak to you today concerning gay  
21 men and women and the administration of  
22 criminal justice in Louisiana. I've  
23 represented several hundred people over the  
24 past 12 years.

25 I do need to give you a little

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1 bit of background. What I call "homophobia,"  
2 ~~one on one, what it means to be gay in~~  
3 Louisiana and what especially what we hope  
4 ~~will be the "Gay Nineties."~~

5 A few moments ago I said that  
6 if you're honest, the words would affect the  
7 way that you reacted toward me saying the  
8 three words, "I am gay." They sent a spark  
9 of electricity through this room. It's  
10 really interesting just watching the reaction  
11 just when people make those three words  
12 together, something goes through every mind  
13 when that happens.

14 The reason that that happens  
15 is because, try as we may, we've all been  
16 offended by our society's attitude towards  
17 homosexuality. Homophobia is fundamentally  
18 different from racism and sexism. It's not  
19 necessarily worse. I'm not saying that  
20 racism and sexism is not important because  
21 they very much are, but it's fundamentally  
22 different, in that our society lacks a  
23 fundamental awareness of the injustices that  
24 are done to gay men and women.

25 At least these days, in most

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1 places, the people who are racist know that  
2 ~~they aren't supposed to be that way and most~~  
3 of them won't talk openly about it. You  
4 ~~don't see politicians talking about the~~  
5 niggers and things like that; however, you do  
6 see politicians using the word "queer" and  
7 using other kinds of derogatory things when  
8 they think someone's not around.

9           Anti-gay bias is an acceptable form  
10 of bigotry, both socially, religiously, and  
11 legally. The Catholic Church has an explicit  
12 policy to evict gay religious organizations  
13 from using its facilities. The Pope has  
14 specifically referred to gay men and women as  
15 "fundamentally disordered."

16           The United States Supreme  
17 Court has specifically stated that because of  
18 morality, gay men and women do not have the  
19 same rights to privacy that is thereby  
20 afforded straight people. Those fundamental  
21 facts are important in realizing how  
22 pervasive homophobia is, and it affects gay  
23 men and women as much as it does straight men  
24 and women.

25           We have famine, hatred and

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1 violence, but still people think that it's  
2 important whether or not somebody goes home  
3 to Jack instead of Jill. Given these facts  
4 and the fact that anti-gay bias, it will not  
5 surprise you that I believe that the  
6 administration of criminal justice system in  
7 this State and this City is pervaded with --  
8 there are a number of elements in the  
9 criminal justice system. I do not have time  
10 to talk about it today, but the Police  
11 Department, the District Attorney's Office,  
12 the City Attorney's Office -- I can spend  
13 days telling you what goes on in programs,  
14 particularly as AIDS is beginning to be one  
15 major problems of the problems of this City  
16 and this State. And the lack of medical  
17 attention given to those people.

18 Each of those elements has  
19 their own unique problems, but the police, by  
20 far, not only in New Orleans but throughout  
21 the State, most clearly reflect the  
22 prejudices of our society at large.

23 Let me give you a few  
24 examples. They're really simple forms of  
25 prejudice by the Police Departments

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1 throughout our State. But the first is a  
2 result of enforcement of the laws which are  
3 on the books. The New Orleans City Council  
4 and our Legislature, in its infinite wisdom  
5 keep accommodating or passing the law that  
6 help the police in this regard.

7 Two of our most notorious laws  
8 on the -- well, have been on the books as  
9 recently as the 1970's. I give you this  
10 background not because they're used today,  
11 it's to show you how things are changing, and  
12 it's only getting a little bit more  
13 sophisticated.

14 One of my favorite statutes  
15 that's been on the books prohibits cross-  
16 dressing except on Mardi Gras Day. But, on  
17 Fat Tuesday, even if you're cross-dressed,  
18 they actually had police going into gay bars  
19 and checking men who were dressed up as women  
20 to make sure they were wearing boxer drawers.  
21 If they happened to be wearing panties, they  
22 were arrested. That's within the last ten  
23 years.

24 Another law that was on the  
25 books up until fairly recently prohibited the

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1 granting of an alcoholic beverage unless being  
2 issued to prostitutes, cross-dressers, and  
3 homosexuals. It also prevented them from  
4 entering bars and taverns in this city.

5 Those laws were rarely  
6 enforced. They were on the books and they  
7 were an effective tool of harassment. The  
8 police could go into the bars and could --  
9 say if an election had been coming up, they  
10 could go into the bars and say, "We have a  
11 homosexual here. We're going to close the  
12 place down," and they did so.

13 Now we use different statutes.  
14 The most notorious used now, and not only  
15 against gays but against people in general in  
16 the French Quarter, is obstructing the  
17 sidewalk. They choose that particular  
18 statute, which is blatantly unconstitutional  
19 for controlling street musicians.

20 For other things, let me show  
21 you how it's used against gay people. Some  
22 people refer to an incident that happened  
23 several years ago. What happened was Dutch  
24 Morial was perceived as having a large gay  
25 constituency that was supporting him. The

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1 politicians perceived that as being the black  
2 candidate who was running had to get some  
3 white politicians -- was that the gay and  
4 lesbian community was enough to put someone  
5 over.

6                   The Police Department didn't  
7 have a lot of love loss for Dutch Morial at  
8 the time, and what happened was I got a  
9 telephone call one Friday evening that there  
10 had been 35 people arrested outside of four  
11 separate gay bars. That was on a Friday. It  
12 was also during the middle of the summer.

13                   If you go through the French  
14 Quarter in the summer, people start drinking,  
15 they spill out onto the sidewalks, all with  
16 their plastic cups that they have. Most of  
17 the gay bars are fairly isolated from the  
18 mainstream of the French Quarter. Same thing  
19 the next night. There is a bar in the French  
20 Quarter known as "Julia's" (spelled  
21 phonetically) in the back part of Decatur  
22 Street that had a Sunday afternoon beer bust,  
23 and it didn't take a genius to figure out  
24 this is what was coming down, that they were  
25 going to arrest people at Julia's that night.

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1 So what we did, we got some  
2 plants there so that they would be arrested  
3 so we could get everybody out. The sum total  
4 of the weekend was that we had 103 people  
5 arrested, 100 gay men, three charges of  
6 resisting arrest, which happened to be the  
7 lesbians who resisted the arrest.  
8 Ultimately, the charges were dropped, but  
9 people still had to go to court to deal with  
10 that.

11 We had photographs -- I mean  
12 anyone who's been to New Orleans knows that  
13 you got people lined outside of Galatoire's,  
14 outside Antoine's, outside all of K-Paul's.  
15 None of those people were arrested and, in  
16 fact, obstructing the sidewalk was not the  
17 problem. But the problem was that the Police  
18 Department wanted it real clear that the gays  
19 were pushing too hard in certain regards.

20 Another incident happened  
21 right before the 1984 World's Fair came  
22 about. It was right before the World's Fair  
23 came, and it was a concerted effort on to  
24 clean up the French Quarter. That happens  
25 when you got a convention coming to town --

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1 fairly predictable.

2 ~~I predict that you will see~~  
3 some new harassment goes on as the Republic  
4 ~~Convention comes to town not among the~~  
5 prostitutes, particularly with in the gay  
6 community. It's becoming very predictable.

7 What happened in 1984,  
8 however, was a little bit different. We had  
9 spent a lot of time educating the Police  
10 Department as to what was going on during  
11 some training with them as to sensitivity in  
12 the gay community. We had just gotten a new  
13 Police Chief, however, Henry Morris.

14 What was happening was that  
15 gay men, particularly at the back side of the  
16 French Quarter, from St. Peter, which is  
17 generally perceived as being the more gay  
18 area, away from the tourists, anytime you had  
19 more than three or four gay men at a  
20 particular block, walking along the street,  
21 they were stopped for two or three  
22 identifications.

23 Again, because no one carries  
24 two or three picture identifications, if you  
25 couldn't produce them, asking you where you

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1 were from, asking you all kinds of  
2 questions, and ultimately the people were  
3 arrested for obstructing the sidewalk at the  
4 back side of the French Quarter or for  
5 failure to move on, which is another  
6 interesting statute that we have in New  
7 Orleans, one of those charges that don't  
8 stand up in court. They don't intend to  
9 stand it up in court. They are going to be  
10 dropped. Everyone knows they're going to be  
11 dropped.

12 But a gay man or woman has to  
13 be worried about his name being put in the  
14 newspaper. They often have to hire an  
15 attorney. They go through an elaborate  
16 process to get the charges ultimately  
17 dropped, and you can bet it's seen as a tool  
18 of intimidation, and it is used for that.

19 When it became clear that  
20 there was a pattern going on, several of us  
21 requested to meet with Chief Morris, and we  
22 did meet with Chief Morris. There were, I  
23 believe, five of us that were there telling  
24 him what the problem was, and Chief Morris  
25 ultimately said, in so many words, that the

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1 real problem was that gays were being too  
2 open these days and too visible, and that  
3 what we should do is voluntarily limit  
4 ourselves to two or three people per block.  
5 If we didn't, we would expect the harassment  
6 that was going on. That was the meeting that  
7 we walked out of and created quite a bit of  
8 stir.

9 Things calmed a bit from that,  
10 but now communications have changed. They're  
11 no longer doing the education of the police  
12 officers that they were once doing, they're  
13 no longer training them in that regard, not  
14 giving them the five-minute lecture I gave  
15 you, that they are afraid of gays, and it  
16 does make a difference.

17 And gays are not the same as  
18 everyone else. We have a different history,  
19 different culture, and we have different  
20 forms of repression, too.

21 I could go into a lengthy  
22 dissertation on New Orleans Vice Squad and  
23 the patterns of arrest. It is again fairly  
24 predictable when that will be occurring.  
25 That what happens is the Vice Squad goes out

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1 to City Park, Audubon Park, stakes out a  
2 particular restaurant, and then, if a single  
3 man comes in, that person is going to be  
4 arrested for attempted crime against nature  
5 or for obscenity. It doesn't matter who the  
6 person is, if they are perceived as being  
7 gay.

8 I have represented  
9 heterosexual joggers who are stopped out of  
10 Audubon Park because they were running and  
11 had to stop to go to the bathroom, who were  
12 arrested for that. Do you think that a  
13 heterosexual arrested for that sort of thing  
14 is going to press charges and try to file a  
15 damage suit to prohibit that? No. And the  
16 District Attorney's Office will drop it if  
17 the person doesn't get in trouble for another  
18 six months.

19 I have had priests that were  
20 arrested out there. The patterns are so  
21 clear. People who don't know each other -- I  
22 can tell you the pattern, one by one,  
23 exactly, when it happens.

24 I can name police officers,  
25 particular ones that do it, because it comes

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1 down to the word of the person who's  
2 arrested against one police officer,  
3 sometimes two police officers. Nothing  
4 happens in most of those instances, and yet,  
5 because of the nature of the charge,  
6 attempted crime against nature or obscenity,  
7 or something like that, people will not fight  
8 it. But people are concerned about records.

9           The District Attorney's  
10 Office has been fairly cooperative, where on  
11 a single instance, first offense, they will  
12 generally drop the charges and put a person  
13 on what's called "diversionary program."  
14 They'll drop the charge and enter it as a  
15 "not guilty" finding and hopefully the record  
16 can be expunged. But still the person has to  
17 go through the fear, not only that they'll be  
18 found out or their employer might find out,  
19 but all these other things. And it's seen as  
20 a tool of harassment, I think.

21           Let me mention a couple of  
22 other instances quickly, too. I had a case  
23 in St. Tammany Parish that is remarkable for  
24 the abuse of police processes. It's also  
25 remarkable -- it's one of the few cases where

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1 my client was willing to take it to Federal  
2 Court and where we won the case, actually,  
3 This person got a telephone  
4 all in the middle of the night. He is gay  
5 not openly gay, but he is gay, and had a  
6 fairly good job. He got a telephone call in  
7 the middle of the night from someone who  
8 later was found to be an undercover police  
9 officer, who said, "So and so told me that  
10 you and I should get together and it might be  
11 interesting if we did," so on and so forth.  
12 "Sure. Come on out. Come to my house."

13 He came to the house, right in  
14 the front door. And, initially, the place is  
15 surrounded by police officers, who not only  
16 arrested him but forced him to strip so they  
17 can do the strip search of him. They go  
18 through all of -- everything in the entire  
19 house. The man happens to be religious, and  
20 they started making a lot of anti-Catholic  
21 comments because he had a picture of the Pope  
22 on his wall. They were using any gay epithet  
23 you can imagine as they were doing things.

24 The search lasted over a  
25 period of time -- two hours. He's in a rural

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1 area. He said, "This is what you use when  
2 ~~you pick up the boys and kill them and bury~~  
3 them." They brought charges against him that  
4 ~~we had a difficult time getting dropped.~~

5 Finally, we went to a  
6 preliminary examination and the judge  
7 hesitantly decided to drop the charges. That  
8 never happens. You never win a preliminary  
9 examination before a judge. But the judge  
10 found the police officers were lying.

11 I had a client who was a  
12 probationary employee of the Post Office.  
13 You are on probation for 90 days and you  
14 become permanent after that. After about 90  
15 days, he was coming from the Post Office one  
16 day and offered a ride to a gay, who tried to  
17 shake him down for some money. When he  
18 didn't give him any money, the gay went to  
19 the Police Department there in one of the  
20 local jurisdictions. I am not going through  
21 the details. It could be too clearly  
22 identified.

23 The Police Department  
24 investigated, didn't bring any charges or  
25 anything like that, but interestingly enough,

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1 went by the Post Office and talked with the  
2 man's employer and said, "We have these  
3 charges -- we have this complaint. We can't  
4 prove it. There's nothing to bring a charge,  
5 but we thought you should know it."

6                   The day before it had  
7 happened, he did receive an excellent  
8 evaluation. Following, practically  
9 everything that was on his 80 days of  
10 employment -- on his 90th day of employment,  
11 he was terminated, all because the Police  
12 Department took it upon themselves to tell  
13 them about it. That happens all the time.

14                   Let me also -- I would be  
15 remiss if I didn't offer a few things that I  
16 think could be done for you, and I realize  
17 that I am going on a little bit, but indulge  
18 me for just a moment.

19                   First, we as a society, New  
20 Orleans, every city and town through the  
21 State of Louisiana, we need to have a law  
22 that outlaws bias-related violence, whether  
23 for racial, gender-based, or sexual  
24 orientation-based.

25                   I realize that it's in your

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1 purview to make a recommendation that States  
2 ~~begin doing this, that it shouldn't be~~  
3 treated -- when someone comes up and beats a  
4 ~~gay man in the back of the French Quarter, in~~  
5 fact, and uses a baseball bat on them, that  
6 shouldn't be treated as assault and battery.  
7 That should be treated as bias-related  
8 against them. If it's for racial reasons, or  
9 whatever reasons, those should be treated  
10 differently.

11 Second thing is we need strong  
12 policies by the State and local governments  
13 about discrimination, specifically on the  
14 basis of sexual orientation. We need to  
15 promulgate those. We need special training,  
16 particularly with the Police Department.  
17 That should be an outlet.

18 Those kinds of sensitivity  
19 things should be a requirement for every  
20 single Police Department around. We need  
21 enforcement mechanisms.

22 Someone asked a little while  
23 ago what the enforcement mechanisms are for  
24 discrimination by a bar. It is interestingly  
25 the Federal Statutes against racial discrim-

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1 ination as far as public accommodations are  
2 concerned, specifically exempting alcohol  
3 beverage outlets. New Orleans has a specific  
4 statutes that prohibits that kind of  
5 enforcement.

6           You can go to through the ABC  
7 Board, which is a very difficult process and  
8 not particularly useful for you. You could  
9 take them to the Municipal Court and they  
10 could be charged. Neither of them are  
11 particularly effective. You need some kind  
12 of -- police, the office of investigation,  
13 particularly when it's abused by police  
14 officers. We could have that as a strong  
15 policy. Those will be investigated  
16 thoroughly.

17           Sensitivity training is  
18 essential. We also need a whole element that  
19 I haven't talked about -- is this failure of  
20 the police officers to investigate when there  
21 is, for instance, gay domestic violence.

22           A couple of years with his  
23 lover, after a period of five years, and the  
24 lover did incredible things, slashing tires,  
25 breaking into his house, stealing things. We

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1 couldn't get the police to come out and  
2 investigate, even. We knew who was doing it.  
3 We had photographs of him doing it. - We had  
4 to take him, ourselves, to Municipal Court  
5 because the Police Department refused to  
6 investigate,

7                   One other brief area that I  
8 need to mention because I see no one is  
9 specifically addressing that issue -- it is  
10 part of a person being a gay man, AIDS and  
11 AIDS-related discrimination.

12                   We have seen throughout this  
13 State and through the country an incredible  
14 amount of discrimination that gets blurred  
15 up. I mean it's no longer just "We are  
16 against the queers. We are against the  
17 queers because they are going to kill us."  
18 That gets pulled together somehow.

19                   It's a very important thing,  
20 the hysteria going on about AIDS. That is  
21 they're afraid of AIDS. You see it in police  
22 officers who put on rubber gloves to arrest  
23 someone simply because they are gay. This  
24 has happened in Washington, D.C., where  
25 people were marching on the Supreme Court

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1 Building. You see it in the schoolroom.  
2 ~~People have special places set aside if the~~  
3 person is gay. You see it as people are put  
4 ~~into separate cells in prisons, not even~~  
5 because they have aids but because they are  
6 gay and they might also have it.

7 I thank you for your time.

8 CHAIRMAN FONTHAM:

9 Thank you, Mr. Kellog. We are  
10 going to do the questions after both  
11 presentations.

12 (Mark Gonzalez approaches podium.)

13 MR. GONZALEZ:

14 I would like thank the  
15 Committee and Mr. Muldrow, who first  
16 contacted me, for giving me the opportunity  
17 to address your group this morning.

18 I have lived in New Orleans  
19 for a total of over ten years, and being gay  
20 and being an attorney and politically active,  
21 I have heard or come in contact with many  
22 instances against gays. However, being aware  
23 that this is a National Commission which will  
24 be gathering from the entire country, I will  
25 try to limit my remarks to the most specific

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1 observations I have.

2 ~~First, I will succumb to the~~  
3 temptation to start with the most colorful  
4 ~~instance I have regarding transvestites or~~  
5 cross-dressers. By the way, in my research,  
6 I note under the Commission's rule that  
7 handicapped is defined in accordance with  
8 Section 706, No. 8, and that at least one  
9 Federal Court in a D.C. circuit has held  
10 that transvestites can be defined as  
11 "handicapped." I don't know if they want it  
12 or not, but it puts them under your --

13 The facts of instance are  
14 fairly simple. About a year ago a young man  
15 I represented, while cross-dressed and while  
16 walking alone down a nearly deserted Dauphine  
17 Street in the French Quarter late at night --  
18 actually, it was about 1:00 in the morning on  
19 a Friday, was stopped by police officers and  
20 arrested for obstructing the sidewalk.

21 You have heard a lot of it  
22 today. In the past gays and especially  
23 transvestites have been arrested under this  
24 or similar charges, and you have also heard  
25 about the largest resistance, which was in

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1 the summer of 1981, which is about 50 to 100  
2 people were arrested outside a gay bar. And  
3 I worked on that case with the attorney  
4 handling it. Not a single person was willing  
5 to put themselves in the position of bringing  
6 charges against the City or State for  
7 violation of their constitutional rights  
8 because, as you have also heard today, just  
9 the mere fact that you are going to expose  
10 yourself to so much publicity makes it nearly  
11 impossible to do so.

12 The second instance I bring to  
13 you came about several months ago, when I was  
14 contacted by a man whose employer, for one  
15 reason or another, perceived the man as  
16 having AIDS and was forcing him to have a  
17 test done with the negative results in order  
18 to continue his employment. That situation  
19 was negotiated satisfactorily and the  
20 employer dropped the requirement, and the  
21 man was allowed back to work.

22 But if I've heard of one  
23 instance of it, I submit there are many  
24 instances similar to that going on. AIDS is  
25 a recognized handicap and fits under your

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1 ambit, and gay people are at higher risk of  
2 getting AIDS than the general population, as  
3 you know.

4 ~~The third situation, less~~  
5 clear-cut, involves technically valid, though  
6 harsh laws against some types of sex -- quote  
7 -- "crimes against nature." I represented  
8 people arrested for violations in public  
9 places where I strongly believe that if the  
10 situation had been between a gay and a girl,  
11 in a public place even, they would have been  
12 told to move along, or as I was discussing  
13 with the judge, probably the woman would have  
14 been allowed to stay and the gay would have  
15 been asked to move along and would have been  
16 charged and given a municipal five-year  
17 sentence.

18 My fourth situation brought to  
19 me through a colleague of mine who is not  
20 able to be here, stressed that I discuss  
21 another situation. I speak of a common  
22 arrest of gay men really doing nothing  
23 illegal that the police even could possibly  
24 have proximate cause for because they really  
25 couldn't see what was going on because of

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1 however they are but nevertheless are  
2 ~~arrested for disturbing the peace or~~  
3 prostitution in the French Quarter.

4 ~~Many, many of these people~~  
5 either cannot afford an attorney or they  
6 cannot pay the cost or afford the publicity  
7 in bringing a civil suit. The police know  
8 this. They may know that some of these  
9 people are, in fact, hustlers but,  
10 nevertheless, this does not justify the  
11 arrest, nevertheless, our community is  
12 constantly subjected to it.

13 Fifth, I must mention on  
14 behalf of a lot of people who are in jail in  
15 this State a situation that has been brought  
16 to my attention. Personally, I have  
17 interviewed and represented people in prison,  
18 at Jefferson Parish Prison here, who  
19 explained the situation to me.

20 If you divulge the fact that  
21 you are gay, you will be segregated into a  
22 different population in the prison with the  
23 possible reason or rationale being it's for  
24 your own protection. Whether you want it or  
25 not, you are going to be segregated and, by

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1 being segregated, you'll not be allowed to  
2 ~~get a job, a work-release job, you will not~~  
3 be allowed to have the other privileges that  
4 ~~a general population prisoner has and, in~~  
5 fact, if you can't work release, you can't  
6 get work-released early or it's a bad mark on  
7 your record that you haven't been successful  
8 on a work-release program, at any rate.

9                   So, generally, a person could  
10 be openly gay or divulge the fact that you're  
11 gay is going to have a much more difficult  
12 situation in jail, not even found guilty of  
13 any crime but just in jail because of the  
14 fact they are gay or divulge that fact.

15                   Finally, I guess more  
16 generally, I'd like to explain the dynamics  
17 of homophobia because I sense that there is  
18 some misunderstanding in your group.

19                   Obviously, if a person is  
20 black, discrimination against that person is  
21 going to be very forthright and obvious.  
22 Same with the person with the name of Klein  
23 or Goldstein, or a person who's, in fact,  
24 Italian or ethnic. The discrimination  
25 against that person is going to be very

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1 obvious.

2 On the other hand, the  
3 discrimination against gay people doesn't  
4 have to be very obvious in our society. In  
5 our society, the discrimination is successful  
6 with very limited, subtle, less obvious  
7 practices. This makes it all the more  
8 important that this group presents to the  
9 Commission how important it is to really, in  
10 fact, have changes of laws. And I really  
11 stress that we do need a change of the laws  
12 in this country.

13 Finally, I have one last  
14 remark: I find it curious that a Committee  
15 investigating discrimination against gays and  
16 lesbians, or "homosexuals," as you refer to  
17 them, has no gay members or members who are  
18 gay -- known to me to be gay or any of the  
19 other persons I asked and, by reference to  
20 this, holds its conference at a time, place,  
21 and location that really inhibits the inputs  
22 of gays and lesbians in the community.

23 I would like you to understand  
24 that today you are getting a very skewed and  
25 limited sampling by reason of these factors.

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1 You're getting hearsay and you're getting  
2 ~~second-hand information when you could be~~  
3 getting first-hand testimony by victims.

4 ~~Finally, I would suggest that~~  
5 to perhaps alleviate this, this situation,  
6 there's a conference on lesbians and gays in  
7 June -- and I mentioned this at the  
8 Louisiana Conference on Lesbians and Gays.  
9 When people in the community are going to be  
10 there, they're going to be open and they're  
11 going to be responsible people willing to  
12 talk about what goes on in our community.

13 Secondly, the NO AIDS Task  
14 Force gets hundreds of phone calls with every  
15 type of discrimination, every type of  
16 problem. I get referrals, as many other  
17 attorneys get referrals through them, of  
18 discrimination. I suggest you approach that  
19 group and set up some means of tabulating or  
20 getting statistics or information from them  
21 on people with AIDS and the discrimination  
22 that is taking place in this area against  
23 people with AIDS.

24 I notice in your two  
25 publications that you brought with you today

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1 that there are, in each publication,  
2 ~~dissenting opinions. Let this be somewhat of~~  
3 a dissenting opinion for the fact that this  
4 ~~group addresses this issue at this time, this~~  
5 place, and in this manner.

6 Thank you very much.  
7 Nevertheless, I would like to recognize you  
8 for at least addressing the issue. It's a  
9 small step forward. Thank you.

10 CHAIRMAN FONTHAM:

11 Well, I'm not sure I want to  
12 say, "Thank you." But I would like to simply  
13 say very briefly that the members of our  
14 Committee are all volunteers, and just about  
15 every one is -- you know, has traveled here,  
16 has given up a day of work or whatever is  
17 required. And, frankly, I don't think any of  
18 us have any idea that this date would be more  
19 or less a day for potential participants than  
20 any other date.

21 But when we first arranged  
22 this meeting, we couldn't select the date.  
23 It was almost two years ago. I believe Mr.  
24 Kellog appeared at that meeting. And we  
25 certainly did try to seek input prior to

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1 time the the date was established. And it  
2 ~~may be an oversight. We may not have picked~~  
3 the best possible time, but it's just the way  
4 ~~it worked out.~~

5 Now, do we have any -- let's  
6 see. What side did I go to before? Why  
7 don't we try this side?

8 MS. MADDEN:

9 I have a question for Mr.  
10 Kellog. You mentioned several times  
11 incidents that happened in bars and people  
12 reporting things that happened in bars, and  
13 one of the earlier speakers mentioned that  
14 the gay life is not necessarily a social  
15 thing and that gay people are not just party  
16 animals. But there is a lot of emphasis on  
17 bars, and I wondered if you could explain why  
18 that keeps happening over and over again.

19 MR. KELLOG:

20 Why bars is a social part of  
21 the system. I think it's primarily cultural  
22 in the sense that we have been excluded from  
23 having organizations and established  
24 churches, for instance. We have been  
25 excluded from having our own community

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1 centers except a very few large areas where  
2 they've only recently, in the last five  
3 years, established gay community centers.

4 And, frankly, until the advent  
5 of the AIDS crisis, we were very diverse and  
6 very disperse people. Over the last five  
7 years, as AIDS has become more and more  
8 common in the community. Both local and  
9 national has pulled together.

10 Some people don't even have  
11 one-tenth of the understanding of the  
12 incredible amount of organization work in the  
13 gay community, not only throughout the  
14 country with the national attention, but  
15 here, also.

16 There have not been any  
17 socially recognized areas. New Orleans has,  
18 for better or worse, always been seen as a  
19 gay mecca. Historically, this was the place  
20 where planters who had a plantation upriver  
21 and had a gay son would send their son to go  
22 to business in New Orleans in the French  
23 Quarter or else send them on a grand tour to  
24 Europe, get them out of town. And that still  
25 happens today.

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1 Most of the gay men and women  
2 in Louisiana that are in the process of what  
3 I referred to last night as "coming out of  
4 the armoire," are actually in the process of  
5 moving to a larger city where it's more  
6 accepted.

7 It is -- there is something  
8 very important to one's self-identify to be  
9 able to be in a place where you can be  
10 somewhat secure of what's going on. I can  
11 tell you walking into a gay bar for the first  
12 time is an incredible act that people have to  
13 do.

14 One of the fascinating facts  
15 about different forms of discrimination is  
16 race- and gender-based discrimination. A  
17 black person or woman doesn't have to come  
18 out to their parents and you don't have to go  
19 to your parents and say, "I'm black and so is  
20 my roommate."

21 (Laughter)

22 MR. KELLOG:

23 But that, in itself, is a very  
24 strong political statement. And getting to  
25 the point with all the homophobia and things,

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1 we're told that we're immoral, we're going to  
2 hell, that the church doesn't recognize us,  
3 and now, you know, if you're going to be gay,  
4 particularly if you're a gay man, you're  
5 going to die.

6 It shows the incredible -- I'm  
7 amazed that anyone comes out at all, either  
8 to themselves or to society, because it is  
9 one hell of a step to have to make, to admit  
10 all of those things to yourself, to come to  
11 the realization that you'll have to fight off  
12 all kinds of prejudice and stuff.

13 I was a graduate of law  
14 school. I lived in New York for three years  
15 before I came out of the closet. I think I  
16 was 26, 27 years old. Even the 800 block  
17 Bourbon Street thought I was straight. The  
18 reason for that is I grew up in Shreveport.  
19 I thought that to be gay I had to want to  
20 wear mascara and wear dresses and things like  
21 that. I didn't want to look -- I certainly  
22 wasn't interested in things like that, so I  
23 couldn't possibly be gay.

24 That's the way that it is. A  
25 lot of people have difficulty dealing with

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1 that. You need those safe havens. And,  
2 ~~traditionally, the bars have been more of a~~  
3 safe haven than other places because it's a  
4 ~~place where you could meet people quickly~~  
5 that you had something in common with.

6 It wasn't a matter of -- I  
7 couldn't walk down Canal Street and could  
8 pick out, as I walked down Canal Street, a  
9 whole group of gay men and gay women. They  
10 are people that you would -- and I've walked  
11 with some of my straight friends going to  
12 lunch and you can actually make a date with  
13 some of those straight people who would not  
14 even understand what's going on.

15 But that is only in recent  
16 times. We have been so closeted that there's  
17 was no way for us to see each other unless we  
18 went to those kind of places.

19 Additionally, what was  
20 happening -- I'm not saying it happens today,  
21 but 20 years ago in New Orleans and in most  
22 of the big cities, the bars, the gay bars  
23 particularly, were owned by elements of  
24 organized crime and they paid protection  
25 money and, therefore, they weren't being

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1 harassed.

2 ~~It's only been in the last 20,~~  
3 25 years that gays have been owning their own  
4 ~~businesses, and gradually there's been a lot~~  
5 of arrests, a lot of the bars are closed down  
6 in the French Quarter. It's only in recent  
7 times that it's beginning to get more open.  
8 Now there's not that much harassment that  
9 goes on as long as there's social activity  
10 going on in that premises.

11 There are all kinds of other  
12 problems with racism, sexism, that people  
13 have been talking about. But, traditionally,  
14 bars have been a -- seen as a safe haven.

15 We didn't have a Louisiana Gay  
16 Political Action Caucus until about ten years  
17 ago. We didn't have an AIDS Task Force until  
18 about five years ago. We date the gay  
19 movement in the United States from the riots  
20 that happened in New York at Stonewall Bar  
21 where a bunch of drag queens were there from  
22 Louisiana. Police came inside and decided to  
23 arrest everyone, and the drag queens decided  
24 they weren't going to put up with it.

25 That was 1969. That's how

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1 recently it actually is. That's when the  
2 ~~consciousness of people organized for us -- I~~  
3 think it's a part of an evolutionary process,  
4 ~~and we're seeing more and more fascinating~~  
5 I've been living in New York for 18 months  
6 and, coming back, I see a dramatic change in  
7 the social structure in the gay community in  
8 New Orleans, that bars are no longer the only  
9 place where people meet each other. We've  
10 evolved. We've set up our own social  
11 organizations, our own racquetball teams,  
12 baseball teams and everything else. That's a  
13 very, very recent development.

14 CHAIRMAN FONTHAM:

15 Other questions? Down there?

16 MR. BAKER:

17 Mr. Kellog, you mentioned the  
18 D.A.'s office and you said they were very  
19 cooperative in diversionary programs, et  
20 cetera. So it appears that from your  
21 testimony and Mr. Gonzalez' testimony that  
22 the focus is on the police in the enforcement  
23 of certain ordinances. And then in the  
24 discussion of that, it was noted that these  
25 ordinances are enforced not only against gays

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1 but are enforced against prostitutes and  
2 street musicians.

3 I don't see in what you told  
4 me anything that identifies the enforcement  
5 problem as one directed at gays. That is, it  
6 appears to be that this is a traditional  
7 problem that's always existed in the French  
8 Quarter, where the police, the Vice Squad,  
9 have used over the years various ordinances  
10 and questionable ways against questionable  
11 activities in their mind, and we haven't  
12 isolated this as anything particularly  
13 against gays.

14 MR. KELLOG:

15 I disagree with you very  
16 strongly. Let me give you a few examples.  
17 When I first came to New Orleans 12 years  
18 ago, I was staff attorney for the ACLU in  
19 Louisiana, and then I went into private  
20 practice. One of the major problems at that  
21 time was the tail end of the Moon Landrieu  
22 Administration, beginning of Dutch Morial's  
23 administration, major, major problems we were  
24 having with the police here was brutality.  
25 They were killing people right and left.

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1 Anyone who was in New Orleans at that time  
2 noticed that

3 And they would come up with a  
4 premise for the stop, such as a tail light  
5 being out or something like that. Somehow,  
6 something happened to provoke the police  
7 officer. Sometimes it was someone taking a  
8 photograph of somebody else, or something  
9 like that, and the police officers went  
10 crazy. And they would arrest people. They  
11 would beat people up, send them to the  
12 hospital. And they would use such charges  
13 as obstructing the sidewalk, failure to move  
14 on, interference with a police officer,  
15 things like that.

16 I, myself, was arrested at the  
17 Jazz Fest one year in exactly that kind of  
18 situation. They knew that I was an attorney,  
19 and they had paid for it, too.

20 That is one way that things  
21 have happened. And, when we had public  
22 hearings on that, when the City started  
23 getting sued for that, when police officers  
24 finally got arrested not because of anything  
25 the local District Attorney or the local

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1 police did or anything but because the  
2 Justice Department up in D.C. was able to  
3 bring some pressure to bear on that, was able  
4 to alleviate some violence. That changed.

5 Now --

6 MR. BAKER:

7 That was not directed solely  
8 at gays, that was a general problem that the  
9 police -- I mean they did it to a Federal  
10 judge in the French Quarter, and he was  
11 not --

12 MR. KELLOG:

13 The point I'm trying to make  
14 is that you were planning it as questionable  
15 activities. I --

16 MR. BAKER:

17 No, I said that they said it  
18 was questionable activities. They seized a  
19 Federal judge during Mardi Gras and threw him  
20 around.

21 MR. KELLOG:

22 I understand that. That's one  
23 reason that that no longer happens. What I'm  
24 saying is we need to shine that spotlight on  
25 the Police Department now and show what

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1 they're doing.

2 ~~I'm not sitting here and~~  
3 saying prostitutes should not be arrested.

4 ~~I'm not saying that certain activities~~  
5 shouldn't be prohibited. But hear me:

6 People who are standing on the sidewalk,  
7 walking in groups of three and four at the  
8 back part of the French Quarter should not be  
9 arrested for failure to move on, should not  
10 be stopped and asked for picture I.D.'s.

11 That happened to me, and the  
12 police officers knew me. They were asking  
13 for three or four picture I.D.'s, a block  
14 from my house.

15 MR. BAKER:

16 But that's a problem with the  
17 police, if the allegations are accepted.  
18 Generally, it is not one that is focused  
19 solely on gays. I mean you just said street  
20 music --

21 MR. KELLOG:

22 I agree. But what we're  
23 talking about here is -- the focus of your  
24 meeting today is problems in the Criminal  
25 Justice System. Just because the police are

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1 abusing everyone doesn't mean that they're  
2 not abusing gays.

3 MR. BAKER:

4 We're trying to identify  
5 whether the abuse is directed at gays as  
6 "gay" in the Criminal Justice System.

7 MR. KELLOG:

8 That is the perception that  
9 the police officers have. But Chief Morris  
10 sits and tells me that the reason that people  
11 are being picked up and being arrested in the  
12 French Quarter is because gays have been too  
13 visible.

14 MR. BAKER:

15 But --

16 MR. KELLOG:

17 And he told me that to my  
18 face.

19 MR. BAKER:

20 Well --

21 MR. KELLOG:

22 That is discrimination.

23 MR. BAKER:

24 When you --

25 CHAIRMAN FONTHAM:

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Let the --

~~MR. BAKER:~~

I'm trying to get some --

~~CHAIRMAN FONTHAM:~~

Let the witness answer the question before you interrupt him, please.

MR. KELLOG:

Yes, street musicians are not popular in the French Quarter. Prostitutes are not popular in the French Quarter. I submit that law-abiding gay people are not popular in the French Quarter and have been subject to harassment repeatedly in the last 12 years that I have lived here.

MR. BAKER:

Why are street musicians being harassed?

MR. KELLOG:

I don't know. I can't speak as to what's been happening in the last year, year and a half. One of the major problems was that the people who owned shops in the French Quarter were complaining the street musicians were taking business from their businesses, and they ended up -- New Orleans

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1 passed a whole series of laws against street  
2 music, which ultimately we took to Federal  
3 Court, and Judge Horton (spelled pho-  
4 netically), right before he died, declared  
5 street music to be a personal or a protected  
6 activity, which is the first time anywhere in  
7 the country that happened. Most of the  
8 harassment of street musicians stopped at  
9 that point.

10 One of the problems we have,  
11 those of us who try to change things and stop  
12 some of the harassment of the police is I  
13 cannot get people who are willing to come  
14 forward, be identified as gay and challenge  
15 the statutes that exist.

16 And, in fact, I think the  
17 point was well made that this particular  
18 statute that's being used, I can -- when a  
19 client comes to me, I can pretty much  
20 guarantee I can get him out of that charge,  
21 get it dropped. And, if they start using  
22 some of the other charges, then I will  
23 probably not be able to.

24 There's a whole bunch of  
25 unconstitutional laws on the books that

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1 police officers have -- know are  
2 unconstitutional. The City Attorney knows  
3 they're unconstitutional. The District  
4 Attorney knows they're unconstitutional.

5 The point is not to prosecute  
6 people for that but to arrest them, get them  
7 out of the area, harass them on it, and get  
8 them to be less visible and less openly gay

9 MR. BAKER:

10 Isn't it a fact that the  
11 police generally are merely responding to  
12 complaints by business men and people who  
13 live in the neighborhoods in all of these  
14 instances where they're, in fact, enforcing  
15 those statutes?

16 MR. KELLOG:

17 No, that's not true. I have  
18 been told specifically by people in  
19 authority, all the way up to the Mayor's  
20 Office, that what happens is -- in the two  
21 instances that we're talking about, major  
22 instances of the hundred some odd people were  
23 arrested at one time and also the instance  
24 where they were arresting people right before  
25 the World's Fair but there were no complaints

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1 there. Although the police said there were  
2 ~~complaints made, they never can identify a~~  
3 complaining witness to us.

4 ~~That what happens is you get~~  
5 one or two or three renegade cops and the  
6 rest of them go along with it. And no one is  
7 there to supervise them and stop it.

8 There was a period between  
9 those two instances where we were able to get  
10 a very -- some very sympathetic people in the  
11 Police Department, we were having regular  
12 meetings with them, and most of the stuff  
13 stopped. The word was sent down the line to  
14 the police officer on the beat that this is  
15 not tolerable, this is not socially  
16 acceptable behavior as far as the police  
17 officer is concerned.

18 That's exactly what I was  
19 trying to identify when I listed the things I  
20 think this Commission should do. We need to  
21 set policies that say, "It is not acceptable  
22 for members of this Police Department to  
23 harass people simply because of their sexual  
24 orientation or perceived sexual orientation.  
25 And, if you do, do that, we're going to

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1 discipline you." And then we need to set a  
2 strong mechanism to take care of that kind  
3 discrimination that goes on. We need to keep  
4 copies of complaints. We need to track all  
5 of that.

6 CHAIRMAN FONTHAM:

7 Okay. Are there any other  
8 questions here?

9 MS. McDADE:

10 Mr. Kellog, you mentioned in  
11 your remarks that you would like to sort of  
12 clear up or --

13 MR. KELLOG:

14 Excuse me. Are you asking Mr.  
15 Gonzalez or me?

16 MS. McDADE:

17 You.

18 MR. KELLOG:

19 Okay. I'm Kellog.

20 MS. McDADE:

21 No, Mr. Gonzalez. You  
22 mentioned the term "homophobia," and that --  
23 one of you, I was thinking it was Mr.  
24 Gonzalez, that you would like to -- there  
25 seemed to be a misunderstanding of the term,

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1 and -- but I feel like you sort of lost your  
2 train and went on to talk about less obvious  
3 practices of discrimination, or perhaps I  
4 didn't understand it.

5                   Could you go over your  
6 understanding of the term "homophobia"?

7                   MR. GONZALEZ:

8                   You asked the same question  
9 earlier and I would --

10                  MS. McDADE:

11                  Right.

12                  MR. GONZALEZ:

13                  -- I would agree with that  
14 entirely. That's my understanding of  
15 homophobia. What I was trying to explain  
16 was what I would call the "dynamics of  
17 discrimination" against gay people, lesbians,  
18 and that is that the group needs to  
19 understand that discrimination is generally  
20 referred to, especially in Federal laws, as  
21 against blacks, women, on the basis of sex,  
22 religion. Those are very obvious criteria,  
23 and that discrimination against those people  
24 are very obvious.

25                  As you mentioned, you know, a

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1 young girl doesn't say, "Mommy, I'm a girl"  
2 and a black doesn't say, "Daddy, I want you  
3 to know I'm black."  
4 But, on the other hand, the  
5 discrimination that takes place against gays  
6 and lesbians is very subtle and that you --  
7 in order for the discrimination to be  
8 effective, the discrimination, the  
9 discriminator -- in order for the biased  
10 person to be affected, they really don't have  
11 to do anything necessarily gross a lot of  
12 times. But what actually comes across as  
13 being a very gross discrimination to us  
14 because we're afraid of losing our job or  
15 we're afraid of losing friends or any number  
16 of things, the discrimination can be very  
17 subtle.

18 And so what I was getting at  
19 was if you could understand that, then you  
20 could understand why today you are not going  
21 to see -- you're going to hear a lot about  
22 obstructing the sidewalk, you're going to  
23 hear a lot about being arrested when the  
24 situation sounded questionable -- am I making  
25 that clear? That what I'm saying is the

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1 discrimination against us, to be effective,  
2 it need only be subtle.

3 MS. McDADE:

4 An attitude.

5 MR. GONZALEZ:

6 It's not just an attitude but,  
7 obviously, the discrimination is more than an  
8 attitude. It's an actual practice, and the  
9 practice can be very subtle. It can be so  
10 subtle as to just make a suggestion. For  
11 instance, "It's getting dark in here."

12 Or, in the one instance that  
13 I knew of, the young man who was asked to go  
14 get this test or wouldn't be able to continue  
15 with his employment, it was just alluded to  
16 that he had a roommate that might be ill.  
17 Nobody came out and said, you know, "We know  
18 you're gay. We know you're a queer" or  
19 anything like that. They just alluded to it.

20 And so a lot of times the  
21 proof that we have to bring forth is almost  
22 impossible to get -- is what I'm getting --  
23 is what I'm trying to say to the Committee.

24 So I urge you to use a broad  
25 brush when trying to put into your ambit

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1 what you would call "discrimination."

2 ~~Thank you.~~

3 MR. KELLOG:

4 ~~Could I respond just briefly~~

5 to that? Let me turn it back on you just,  
6 you know, using an old lawyer's trick. Did  
7 you have any reaction when I said the words  
8 "I am gay"?

9 MS. McDADE:

10 Did what?

11 MR. KELLOG:

12 Did you have any reaction when  
13 I said the words "I am gay"?

14 MS. McDADE:

15 Not particularly.

16 MR. KELLOG:

17 You didn't have any emotional  
18 reaction or any kind of upheaval reaction?

19 MS. McDADE:

20 (Ms. McDade shakes her head  
21 negatively.)

22 MR. KELLOG:

23 In that case, you're unique, I  
24 think, in my experience, because most people  
25 do.

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1                   Let me tell you, it also takes  
2 ~~-- the homophobia is also within all of us~~  
3 who are gay, too. It's something that's so  
4 ~~ingrained in us that we're not even always~~  
5 conscious of it. I had to sit and think  
6 about the implications of making that  
7 statement in a public forum, where the news  
8 media was going to be available, whether that  
9 was perhaps going to bring the Bar  
10 Association down on me, whether it was going  
11 to hurt my practice, whether it was going to  
12 affect the way that people thought about me,  
13 and also, frankly, whether it was going to  
14 allow people on this Commission to put be in  
15 a pigeonhole and ignore what I was going to  
16 say because somehow that happens.

17                   And it goes on with all of us,  
18 you know. The fact that I had to sit and  
19 make a conscious decision to make such a  
20 statement -- and it's a political statement  
21 -- is part of my internal homophobia that  
22 I've got to deal with.

23                   Homophobia is no easier to  
24 define than in concrete terms than either  
25 racism or sexism. I mean we all know when

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1 people use the word "nigger" and also most of  
2 us know that when you use the term "girl,"  
3 that's racist or sexist. A lot of people  
4 don't think of it as being homophobic when  
5 they use the term "fag" or "queer" or  
6 something like that.

7                   You know, my own brother, who  
8 knows that I'm gay, two weeks ago started  
9 telling me AIDS jokes in Shreveport. And  
10 that's part of the homophobia that goes on  
11 every day. I've been openly gay for five or  
12 six years year. So it's an inappropriate  
13 type of thing to do. We had to have a  
14 discussion about that. It happens all the  
15 time.

16                   "St. Elsewhere" the other  
17 night had a series, they had a guy who was  
18 dying of AIDS, and they started giving the  
19 AIDS jokes back and forth, you know. That's  
20 homophobia, as far as I'm concerned.

21                   The ways that we treat people  
22 cause the suppositions we make about them.  
23 And it's no more -- yes, it is an indictment.  
24 I can sit and call people that, but I think  
25 we would be remiss if I didn't point out that

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1 it permeates our society.

2 ~~I'm not saying simply that the~~  
3 New Orleans Police Department is homophobic,  
4 ~~although they are. I'm saying that all of us~~  
5 in this room are homophobics in one degree or  
6 another. We try to get over that.

7 I'm racist to a large extent  
8 because of the way that I was brought up.  
9 I've also done an awful lot of civil rights  
10 work and try to work around that, but  
11 occasionally, in the deepest, darkest  
12 recesses of our mind, it does make a  
13 difference whether someone's black or white.

14 And I think that most of us in  
15 New Orleans, it does make a difference  
16 whether a person is gay or straight. That's  
17 what homophobia is.

18 MS. McDADE:

19 I guess my point that I'm  
20 making is the term, I hear it thrown around  
21 an awful lot and I hear it used in various  
22 contexts, and I don't know where it came  
23 from. I don't know what it actually is  
24 intended to me. However, I will say that at  
25 my age, if you would like to call me a girl,

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1 I would consider it a compliment.

2 MR. KELLOGG:

3 Most women these days would  
4 not appreciate it. I'm not making any  
5 judgment on that, I'm just saying that many  
6 of the people that I hang around with, if you  
7 slip and call them a girl, you're in real  
8 serious trouble.

9 CHAIRMAN FONTHAM:

10 Okay. Does Mr. Jones have a  
11 question?

12 MR. JONES:

13 Yes. Mr. Kellog, I was  
14 interested in your -- I think it was you who  
15 said that you felt that hate kinds of crimes  
16 were more serious than the other type of  
17 crimes.

18 In the case of a battery  
19 against a gay person, as you know, under our  
20 law, that would be the kind of case that  
21 would be dealt with by Judge Ullman (spelled  
22 phonetically) if it were to come to court for  
23 prosecution.

24 Is it your understanding that  
25 even with appropriate testifying to the fact

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1 that a gay person was attacked, that  
2 conviction would be unlikely in New Orleans?

3 MR. KELLOGG:

4 A lot depends on the  
5 particular judges, and the particular  
6 predisposition and feelings about it. So  
7 much -- particularly the works of a judge  
8 trial. We like to pretend that judges are  
9 neutral and detached on these kinds of  
10 things, but they're not.

11 And I have heard comments in  
12 chambers, as I represent people who have been  
13 arrested in City Park, and the rest from  
14 individual judges that are totally  
15 intolerable. And, if it were anyone else but  
16 a judge who was deciding my client's case, I  
17 would call him on it. But you can't in that  
18 kind of situation because you can't give your  
19 client that kind of problems.

20 Judges are probably no more or  
21 no less knowledgeable in this area. They  
22 tend to be more conservative politically and  
23 probably tend to believe that they know more  
24 than they do know and have not been exposed  
25 to that. And, frankly, I think the judiciary

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1 needs education.

2 I see it in civil cases, also.

3 primarily where you're in the situation of  
4 child custody. That's where it's most  
5 predominant where the issues come up. Many  
6 of the judges are very, very good on that and  
7 don't allow that kind of thing to happen.

8 But many people come into it  
9 with their own prejudices, and you have to  
10 take a long period of time to educate the  
11 judge in a particular case as to what's  
12 really going on and the fact that because a  
13 woman is a lesbian doesn't mean that she's  
14 not going to be a good mother.

15 MR. JONES:

16 I understand. But, if you  
17 were to make it a felony, the defendant would  
18 be entitled to a jury trial. Wouldn't  
19 homosexual victims be likely to fair less  
20 well in getting convictions against attackers  
21 before a jury than would be the case of the  
22 judge?

23 MR. KELLOG:

24 I think it depends on -- I  
25 mean that's a decision that has to be made.

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1 There's no way to make a blanket statement,  
2 ~~you know. You know ahead of time who the~~  
3 judge is, you know if you're -- if you've  
4 ~~been practicing criminal law, you know what~~  
5 that judge's prejudices and all are, and you  
6 can make your decision and that kind of  
7 thing. As it is now, that's not an option.

8 I think -- again, I'm not  
9 saying that it should be simply for gay-  
10 biased crimes, I think for any kind of hate  
11 crime where you have clear proof that it was  
12 racially motivated, that it was religiously  
13 motivated, or motivated on the person's  
14 sexual orientation that that should be  
15 treated differently. And we as a society  
16 have to send that signal because the law does  
17 play that kind of a role.

18 If those kinds of laws get  
19 passed -- it's a mere fact that having the  
20 civil rights laws on the books changed a lot  
21 of things that were going on. Yeah, we had  
22 to fight an awful lot of cases to do it, but  
23 now it's -- most people accept that you can't  
24 discriminate against on those kinds of bases.  
25 And that's of fairly recent origin, too. But

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1 the law does shape society and does change  
2 the attitude of people in their day-to-day  
3 dealings with others.

4 MR. JONES:

5 I understand that, but if the  
6 object is to get successful prosecution of  
7 those who attack homosexual persons, the only  
8 thought I had -- question I had was whether  
9 you'd want to do that by making the crime a  
10 felony, whether it's homosexual persons who  
11 are attacked or black persons, or whatever,  
12 if the jurors are going to --

13 MR. KELLOG:

14 Frankly, in Orleans Parish, I  
15 would probably opt for a jury in many of  
16 those instances if we were able to get strong  
17 instructions of the jurors that -- as to  
18 exactly what the limits -- what elements  
19 were addressed. If we were talking about  
20 DeSoto Parish up in Northwest Louisiana,  
21 ain't no way in hell I would take that to a  
22 jury.

23 CHAIRMAN FONTHAM:

24 I have one question. It's  
25 really a clarifying question. I think

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1 there's a little problem on our record here.  
2 ~~You weren't actually~~  
3 contending that the police discriminated  
4 ~~against all persons in the French Quarter,~~  
5 were you?

6 MR. KELLOG:

7 No.

8 CHAIRMAN FONTHAM:

9 My understanding was that you  
10 were saying it's not only homosexuals but  
11 there are some other distinct groups who may  
12 be discriminated against, but -- for  
13 instance, I gather you were including just  
14 ordinary people who the police don't identify  
15 as having any specific aspect about them?

16 MR. KELLOG:

17 It's an interesting question  
18 because when we -- in preparation for the  
19 World's Fair when they were picking up people  
20 for being in the groups, a large number of  
21 straight people were arrested in the back  
22 part of the French Quarter because the police  
23 officers had the perception that that was the  
24 gay area and all the rest, and straight  
25 people, married and kids and all the rest,

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1 were arrested. And those charges were  
2 dropped a lot quicker.

3 So there was -- there is a  
4 perception, for better or worse, that the gay  
5 community is concentrated in the French  
6 Quarter and the Bywater area more so than  
7 uptown.

8 CHAIRMAN FONTHAM:

9 But you're still suggesting  
10 that the arrests occurred because --

11 MR. KELLOG:

12 Yes.

13 CHAIRMAN FONTHAM:

14 -- of the perception that the  
15 people are gay?

16 MR. KELLOG:

17 Yes. Yes.

18 CHAIRMAN FONTHAM:

19 It is now 12:38. Any more  
20 questions?

21 Okay. One more question.

22 MR. BRASS:

23 This is very brief because,  
24 according to schedule, I think we're going to  
25 be breaking for lunch. I know a lot of

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1 people have been here this morning. I would  
2 just like to say, you can tell from our  
3 questions that there's a diversity of opinion  
4 among this group. And the educational  
5 process for all of us takes a long time.

6 I would just like to say  
7 "Thank you," not only to the people who  
8 presented and put up with us and our  
9 questions and sort of bringing us through the  
10 early break, and I think I reflect everybody  
11 else's opinion, too, but also to the other  
12 people who came and sat and didn't get a  
13 chance to testify. I know that we really  
14 appreciate what you have brought to our  
15 attention.

16 And we're still going to go  
17 this afternoon. I know not everybody will be  
18 able to stay, and I just want to make sure  
19 that you understood that. After this  
20 process, then it's up to us to try and figure  
21 out what we can do with the information you  
22 gave us. And I just want to say, "Thank  
23 you."

24 CHAIRMAN FONTHAM:

25 That saves me from making a

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1 closing speech.

2 ~~Okay. We will adjourn until~~  
3 1:30. Anyone who can come back, we'd be very  
4 ~~happy to have you here. We're going to hear~~  
5 from officials at that time.

6 (Luncheon break)  
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1 (Afternoon Session)

2 CHAIRMAN FONTHAM:

3 First, let me just say for the  
4 ~~Record that those of you who weren't here~~  
5 this morning, this is a meeting of the  
6 Louisiana Advisory Committee to the United  
7 States Commission on Civil Rights.

8 The Advisory Committee serves  
9 as the eyes and ears of the Commission on  
10 civil rights and of the U.S. Congress with  
11 respect to specified acts of discrimination  
12 under Federal law, and we're here today to  
13 receive information with respect to the  
14 issue of alleged discrimination against  
15 homosexuals in the Administration of Justice.

16 There will be at 5 P.M., for  
17 those of you who are not scheduled to be  
18 presenting formal presentations, there will  
19 be an opportunity to make a short presen-  
20 tation to the Committee. But if you wish to  
21 do that, it is necessary to check in with the  
22 staff at the back of the room or here.

23 William Muldrow, who is a staff member  
24 sitting at the front desk, to give him your  
25 name and explain to him what you're going to

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1 say.

2 Our first speaker this  
3 afternoon, I believe is Shirley Pedler, who  
4 is the Director of the American Civil  
5 Liberties Union, the local American Civil  
6 Liberties Union Director.

7 Would you come forward,  
8 please?

9 We're starting a little late,  
10 but it's our fault not yours, so we'll give  
11 you your allotted time.

12 (Shirley Pedler approaches podium.)

13 MS. PEDLER:

14 Well, I probably won't need 2  
15 minutes, so that'll be just fine.

16 What I've been asked to talk  
17 about is general police community relations  
18 in New Orleans as opposed to addressing  
19 specifically police problems as they might  
20 pertain to the homosexual community. And,  
21 before doing that, I need to make some  
22 disclaimers and that is, first of all, I have  
23 no hard data to offer with respect to  
24 policemen's conduct in New Orleans.

25 The ACLU maintains an open

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1 line and we receive all kinds of complaints  
2 from all kinds of people, and these number  
3 approximately 200 every month. Of this  
4 number, we investigate only a tiny fraction  
5 of the complaints; namely, those that the  
6 ACLU actually intends to litigate, and we  
7 file only about 12 cases per year.  
8 Consequently, we have no way of knowing  
9 whether allegations made in other complaints  
10 are or are not correct.

11           Having said that, let me go on  
12 to say that it's our impression that there is  
13 a serious problem with policemen's conduct in  
14 New Orleans generally. Of the roughly 200  
15 complaints we receive each month, probably 20  
16 to 25 per cent of those allege police abuse  
17 of some sort.

18           In the last two months, we  
19 have received 22 complaints alleging police  
20 misconduct within the New Orleans Police  
21 Department. A fairly typical type of  
22 complaint is for someone to allege being  
23 beaten by the police and then being charged  
24 with disturbing the peace or obstructing  
25 justice.

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1 For example, one recent  
2 complaint, one of those received within the  
3 last two months is from the man who maintains  
4 that his wife called the police owing to a  
5 fight they were having; the police arrived  
6 and ordered him off the property, then  
7 followed him into a bar, clubbed him and  
8 arrested him for disorderly conduct. Again,  
9 that's a typical kind of complaint.

10 People will tell us or write  
11 that they were apprehended for some reason,  
12 they may have gotten into a rather hostile  
13 verbal exchange with the police, they are  
14 then beaten and then charged with disorderly  
15 conduct.

16 Another common complaint is  
17 entry without warrant. One recent complaint  
18 is from a man who claims that the New Orleans  
19 Police Department received false information  
20 from an informant and that the police broke  
21 into his house and ransacked it. Again,  
22 that's a typical kind of complaint.

23 The level of brutality alleged  
24 is sometimes very extreme. One complaint  
25 comes from a man who was attempting to locate

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1 an apartment with the assistance of his  
2 ~~cousin, owing to the fact that he's mentally~~  
3 ill. He and his cousin were knocking on the  
4 ~~open door of an apartment with a for rent~~  
5 sign in the front. They claim that members  
6 of the New Orleans Police Department arrived  
7 and the complainant writes as follows -- and  
8 I'll quote just briefly but directly from the  
9 correspondence we received from this  
10 individual, "The officers said, 'Halt,  
11 niggers, or we'll blow out your brains.' As  
12 I started to try to talk to one of the  
13 officers, he grabbed me. The other grabbed  
14 my cousin. They told us to walk inside and  
15 said if any shots were fired, we were getting  
16 the first bullet.

17 "They cuffed us and took us  
18 into the bathroom saying, 'Nigger, you're  
19 lying,' swinging a black stick, hitting me in  
20 the eye, which started bleeding all over  
21 everywhere."

22 The man goes on to say that he  
23 was beaten until he was badly bruised and  
24 that his wrist was fractured. Again, this  
25 doesn't constitute the kind of information

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1 that we receive and compile. We only  
2 ~~investigate those complaints when we're~~  
3 anticipating litigation, so I don't maintain  
4 ~~to you that this constitutes hard data.~~

5 And there's no doubt in my  
6 mind but what some of the complaints that the  
7 ACLU receives are spurious and self-serving  
8 and that there is no foundation to that. But  
9 even if half of the complaints we receive are  
10 valid, there's a very serious police abuse  
11 problem with the New Orleans Police  
12 Department.

13 I have only been in the City  
14 for a year and four months. I don't know  
15 what kind -- what the history in this  
16 community is of attempting to re-address  
17 these problems, what kind of mechanisms have  
18 ever been in place to allow the kinds of  
19 people who complain to us.

20 And, again, we're likely to  
21 only re-address one complaint a year of this  
22 nature. That's all we've got the resources  
23 to do. And the range of concerns of the ACLU  
24 is very broad, including all civil rights  
25 matters and civil liberties matters. Police

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1 abuse is only one of those. So, again, this  
2 community will be lucky if we can re-address  
3 one of these per year.

4 As far as I can tell from my  
5 knowledge of the community, which is, again,  
6 limited, owing to the fact that I haven't  
7 been here very long and I'm not real well  
8 acquainted with the other community groups  
9 that address themselves to these kinds of  
10 problems, there seems to be no adequate  
11 remedy at hand.

12 The people who filed these  
13 kinds of complaints have no way to re-address  
14 them. Either the ACLU does it or it doesn't  
15 get done. Most of these people tend to be  
16 poor, a disproportionate number of them come  
17 from minority groups, they don't have the  
18 resources to retain private counsel and sue  
19 for re-address of grievances concerning these  
20 problems. And that's the end of my formal  
21 comments.

22 Does anybody have any  
23 questions?

24 CHAIRMAN FONTHAM:

25 I have a question. To what

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1 extent do you observe that the police abuse  
2 to the extent it exists and is directed at  
3 minority groups, including homosexuals or  
4 other explicitly defined subjects of sex in  
5 society?

6 MS. PEDLER:

7 Well, again, it's my  
8 impression based on the kind of data we keep,  
9 which is just to amass these complaints, just  
10 to keep a file of them, that there's a  
11 disproportionate amount of difficulty with  
12 respect to the black people in this  
13 community, that the racist language alleged  
14 from the complainant where I read to you  
15 directly from his letter. It's not uncommon  
16 for the people to complain to us to allege  
17 the use of that kind of language,  
18 particularly the use of the term "nigger."

19 Whether or not the physical  
20 abuse is more intense with respect to  
21 minority members of this community, I really  
22 couldn't say. I have no way to assess that.

23 With respect to the gay  
24 community, of the number that we've collected  
25 in the last two months, of the 20 complaints

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1 that I indicated to you we collected in April  
2 and May, only one of those appears to come  
3 from a member of the gay community.

4 But it was a very standard  
5 kind of complaint of the kind that we have  
6 received over -- from the period of time I've  
7 been here and over the years. That is, it  
8 was a French Quarter arrest; the police  
9 pulled up, asked the individual what he was  
10 smoking, he said, "It's a cigarette. Here,  
11 have one." He alleges that the police said  
12 to him something like, you know, "This is the  
13 end of it for you, pretty boy," arrested him  
14 and charged him with obstructing justice or  
15 disorderly conduct, some such thing as that.

16 Again, this is all  
17 impressionistic, but the impression is that  
18 that kind of conduct is not uncommon  
19 particularly in the French Quarter, that  
20 people will be arrested for obstructing the  
21 sidewalk, just for standing there, and  
22 they're believed to be gay or they're  
23 believed to be soliciting homosexual acts,  
24 and they're just picked up off the street,  
25 literally, and charged with obstructing the

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1 sidewalk.

2 ~~So, in answer to your~~  
3 question, it is my impression that the  
4 ~~problems are more severe with respect to~~  
5 racial minorities and with respect to the gay  
6 population.

7 CHAIRMAN FONTHAM:

8 Do you have access to any  
9 information or do you have knowledge based on  
10 the experience of the ACLU as to compara-  
11 tively the treatment of homosexuals by the  
12 New Orleans Justice Administration versus  
13 vis-a-vis other areas of the State or other  
14 parts of the country?

15 MS. PEDLER:

16 Certainly not with respect to  
17 other parts of the country, we don't have  
18 anything that approaches that level of  
19 sophistication.

20 With respect to the kinds of  
21 complaints that we receive in our office, I  
22 think it's fair to say that the majority of  
23 the complaints we receive alleging  
24 maltreatment of members of the homosexual  
25 population tend to come from New Orleans

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1 substantially, very substantially. But  
2 that's less of a problem in other parts of  
3 the State -- parts of that State.

4 ~~CHAIRMAN FONTHAM:~~

5 Are there any other questions?

6 (No response)

7 CHAIRMAN FONTHAM:

8 Okay. We thank you very much  
9 for appearing.

10 MS. PEDLER:

11 You're welcome.

12 CHAIRMAN FONTHAM:

13 We appreciate it.

14 The next item on our agenda is  
15 a presentation by three investigatory law  
16 enforcement agency representatives. And I'm  
17 not sure if everyone is here, but I'll call  
18 all three names. We have Peter L. Munster,  
19 who is the Director of the Office of  
20 Municipal Investigation. I see that he is  
21 here.

22 Lt. Jerry Kessel. Is Lt.  
23 Jerry Kessel here? Yes? Okay. If you  
24 would come forward, I'd appreciate it.

25 Sgt. Norbert Fonseca is here.

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1                   So, I tell you what, this is  
2 ~~how we've been handling it. We have the~~  
3 three of you sit at the table, but one at a  
4 ~~time you can make your presentations.~~

5                   The original order was Sgt.  
6 Fonseca would be first, Lt. Kessel second and  
7 Peter Munster would be third. Then what  
8 we'll do after the formal presentation, we'll  
9 open the floor for questions of all of you  
10 sort of at the same time for the members of  
11 the Committee.

12                   And I note we have reserved a  
13 fair amount of time here, over an hour, so  
14 that would give you up to, say, 20 minutes  
15 for a formal presentation, if you want to  
16 take that long. So, Sgt. Fonseca, we're  
17 ready to hear from you.

18                   One thing, I'm informed that  
19 the tape recorder will pick up your formal  
20 presentation better if you're at the podium.  
21 So just sit there to answer questions, but if  
22 you don't mind, it would be helpful to make  
23 the formal presentation at the podium.

24                   (Sgt. Norbert Fonseca approaches podium.)

25                   SGT. FONSECA:

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1 I was asked to come speak to  
2 the Committee by Superintendent Woodfork. I  
3 attempted to gather some statistics in the  
4 event that I would be asked some questions  
5 concerning the problems you all are having  
6 with civil rights violations, and the  
7 statistics that I was able to gather at that  
8 time indicated that there are a fair amount  
9 of arrests that are made concerning arrests  
10 of prostitution, crime against nature,  
11 violations of indecency. And I was also  
12 asked to present things on such general  
13 crimes as blocking the sidewalk.

14 In reviewing these complaints  
15 that I was able to get, I couldn't determine  
16 whether there would be any area where there  
17 would be some kind of specific or selective  
18 enforcement on those particular types of  
19 crimes. Those crimes are very general  
20 crimes and they wouldn't only apply to the  
21 gay community. They would also apply to  
22 professionals that are out on the street, so  
23 to speak, hustling.

24 So I gave it a lot of thought  
25 and I thought the best way to take and do

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1 this would be to open it up to discussion  
2 ~~because it isn't our policy to selectively~~  
3 enforce against any one group. Our policy is  
4 ~~just to enforce the laws.~~

5 So if we can just take and  
6 open it up later on to discussion, I think --

7 CHAIRMAN FONTHAM:

8 Okay. That'll be fine. You  
9 could resume your seat, if you wish. I'm  
10 willing to open the floor to discussion. If  
11 somebody wants to ask questions, we could do  
12 that to try to expand the presentation, or we  
13 could go forward, whichever. We do have some  
14 questions.

15 SGT. FONSECA:

16 Okay. Fine

17 MR. MULDROW:

18 We've heard a lot of testimony  
19 earlier this morning about obstructing the  
20 sidewalk and this is used in a selective  
21 manner in the French Quarter around certain  
22 gay bars and it's almost never around K-  
23 Paul's or Pat O'Brien's or Galatoire's,  
24 other places where there's large amounts of  
25 sidewalk, congregation. What is your

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1 reaction to those sorts of complaints?

2 ~~SGT. FONSECA:~~

3 I think you're going to have  
4 ~~to take a more specific outlook that people~~  
5 that are standing around are going to a  
6 business or have some legal purpose for being  
7 there. We all know that if you stop on the  
8 sidewalk, you could be blocking the sidewalk.

9 I think that law has been  
10 enforced. And, again, it's enforced only way  
11 you have some kind of general type of  
12 violation where the prostitute, for instance,  
13 are on the street hustling. And that law is  
14 only enforced where a police officer knows  
15 that within a year's period of time, that  
16 individual has been arrested for prostitution  
17 or one of the other related crimes.

18 MR. MULDROW:

19 Would you explain that?

20 SGT. FONSECA:

21 Okay. I think it's 42:46,  
22 which specifically states that the officer  
23 has to have some kind of present knowledge  
24 concerning this individual's activities,  
25 being arrested for prostitution, crimes

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1 against nature or things of this nature, and  
2 that is when the enforcement comes in.

3 Usually, where the enforcement  
4 act is taken is in a area where some types of  
5 crimes are involved. It's not arbitrary.

6 It's areas where these types of crimes --

7 Just to give you an example:

8 I got a complaint -- yesterday it was that I  
9 referred to the VCD where they were having  
10 some problems around Cabrini Playground. The  
11 complaint was that they were opening  
12 masturbating in public at that area and  
13 harassing the elderly people in that  
14 location. So I reported it to the VCD to  
15 take action on it.

16 This is something that has to  
17 be dealt with. This isn't just arbitrarily  
18 going out and harassing someone. Their  
19 rights are being violated.

20 MR. MULDROW:

21 For masturbating in public,  
22 you would arrest them for obstructing the  
23 sidewalk?

24 SGT. FONSECA:

25 If they witnessed that

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1 violation then they would be arrested for a  
2 ~~106. This happens to be obscenity. Okay?~~  
3 The arrest won't be a general arrest. It  
4 ~~would be on what observations and what crimes~~  
5 were committed at that particular time.

6 MR. MULDROW:

7 The complaint this morning,  
8 though, is specifically about obstructing the  
9 sidewalk, people weren't complaining about  
10 masturbating, things like that. In terms how  
11 would you define the crime of obstructing the  
12 sidewalk?

13 SGT. FONSECA:

14 Well, there's also another  
15 crime. It's 61. -- I think it's 114.1, if my  
16 memory serves me correctly, which also  
17 relates to blocking the sidewalk, and it's a  
18 more general term, but I don't think it would  
19 be used, and that would be just blocking the  
20 sidewalk, including a vehicle blocking the  
21 sidewalk or a pedestrian deliberately  
22 obstructing someone else's pathway.

23 The crime and the law that I'm  
24 referring to is more specific and it's  
25 related to the types of crimes I explained to

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1 you before.

2 MR. MULDRON:

3           Would the usual practice be --  
4 ~~this morning they explained about one weekend~~  
5 where there were 30 people a night outside  
6 at bars or over 100 people arrested for  
7 obstructing the sidewalk, and all 100 of  
8 those charges were dismissed, the officer  
9 never showed up in court.

10           Is that the regular way police  
11 work is done?

12           SGT. FONSECA:

13           Let me say this: I can't  
14 answer that question because I don't have  
15 that information before me. But I spoke to  
16 the commander of the Vice Squad this morning  
17 -- I'm sorry, it was yesterday -- concerning  
18 that type of situation where the crimes are  
19 reverted back to the DA's Office for whatever  
20 reason, the diversionary program. The  
21 officers make the arrest and then it goes to  
22 the court and the offense is diverted.

23           Now, I do not know -- I have  
24 no personal knowledge of the particular  
25 incident you're talking about. I don't know

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1 why the cases would have been dismissed.

2 ~~MR. MULDRON:~~

3 Let me make it easier for you.

4 ~~In terms of your position in the Police~~

5 Department, do you have any supervisory  
6 responsibility over the officers in the  
7 French Quarter?

8 SGT. FONSECA:

9 No, sir, I do not.

10 CHAIRMAN FONTHAM:

11 In what capacity are you  
12 appearing as far as --

13 SGT. FONSECA:

14 I worked on Deputy Chief  
15 Holden's staff. I'm one of his admin-  
16 istrative executives.

17 CHAIRMAN FONTHAM:

18 Is Chief Holden out of town?

19 Are you knowledgeable  
20 concerning Police Department policies and  
21 practices in general?

22 SGT. FONSECA:

23 Yes, sir.

24 CHAIRMAN FONTHAM:

25 Okay.

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MR. MULDROW:

~~Let me ask if you, if I could,~~  
a couple of more general questions.

~~SGT. FONSECA:~~

Okay.

MR. MULDROW:

Are you aware -- about how many people are on the Force in New Orleans?

SGT. FONSECA:

Roughly, I believe, there are about 850 police officers and the rest would be staff level people and civilians that do administrative work. So I would imagine it comes under maybe between 11 and 1300, but I'm really not that certain about that.

MR. MULDROW:

Of the 850 police officers, how many would you know or would you guess that are gay or homosexuals?

SGT. FONSECA:

I do not know. I know of several people that I have been told are gay. I really don't know.

MR. MULDROW:

Do the officers routinely have

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1 any training or education involving civil  
2 ~~rights of black people or brutality, things~~  
3 like that?

4 SGT. FONSECA:

5 I'm going to defer that  
6 question to Lt. Kessel, if you don't mind,  
7 because he handles the training academy and  
8 people coming through the training academy.

9 MR. MULDROW:

10 Let me ask you just one more  
11 question. Do all officers have to receive or  
12 keep going through the training academy or is  
13 that --

14 SGT. FONSECA:

15 We have some in-service  
16 training, but specifically directed to that,  
17 I don't know.

18 CHAIRMAN FONTHAM:

19 I was thinking maybe it would  
20 be better, since this is all kind of  
21 overlapping, what we'll do is go ahead if  
22 there are formal presentations -- I don't  
23 know if -- Lt. Kessel, do you have a formal  
24 presentation?

25 LT. KESSEL:

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Not specifically.

SGT. FONSECA:

So you're here to answer questions?

LT. KESSEL:

I can give you a very brief overview of what we do at the academy and if you have any questions --

CHAIRMAN FONTHAM:

Well, that would probably be very helpful.

And what about you, Mr. Munster? Do you have a formal presentation?

MR. MUNSTER:

A very short summary.

CHAIRMAN FONTHAM:

Okay. Well, why don't you two just go ahead and make it and we'll follow-up with our questions.

(Lt. Gary Kessel approaches podium.)

LT. KESSEL:

I'm currently serving in the capacity rather of the Director of Police Education & Training out at the Municipal Training Academy, and in that capacity, I do

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1 oversee the basic law enforcement training  
2 for recruit personnel and also in-service  
3 training for our veteran police officers.

4 ~~Although her name does not~~  
5 appear on our schedule, if you will, our  
6 roster there, I hope you would not mind that  
7 I did bring along our recruit commander. I  
8 thought that she may be able to give you a  
9 little bit of insight into what is taught to  
10 our police recruits, in addition to what I  
11 have to say.

12 I also thought that you  
13 wouldn't mind me bring Sgt. Noble along, in  
14 that she is now, also, our Community  
15 Relations Instructor in the Academy. So I  
16 thought that she may be able to give us a  
17 little bit of insight in those particular  
18 areas.

19 I know that the thrust of what  
20 we're talking about again is essentially  
21 human rights and civil rights. So, very,  
22 very briefly, I jotted down as best my memory  
23 could recall -- and I'm sure that Sgt. Noble  
24 will confirm this -- there are a number of  
25 areas, obviously, in the recruit basic

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1 training in which, of course, the basic civil  
2 rights and just the relationships of people  
3 with people, or human relations, do come into  
4 play.

5 It's a very recurring thing.  
6 It recurs so often, in fact, that I'm really  
7 at a loss to say specifically how many times  
8 it does occur. I did jot down just a list of  
9 a few subject matter topics in which I know  
10 that the treatment of people, human rights  
11 and civil rights, does come very much into  
12 play.

13 One such course is a Civil  
14 Liabilities Course -- quite obviously, the  
15 civil rights of people, also our community  
16 relations block; also in the areas of  
17 victimology and criminology and specific  
18 blocks of instructions relating to interviews  
19 and interrogations. It is very prominent,  
20 very much a part of a course of instruction  
21 that we call "Crisis Intervention," which is  
22 specifically handling conflicts or mediating  
23 conflicts between people.

24 We have a specific course of  
25 instruction handling the mentally disturbed.

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1 We have a portion of training which we call  
2 "~~Simulation Training,~~" in which we attempt to  
3 simulate specific scenarios that a recruit  
4 ~~might run across once they reach the field~~  
5 environment or the street environment.

6 Again, a number of these simulations or  
7 scenarios involve people in conflict or the  
8 mediation of disputes or bringing into play  
9 the question of human rights.

10           And the final course of  
11 instruction that I do have jotted down is  
12 one, again, that we call the "Laws of Police-  
13 Citizen Contact," again relating to those  
14 laws that come into play whenever there is  
15 interaction between the police and, of  
16 course, citizens, dealings with, for example,  
17 detentions and stops and frisks and lesser  
18 intrusions, things of this nature.

19           And, if you don't mind, I  
20 would like to let Sgt. Noble have a few words  
21 with you, please.

22           (Sgt. Reid Noble approaches podium.)

23           SGT. NOBLE:

24           My name is Sgt. Reid Noble.  
25 As Lt. Kessel said, I'm the Recruit Training

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1 Commander and recently inherited the Course  
2 in Police Community Relations.

3 Before I talk about the  
4 course, itself, let me say that we are  
5 mandated -- of course, most of you all know  
6 this -- by State law to teach a Basic  
7 Training Course. The Basic Training Course  
8 mandated by the State of Louisiana consists  
9 of 240 hours of instruction in various  
10 subjects, too numerous to mention right here,  
11 but some of them are the ones that Lt. Kessel  
12 mentioned.

13 One of those subject matters  
14 is Police Community Relations. State law  
15 requires that we teach 16 hours in that area.  
16 Now, for comparison sake, look at this: New  
17 Orleans Police Academy teaches 827 hours of  
18 instruction as compared to the mandated 240  
19 hours by State law. The 16 hours in Police  
20 Community Relations treated specifically in  
21 that area is amplified to 40 hours.

22 And then again, as Lt. Kessel  
23 pointed out, there are numerous other areas  
24 where it recurs. Most of our things recur  
25 through the Academy training, which lasts 20

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1 weeks. So that you may be introduced to a  
2 ~~subject matter, for example, Elements of~~  
3 Criminal Conduct, in the beginning of the  
4 ~~course and it will recur again later, through~~  
5 most of your other subjects -- you'll get to  
6 it again down the road.

7 So, in the Police Community  
8 Relations aspect, which occurs during the  
9 first two weeks of training after the Basic  
10 Skills Course -- as I said, I've just  
11 inherited it, and the main theme, the thrust  
12 of the course, itself, is Situational &  
13 Impartial Enforcement of the Law. In other  
14 words, we engrain, attempt to engrain in  
15 these recruits the thought processes that  
16 will allow them to discuss or treat or meet  
17 anyone on the street situationally and  
18 impartially.

19 The whole idea is that  
20 everyone should have law enforcement, across  
21 the board, treated the same way and, of  
22 course, rendering aid to victims and all the  
23 other things that police officers have to do.  
24 Police officers, as you well know, have to do  
25 everything. They have to be actors,

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1 psychologists, salesmen, medical aides,  
2 everything else.

3 So my main -- as I said, my  
4 main thrust when I have the recruits in there  
5 is to teach them that it is not necessary to  
6 approach someone in an abrasive or aggressive  
7 manner, rather to treat everyone the same  
8 until something shows them that they should  
9 not be treated the same. For example, a  
10 hardened criminal pulling a gun on them.  
11 Okay. Now you have to do something else  
12 other than be nice and tip your hat.

13 So the whole idea is that we  
14 train them to be cautious -- Lt. Kessel's  
15 course of action, as a matter of fact, is  
16 street survival -- and to also be on the  
17 lookout for certain things that may spark  
18 something else.

19 Down the road, they again get  
20 this training in interviews, interrogations,  
21 laws of police-citizen contact, which goes  
22 straight down the line, what laws you need  
23 when you approach someone, and they'll get it  
24 again.

25 Now, the course of instruction

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1 consist of role-playing, lecture, film and,  
2 at the very end of Academy training, a  
3 simulation training program that lasts for a  
4 week. During that week, we walk through  
5 different scenes that they may encounter as  
6 police officers on the street and then show  
7 them the ideal way to react or treat whatever  
8 has arisen, and then we run them through it  
9 and pretend like it's real -- the real thing.  
10 Out on the street, we have people dressed up  
11 in plain clothes and different kinds of  
12 things to simulate different types of people  
13 that they may meet on the street.

14 Now, 20 weeks to a recruit may  
15 seem like a long time because he's anxious to  
16 get out of there. We feel that it's ample  
17 for Academy training because you can only  
18 tell and instruct -- and show someone so long  
19 in the Academy, itself.

20 But that's not the end of  
21 training. After that, they enter into a  
22 16-week phase with FTO training. So any of  
23 your questions about "How do you treat  
24 different people in the City and different  
25 areas of the City" we cannot argue that this

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1 is a cosmopolitan city, it has several cross-  
2 sections in different areas. And, when they  
3 get into the district that they will be  
4 assigned to, we leave it to the seasoned  
5 veteran officer, the field training officer,  
6 who has been through training, himself, a  
7 different type of training, to then further  
8 inculcate the ideas that we have put forth.  
9 So that way we treat the different areas of  
10 the City and different types of people they  
11 may meet in different areas.

12                   After the FTO training, the  
13 recruit is reviewed again. If there is a  
14 problem at all, he may be dismissed from the  
15 FTO program and dismissed from the  
16 Department.

17                   During the Academy, if there  
18 is some problem that arises, even as late as  
19 simulation training, which occurs in the 19th  
20 or 20th week, then we dismiss him. We  
21 recommend dismissal, and he appears before an  
22 Academy Review Panel, and the panel considers  
23 all the cases and, then, of course, the  
24 Superintendent, the appointing authority,  
25 decides what to do. But we do dismiss if we

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1 see inadequate behavior or inadequate  
2 ~~absorption of material.~~

3 Mr. Muldrow's anxious to ask  
4 ~~questions because we had quite a meeting~~  
5 together.

6 MR. MULDROW:

7 I would like to suggest, Sgt.  
8 Noble, when we talked before, you outlined  
9 very nicely the history of the course which  
10 was formally taught specifically dealing with  
11 the homosexual community and which, in fact,  
12 I think was partially taught by repre-  
13 sentatives from that community. Would you  
14 just outline the purpose, content, and the  
15 history of the development and the status of  
16 that training now?

17 SGT. NOBLE:

18 Yes. As I told you before, I  
19 wasn't at the Academy. I was not assigned  
20 there when that forum occurred. But I think  
21 what Mr. Muldrow's referring to is, in the  
22 State law, the State objectives of training,  
23 basic training that we are mandated to teach,  
24 they do treat, specifically, certain problems  
25 with certain different groups of people; for

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1 example, the elderly, the handicapped,  
2 ~~different sexual orientations, ethnic groups,~~  
3 minorities, and there are several different  
4 ~~areas that we instruct in there.~~

5 The way it is handled of  
6 course -- remember, this comes under  
7 Situational & Impartial Enforcement of the  
8 Law -- the way we handle it is to teach the  
9 person that by dealing with someone who is  
10 either handicapped or elderly, or whatever  
11 the specific category may be, there may be  
12 some special problems that will be  
13 encountered. We teach them that that will  
14 happen.

15 For example, with the elderly,  
16 one of the most blatant would be that the  
17 person would be hard of hearing. They're  
18 going to need to approach the person and make  
19 sure that they're understanding and hearing  
20 everything that's going on. And then, of  
21 course, language barriers and this type of  
22 problem.

23 In the past, the Academy had  
24 had a forum which was conducted by several  
25 members of the community. I was not there at

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1 the time. I had only heard about it. And it  
2 ~~frankly ran into the same problem that we run~~  
3 into when we have civilians who try to teach  
4 ~~police courses.~~

5 It is not that there is a  
6 misunderstanding as to the civilian  
7 interpretation of things or the civilian  
8 presentation or treatment of things. It's  
9 just that the civilian may not be aware of  
10 all the laws involved or all the policy  
11 involved, as Sgt. Fonseca was speaking of.

12 And that's all I can tell you  
13 about the forum: you know, that I wasn't  
14 there when it happened. I believe the  
15 Lieutenant was there.

16 LT. KESSEL:

17 Perhaps -- as I recall, I was,  
18 at that point in time -- and the date that I  
19 just jotted down, jogging my memory, I  
20 believe it's about 1980. And, at that point  
21 in time, I was the Assistant Director  
22 serving under our civilian director, who was  
23 William Bischoff.

24 And we were approached by -- I  
25 think I have the name correctly -- Mr. John

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1 Harmon, if I'm not mistaken, who asked if we  
2 would object to his preparing a presentation  
3 for the recruit class to assist in a form of,  
4 as he labeled it, "sensitivity training" at  
5 that time. And we, of course, had no  
6 objection to that, and invited him to do so.

7 He did present -- his  
8 particular presentation -- I don't recall the  
9 exact number of times. I want to say two or  
10 three times. In so doing, there was  
11 something very disturbing that did arise, but  
12 I don't know why. I don't know whether it  
13 was because of what was said in the classroom  
14 or the quality of instruction, or whatever  
15 the case may be.

16 But, in order to see if we  
17 were accomplishing the intended or desired  
18 purpose, we, of course, surveyed the class  
19 informally to find out how receptive they  
20 were to the given presentation, hoping to  
21 find a very positive result. Quite honestly,  
22 what we found was a very negative result.

23 What I recall -- and, again,  
24 I'm going back to 1980 -- was that a number  
25 of recruits took objection to some of the

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1 material that Mr. Harmon presented. There  
2 was specific religious implications and so  
3 forth and so on -- again, which I don't want  
4 to be quoted because I don't know if that's a  
5 fact.

6 But what I can say is fact is  
7 that the recruits at that time, in each of  
8 those given presentations, found something  
9 negative, and the impression that we came  
10 away with was one of rather than helping or  
11 creating a more positive approach or, indeed,  
12 accomplishing the sensitivity training that  
13 it had intended to achieve, it was doing  
14 quite the opposite.

15 We didn't quite know what to  
16 do about that. In fact, we just decided to  
17 let the presentations continue in hope that  
18 hopefully something would change. And,  
19 finally, they were just discontinued. That  
20 is, Mr. Harmon or whomever just stopped  
21 making the presentations. Perhaps they -- he  
22 was reading the same negative return from the  
23 students as they sent back to us.

24 Again, I don't know the nature  
25 of the problem that we had there, but I do

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1 know I was very much concerned because,  
2 ~~obviously, we were not achieving what we had~~  
3 hoped to achieve, yet quite -- something  
4 ~~quite the opposite happened.~~

5 SGT. NOBLE:

6 I think that's what I told  
7 you.

8 Thank you very much.

9 CHAIRMAN FONTHAM:

10 Thank you.

11 (Peter L. Munster approaches podium.)

12 MR. MUNSTER:

13 Good afternoon. My name is  
14 Peter Munster. I'm with -- the Director of  
15 the Office of Municipal Investigation.

16 We are not connected -- we are  
17 not in any way connected with the New Orleans  
18 Police Department, so I don't even know if I  
19 should be on this panel here. We are a small  
20 agency. We have three investigators, myself,  
21 and two secretaries, a total of six people.

22 The gay community, when we  
23 were started, about 1981, was very  
24 instrumental. They backed the ordinance  
25 that created us. I've been with them for

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1 about three years. I come from the Federal  
2 service. I have a Degree in Sociology and  
3 Business.

4 We're a professional  
5 investigative service. We're not -- again I  
6 want to point out, we're not connected with  
7 the Police Department. We report directly to  
8 the Chief Administrative Officer of the City  
9 of New Orleans, who is the same person the  
10 Chief of Police reports to.

11 We were created out of a  
12 perceived community need to investigate City  
13 employees -- most notably, the Police  
14 Department. OMI can investigate all City  
15 employees with the exception of employees of  
16 elected officials other than Mayor. For  
17 instance, we cannot investigate the employees  
18 employed by the City Council. They are  
19 elected officials. We cannot investigate  
20 them. They exempted themselves from our  
21 investigation.

22 (Laughter)

23 MR. MUNSTER:

24 OMI handles between 500 and  
25 600 complaints a year. Less than 2 per cent

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1 are any type of discrimination based on sex  
2 or sexual orientation, that we could  
3 determine. We don't keep statistics on this.  
4 We went back and looked at the files to get  
5 an idea of what was going on.

6 Our preliminary area is police  
7 brutality and police misconduct, which  
8 accounts for 80 to 85 per cent of our total  
9 complaints. We did last year 444 police  
10 complaints. That's what we received. The  
11 rest of them were other City employees.

12 The policy of OMI is the  
13 complaints -- it is that we will take  
14 complaints from anyone providing we have  
15 authority under our enabling legislation to  
16 investigate the complaint. If we do not have  
17 authority, we have a position of trying to  
18 refer it to the agency that can handle it.

19 If somebody brings us a  
20 complaint about the Criminal Sheriff's  
21 Office, which we have no authority over, we  
22 have guidelines where we refer it to certain  
23 people that would handle the complaint from  
24 them.

25 We, as far as I can determine,

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1 at least in my three years, have never  
2 ~~refused a complaint from anyone based on~~  
3 sexual preference. OMI does not inquire into  
4 ~~anyone's sexual preference.~~

5 We have a staff of three  
6 experienced investigators. All investigators  
7 have at least five years investigative  
8 experience before they came to OMI, a college  
9 education, and must pass a stringent  
10 background check. Of the three investigators  
11 I have right now, one of them is an ex-  
12 policeman, one is an ex-parole officer, and  
13 one is an ex-sex crime investigator for the  
14 District Attorney's Office. So we have a  
15 broad range. Actual experience at this time  
16 exceeds 10 years per investigator.

17 We have subpoena powers for  
18 all City employees and all City documents.  
19 City employees must give statements in our  
20 Administrative investigations or forfeit  
21 their -- possible forfeiture of their job.

22 Our investigations are  
23 primarily through sworn statements and  
24 gathering of documentary and physical  
25 evidence. All sustained investigations are

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1 submitted to the Chief Administrative Officer  
2 for concurrence. If the Chief Administrative  
3 Officer concurs, sustained cases are  
4 forwarded to the appointing authority -- in

5 this case, it would be the Chief of Police,  
6 Director of Streets, Director of Health  
7 Department -- for discipline. OMI makes no  
8 discipline judgments in the thing. All  
9 discipline comes from the department heads.

10 The concept of OMI has, I  
11 believe, worked well within the New Orleans  
12 Community. OMI has answered over 3500  
13 complaints in the six years we've been  
14 keeping records. And these complaints were  
15 against all City employees.

16 We have seen an increase in  
17 the number and severity of complaints since  
18 its inception, a reflection, I feel, of OMI's  
19 activity. However, when you get an all-  
20 civilian oversight, there's a thing that  
21 starts off -- you start off high and you get  
22 down, and we think we've reached that base  
23 level, which is going to be between 5 and 600  
24 complaints a year.

25 OMI stands ready to assist all

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1 people with complaints against City employees  
2 regardless of race, sex, religion, or sexual  
3 orientation.

4 ~~Any questions, I'll be happy~~  
5 to address them.

6 CHAIRMAN FONTHAM:

7 Thank you very much, Mr.  
8 Munster.

9 What we will do is start on my  
10 left this time, and I believe -- Mr. Kutcher?

11 MR. KUTCHER:

12 I direct this to the panel  
13 because this morning was very enlightening  
14 as far as for me as has been your  
15 presentation. And I heard some things this  
16 morning that I'm curious about, and I'd like  
17 to get some response from you all.

18 There were a number of people  
19 who are fellow members of the bar who made  
20 some statements today regarding the  
21 "selective enforcement," if you will, of some  
22 statutes which are on the books which -- the  
23 constitutionality of which was questionable,  
24 particularly, you know, obstructing  
25 sidewalks, failure to move on. I mean the

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1 1980's version of the Vagrancy Statute.  
2 ~~And the clear analogy that I~~  
3 drew in my mind was the same selective  
4 ~~enforcement against blacks in the 1960's with~~  
5 the Vagrancy Statute is being applied in the  
6 1980's against people who have a different  
7 sexual preference. For that reason, not  
8 because they're doing anything in public that  
9 straight folks don't do, but they're doing it  
10 in a neighborhood that is assumed to be  
11 populated by gays who are outside of  
12 establishments that are frequented by gays,  
13 and that doesn't strike me as being  
14 particularly fair.

15 I'm a little concerned,  
16 frankly, that the experiences which you  
17 related which occurred in the 1980's was the  
18 last time apparently anybody -- the police  
19 force did anything about this. And it seems  
20 to me that the responsiveness of the police  
21 force to that problem should be something  
22 which is more of a continuing basis than  
23 frankly has been.

24 And I invite your comments as  
25 to selective enforcements, and I invite your

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1 comments if you know. And I understand we're  
2 ~~not dealing with a lot of policy-making~~  
3 decisions at this level, but why there has  
4 ~~not been any additional efforts to sensitize~~  
5 members of the force as to maybe a better way  
6 to respond, particularly in view of the  
7 tremendous increase in the number of AIDS  
8 cases and what everybody reads and  
9 understands about it. So I'd like to get  
10 something back from that.

11 LT. KESSEL:

12 I'd like to briefly address  
13 two things: Selective enforcement, number  
14 one -- again, from my perspective as trainer  
15 of them and also the sensitizing of the  
16 recruits to the needs of people.

17 "Selective enforcement" is a  
18 term that is often kicked about and often  
19 misused. You will hear it arising a lot of  
20 times in law enforcement, and it usually  
21 surfaces in the area of traffic -- selective  
22 traffic enforcement.

23 Let's define it in a negative  
24 sense here today because I think that's what  
25 we're talking about: selective enforcement

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1 against different groups of people for  
2 ~~whatever reason -- against blacks.~~  
3 minorities, gays, whatever the case may be.  
4 ~~In our role as trainers,~~  
5 again, we literally go out of our way -- I  
6 can tell you each and every one of our staff  
7 has been chosen if not for their ability to  
8 instruct -- if for no other reason than each  
9 and every one of them is a very professional  
10 law enforcement officer with long years of  
11 experience who is not known to discriminate  
12 against anyone, who have no history of such  
13 complaints, whose qualities, if you were to  
14 -- and, again, not to blow our horns too  
15 strongly, but I do feel very strongly about  
16 this -- whose qualities the Superintendent of  
17 Police would like to see reflected in his new  
18 recruits.

19 Each and every one of us on  
20 the staff, I can assure you, is human. We  
21 all long-time law enforcement officers, but  
22 we all are, in fact, humans. If nothing  
23 else, our years in law enforcement have led  
24 us to see a broad spectrum of people and  
25 their needs. And it takes us back to that

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1 day -- and this is an oft' repeated speech to  
2 ~~the recruits -- when we placed our little~~  
3 hands in the air and we swore that we would,  
4 ~~in effect, look out for those who couldn't~~  
5 take care of themselves and protect lives and  
6 property.

7                   And you get very much caught  
8 up over the years if you are, in fact,  
9 professional, in the needs of people. That's  
10 what this is all about. Policing is a people  
11 service. The enforcement of law is a very,  
12 very small part of what we do, in reality.  
13 We're very people-oriented, service-oriented.

14                   That's what we try to convey.  
15 At least our current staff tries to convey  
16 that to our recruits. We are there primarily  
17 to take care of people, to take care of  
18 people who can't take care of themselves, who  
19 have needs that only we can perhaps  
20 "fulfill," if you will, who can't protect  
21 themselves in certain circumstances.

22                   And the last thing they need  
23 -- the last thing that they need is a law  
24 enforcement officer who operates in violation  
25 of the public trust -- again, another oft'

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1 repeated speech -- who operates in violation  
2 of the public trust, because that's why we're  
3 here, that's why we have the little bit of  
4 authority that we have. It's not God-given.  
5 Somebody didn't "prang" us with a magic wand  
6 and make us superior or better. But our  
7 authority comes from the people that we do  
8 police and that they say, "We allow you to  
9 police us because we trust you to do what is  
10 right."

11 From that standpoint, we -- I  
12 can't state it strongly enough -- dash  
13 selective enforcement in the negative sense.  
14 The oft' repeated term and the thrust again  
15 is that of situational and impartial  
16 enforcement of the law, not to misuse a  
17 written law. Whether it is a good law or a  
18 bad law is not for us to say, obviously.  
19 We're not to misuse a law; to take the law as  
20 it is written, apply it as it may be needed,  
21 impartially, situationally where it belongs,  
22 in situations where it should be used, and to  
23 what end -- that's the key: to what end. The  
24 end for which the law was written: the  
25 welfare of the community. To do something

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1 positive, not to be used as a -- I'm running  
2 ~~out of words -- not to be used as a lever~~  
3 against somebody or --

4 ~~UNIDENTIFIED FEMALE SPEAKER:~~

5 Abuse of power.

6 LT. KESSEL:

7 Yeah, an abuse of power, to be  
8 used in retribution or retaliation.

9 So, from the training  
10 standpoint, I assure you that, at least with  
11 what we have to work with, with our recruits  
12 and with the professional staff that we have  
13 -- and, again, what I'm saying here is  
14 reflected in the entire staff. I'm not  
15 speaking just of myself -- that situational  
16 -- selective enforcement in the negative  
17 sense, we go to great lengths to try to avoid  
18 that.

19 I think what I've just said  
20 also speaks of the idea of sensitivity to the  
21 needs of the individual -- any individual --  
22 any individual. We don't try to neatly  
23 pigeonhole people. We tried to avoid that at  
24 all costs. If we begin to do that in  
25 training -- again, now, we do talk to the

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1 needs of the individuals and we talk to the  
2 needs of specific people, the aged, the  
3 elderly, minorities, gays, whomever. We all  
4 have specific problems and specific needs.

5 But, if we begin that we find  
6 to categorize and pigeonhole people, then  
7 that begins to set them apart and may start  
8 building walls where none existed prior to  
9 that. I'm a little bit concerned about that.

10 So what we have attempted to  
11 do was just try to "sensitize" them -- to  
12 fall back on that word again -- to the needs  
13 of individuals. End of story. Treat  
14 everyone the same as members of the  
15 community.

16 MR. KUTCHER:

17 I've got to tell you that I  
18 don't doubt what you say and I don't doubt  
19 that that's what you are teaching, but I've  
20 got to tell you I wish somebody from your  
21 office was here this morning to hear the same  
22 stories we heard, and that, you know, it's a  
23 long way from teaching to practice.

24 LT. KESSEL:

25 Certainly.

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MR. KUTCHER:

And so apparently, there's some well-documented instances of unselected groups, and I don't -

SGT. FONSECA:

Where is this documentation?

MR. KUTCHER:

Oh, I could tell you --

SGT. FONSECA:

I'm not talking about the complaints that were made this morning. Mr. Munster had just indicated to you that the percentage of the complaints of this nature are minimum, and I can tell you from the time that I served in Internal Affairs, I never entertained a complaint of this nature; and, to my knowledge, right now, I don't know if we do have any complaints. Where are these people taking these complaints to?

MR. KUTCHER:

Well, apparently what's happened is, as I understand, there was at least one or two instances where several people, into the tens or approaching fifty people, were arrested for, as I understood

1 it, obstructing the sidewalk outside a bar in  
2 the French Quarter. And it doesn't take a  
3 lot of intelligence to walk down the street  
4 in the French Quarter -- there's a lot of  
5 people on the street, you know. And --

6 SGT. FONSECA:

7 I understand --

8 MR. KUTCHER:

9 And I am relating to you  
10 information which was furnished to us today,  
11 and I can refer you to the people who said  
12 it, and perhaps they can furnish you the  
13 information about the arrest.

14 You know, it goes -- and it  
15 goes a long way to say, "Because nobody filed  
16 a complaint, it means it didn't happen."

17 SGT. FONSECA:

18 I'm not stating that.

19 MR. KUTCHER:

20 I mean I don't think that's a  
21 fair quantum leap, you know. I mean it may  
22 have well happened and the charges were  
23 dismissed and everybody said, "Well, I'm not  
24 going to push it any more." And that happens  
25 a lot, you know. So I don't think because

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1 somebody didn't have the inclination, for  
2 ~~whatever reason, to file a complaint with Mr.~~  
3 Munster's office means it didn't happen and  
4 ~~it wasn't instances -- there weren't~~  
5 instances of selective enforcement.

6 MR. MUNSTER:

7 Let me explain to what  
8 happened with these. You're talking  
9 basically about obstructing the sidewalk. We  
10 get "obstructing the sidewalk" a tremendous  
11 -- we get a lot of people doing it.

12 First of all, we're not in the  
13 business of deciding whether it's a valid  
14 arrest or not. What happens with these  
15 complaints, almost 100 per cent of them --  
16 and we've tracked several of them through --  
17 they go to arraignment. The officer does not  
18 have to show up for arraignment. This would  
19 account for the officer not showing up in  
20 court.

21 The City Attorney then  
22 proposes a -- dropping the charges. They  
23 sign a hold harmless agreement against the  
24 City of New Orleans. When they sign a hold  
25 harmless agreement against the City of New

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1 Orleans, this eliminates us from doing any  
2 investigation whatsoever in the case because  
3 they are holding the City blameless,  
4 harmless. And it's about a one, one-and-a  
5 -half-, two-paragraph document. And it's  
6 been the opinion of the attorneys who have  
7 advised us that once they sign this, there's  
8 no further -- nothing further can be done  
9 about the investigation and everything. And  
10 this has been the reason a lot of these  
11 things never went forward.

12 Also, these people, when they  
13 go through this, they're immediately fined --  
14 they're not fined, they're charged court  
15 costs, 60 bucks, just to go through this.  
16 And I think Sheriff Foti charges another  
17 27.50, I believe it is. So it costs them 100  
18 bucks. So they don't have a criminal  
19 records, the charges are all dropped, and  
20 they're out \$100.

21 One of the other things I'd  
22 like to point out: The Police Department has  
23 a sensitivity training program within it.  
24 It's not part of the Police Department, it's  
25 Operation Hope. It's run by Sgt. Juan

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1 Quinton (spelled phonetically). Juan Quinton  
2 has had two classes of this that I know of.

3 I've taught personally at two of them.

4 ~~What they have done is they've~~

5 brought community leaders in. And Juan is  
6 always having problems getting people to  
7 come. What he tells me, he's having problems  
8 getting community people. And they take 10  
9 or 20 community people and put 10 or 20  
10 policemen in the same room out at the Police  
11 Academy -- it was formerly done on the Loyola  
12 Campus.

13 I have been to both of them,  
14 and I have talked to people that -- have run  
15 into people on the street that have come out  
16 of this thing, and it does -- I think it does  
17 a lot of good for the police to see -- quote  
18 -- "the other view of it." But one of the  
19 main problems we have with police is it's a  
20 very unclear, very self-contained profession.  
21 They meet -- the police go out only with  
22 police, talk to only police, their wives,  
23 associated police wives.

24 And one of the things I liked  
25 about Juan Quinton's program -- he's a

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1 sergeant and now with Internal Affairs -- is  
2 he tended to break down these things. By the  
3 end of the thing, I was talking to some of  
4 the people, they were having -- they were  
5 drinking beer with the police. And one of  
6 the ladies told me -- she said she never  
7 would have wanted to have them in her house  
8 or her doorstep much less drink beer with  
9 them. And she was one of the leaders in the  
10 Desire Project we got to talk to.

11 So there is some sensitivity  
12 -- in all fairness, there is some  
13 sensitivity training. That program was done  
14 under grant, I believe, from the Ford  
15 Foundation. Am I right?

16 UNIDENTIFIED MALE SPEAKER:

17 Right.

18 LT. KESSEL:

19 And I thought it was a very  
20 effective program, and they bring speakers,  
21 such as myself, they've brought -- they go  
22 through the whole criminal justice system.  
23 They even have a defense attorney comes in  
24 there and tells them what's going on so they  
25 can understand.

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1                   And you'd be surprised. You  
2 ~~get somebody out of the Desire Project who's~~  
3 got a problem of being arrested for blocking  
4 ~~the sidewalk, and they talk to the police,~~  
5 and you get to get some things.

6                   Also, one of the other  
7 problems we get with blocking the sidewalks  
8 all the time is we have had police -- we have  
9 brought up to the office for something  
10 related to blocking the sidewalks is we get  
11 citizens in the neighborhood actually write  
12 us letters thanking us for the police taking  
13 these people off the streets. "They were  
14 sitting on our step." "They were selling  
15 dope to my" -- you know, I'm just saying  
16 we've actually gotten these things.

17                   And, you know, where do you  
18 go? These people are witnesses -- we have to  
19 take statements from them. We have to take  
20 statements from everybody. We actually take  
21 statements from these people because they're  
22 witnesses for the police.

23                   Also, we do not get out of the  
24 French Quarter -- I can tell you, most of the  
25 people in the French Quarter -- we've been

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1 here for seven years. We just do not see the  
2 large amount of complaints which these people  
3 are talking about. We would be happy to  
4 handle them. You know, we'd be happy to  
5 handle them and happy to do whatever is  
6 necessary to do it, but the problem we run  
7 into is the hold harmless agreement. That's  
8 why we get into the cases, quite frankly.

9 MS. REIBOLDT:

10 May I ask a forward question?

11 LT. KESSEL:

12 Sure.

13 MS. REIBOLDT:

14 As regards the program --

15 LT. KESSEL:

16 If it's okay with the

17 Chairman, it's okay with me.

18 MS. REIBOLDT:

19 Is it okay, Mr. Chairman?

20 CHAIRMAN FONTHAM:

21 Yeah, you can do it.

22 (Laughter)

23 CHAIRMAN FONTHAM:

24 I hate to let things go

25 to pot. Go ahead.

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MS. REIBOLDT:

~~Regarding the program of 1980.~~

I'm a little bit interested in this because  
~~of something I've been involved with over the~~  
last two years, give me a little bit more  
background. This was a person that was  
employed by the City or whatever -- that  
doesn't really matter -- this person came to  
your Police Academy for all police trainees  
or was this a one-time thing?

LT. KESSEL:

No, ma'am. As a matter of  
fact, it was not a City employee, it was a  
civilian. And, again, I believe his name was  
Mr. John Harmon. How he came to come into  
contact with us initially, I really don't  
know. I do know that he did come and express  
an opinion that he thought the sensitivity  
training of sorts would be good --

MS. REIBOLDT:

I'm sorry. I can't hear  
again. Sensitivity training concerning what?

LT. KESSEL:

Relations with the homosexual  
community.

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MS. REIBOLDT:

Okay.

LT. KESSEL:

~~And at that time we were~~  
willing to see what could be done. It was --

MS. REIBOLDT:

What kind of classes did he teach?

LT. KESSEL:

Again, I don't recall specifically. I want to say about -- I think he addressed three recruit classes or so. I left that assignment shortly thereafter, and it may have continued for some time. I know that it died of malnutrition, so to speak. And I do know, again, as I said, through the negative feedback that we're getting at the time.

MS. REIBOLDT:

Do you have other people come in and say -- maybe you're more familiar with it, that might come in and do the same thing regarding other issues, for instance, domestic violence between spouses? Do you have people that come in --

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LT. KESSEL:

~~We don't have at this time.~~  
We always welcome expertise in given areas,  
~~whether it be domestic violence or otherwise.~~  
However, we have not received any offers.

Perhaps I should let Sgt.  
Noble address you because she is the Recruit  
Commander and does --

MS. REIBOLDT:

No. To be honest with you, I  
felt like it was a big on that person's part  
to be invited into the police training to  
share what he knew about it and the fact that  
maybe he wasn't a very good teacher or maybe  
he didn't -- whatever, he didn't relate the  
information in a good way. I mean, let's  
face it. You know, somebody else could have  
come in, probably, and maybe presented in a  
better way and maybe been received more  
openly. You know, who knows --

LT. KESSEL:

Who says -- you know, who's to  
say --

MS. REIBOLDT:

The point I wanted to make to

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1 you is that I thought it was purely because  
2 ~~this person was allowed to come in at the~~  
3 request of whoever and was given the  
4 ~~opportunity to present some type of program,~~  
5 and I would like to see things like that done  
6 for other issues of people that are  
7 discriminated against in our area.

8 LT. KESSEL:

9 I have no real problem with  
10 that other than, if you will, a logistical  
11 one, and the logistical problem is this -- I  
12 don't know if you wanted to address that, but  
13 the logistical is just this: that we have  
14 roughly 20 weeks to take a recruit and turn  
15 him into a law enforcement officer, and if --  
16 where do you draw the line?

17 MS. REIBOLDT:

18 True. And then here again I  
19 thought it was pretty good of you to  
20 invite --

21 LT. KESSEL:

22 Yeah. I mean that's -- the  
23 logistical problem remains. But, at that  
24 time, I expected -- I'm sorry to say, I  
25 expected great things to happen and I

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1 expected a more positive result. And, again,  
2 ~~I don't know the reasons why~~ ~~why it was~~  
3 received negatively.

4 ~~MS. REIBOLDT:~~

5 Maybe you could try again.

6 CHAIRMAN FONTHAM:

7 Does Sgt. Noble have something  
8 else to say?

9 SGT. NOBLE:

10 I think I could have  
11 forestalled some of this because I made a  
12 terrible error and I neglected to mention a  
13 vital part of the community relations part of  
14 the training.

15 We work directly with the  
16 Public Affairs Office which is comprised of  
17 Public Information, commanded by Capt. John  
18 Hughes, Sgt. John Marie, and the Crime  
19 Prevention Organization at Headquarters,  
20 commanded by Sgt. Gilbert Johnson. We work  
21 directly with them.

22 And part of the 40 hours in  
23 the community relations aspect of the  
24 training course is done with a media and  
25 police segment and a crime prevention

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1 segment, in which the Crime Prevention  
2 Officers come and address the recruits as to  
3 NONPAC, which you know is New Orleans  
4 Neighbors & Police Anti-Crime Council, and  
5 the Neighborhood Watch people.

6                   And so in answer to Mr.  
7 Kutcher's question: What happened since  
8 1980? It has been ongoing, and it just  
9 wasn't done with a forum-type treatment. It  
10 is done through Crime Prevention Officers who  
11 work in each district, in each area of the  
12 City, and who come and address the recruits  
13 as to what parts of the City the Neighborhood  
14 Watch is active in and how they address the  
15 community and what they do for the community  
16 and for the police and so on. So it is  
17 ongoing.

18                   And the second thing that I  
19 think could have forestalled some of the  
20 discussion that I wanted to say was that the  
21 gentleman that Lt. Kessel was referring to,  
22 that came under the auspices of another  
23 Administration, and it wasn't that that  
24 particular forum was no good, although it did  
25 have some problems, as he said. He was

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1 there. But it didn't go by the boards by its  
2 own problems or benefits or whatever, it just  
3 went by the boards as a matter of the  
4 Administration changing.

5 Furthermore -- and then, too,  
6 as I just said, the Crime Prevention and  
7 Neighborhood Watch people and NONPAC people  
8 all work directly with Headquarters, who then  
9 come out and instruct our recruits.

10 Furthermore, I don't know if  
11 the community has had the privilege of the  
12 impact of our recruits because we just  
13 started last January. So we have only  
14 effectively put on the street 62 recruits in  
15 1987, some of whom are still in the FTO  
16 training. And so far this year we will  
17 probably put 99. So you haven't felt our  
18 recruits' impact on the community yet.

19 CHAIRMAN FONTHAM:

20 Okay. Miss McDade, do you  
21 have a question?

22 MS. McDADE:

23 Yes, I do. This morning  
24 before lunch, we heard a lot of allegations  
25 that people had been treated differently by

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1 the police because they were homosexual, and  
2 they indicated what I understood from what  
3 was said this morning that the reason they  
4 ~~did not make complaints or file complaints~~  
5 was fear of exposure or fear of retaliation  
6 on the part of the police.

7           What I'd like to know is, when  
8 it comes to your department, Mr. Munster, and  
9 you investigate it, is there any mechanism  
10 that if they have fear of exposure -- do  
11 other officers hear about it, or is it pretty  
12 well contained in your office?

13           MR. MUNSTER:

14           One of the big problems we  
15 have, we're under the Civil Service System in  
16 the City of New Orleans. That means if any  
17 disciplinary action is taken against the  
18 officer, these people would be called; and,  
19 if the officer appeals it to Civil Service,  
20 these people would be called as witnesses in  
21 an adversarial procedure. There is a  
22 possibility of them actually being exposed to  
23 the community.

24           Now, when we say that, we're  
25 talking about in a room on the 7th floor of

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1 City Hall, which is open to -- you know, it's  
2 a room about 20 people can sit in, where the  
3 Civil Service hearings are actually held.

4 ~~As to our investigations, we~~  
5 are allowed to take anonymous complaints.

6 But how do you proceed with an anonymous  
7 complaint for brutality? The main proof you  
8 have of brutality is the subject who was  
9 brutalized, or the subject who was arrested.

10 His -- we have arrangements  
11 with the Coroner's Office for medical  
12 examinations, so he is actually -- his body  
13 bruises, the cuts, the scars, whatever it is,  
14 is actually evidence. So it's very hard  
15 to work one of these types of things  
16 anonymously.

17 Now, we have taken other cases  
18 where there were alleged discrimination  
19 against people who were homosexuals that we  
20 did work anonymously through other witnesses  
21 and stuff like that, but they were not --  
22 it's very, very hard, when we don't have the  
23 primary person who's offended testifying, to  
24 build a case like this.

25 We operate under the same

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1 standards of proof that you do on -- of the  
2 ~~Civil Service that you operate under in a~~  
3 courtroom, a court of law, "beyond a  
4 ~~reasonable doubt."~~ So it's very hard to  
5 produce one of these cases without the  
6 complainant.

7 MS. McDADE:

8 But, at their own request, it  
9 could be done with confidentiality?

10 MR. MUNSTER:

11 We would try to investigate --  
12 but if the officer -- if disciplinary action  
13 was taken against the officer and the officer  
14 appealed the thing to Civil Service, the  
15 officer would have the right to the person's  
16 name and he would have the right to subpoena  
17 the man into court, and we would probably  
18 present him like in any court of law, as a  
19 witness, or the man or the person, whoever it  
20 would happen to be.

21 It is very, very hard to do  
22 one of these investigations. The only type  
23 of case that generally that we do anonymously  
24 like this are -- we have systematic --  
25 systematic-type cases where, you know, it

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1 happens to a lot of people, so you can go  
2 basically along. But it's very hard to take  
3 a brutality case from a person who does not  
4 want to or refuses to testify. It's almost  
5 impossible.

6 CHAIRMAN FONTHAM:

7 Benjamin?

8 MR. JONES:

9 Yes, sir, I do have some  
10 questions. First, with Sgt. Fonseca:

11 Sergeant, is the New Orleans  
12 Police Department computerized?

13 SGT. FONSECA:

14 Excuse me?

15 MR. JONES:

16 Is the Department, the New  
17 Orleans Police Department, computerized?  
18 That is to say --

19 SGT. FONSECA:

20 Yes, we're working our way  
21 into the 21st Century.

22 MR. JONES:

23 All right. And would the  
24 computer system reflect all the arrests that  
25 are made and what the charges are and who the

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1 officer is that made the arrest and the  
2 geographical area in which the arrest  
3 occurred?

4 SGT. FONSECA:

5 That's correct.

6 MR. JONES:

7 Well, why wouldn't it be  
8 possible to program the computer in such a  
9 way as to print out information of a kind  
10 that we are talking about right now,  
11 following up with Mr. Kutcher's question?

12 SGT. FONSECA:

13 As I stated before, I did tell  
14 you that. I told you that the arrests were  
15 broken down by the charges and by the areas,  
16 and the charges are not -- or the arrests are  
17 not particularized to the French Quarter  
18 area. As Mr. Munster stated before -- and  
19 I'll reiterate that -- the arrests are made  
20 Citywide and for blocking the sidewalk, since  
21 that's what we seem to be focusing in on --  
22 is blocking the sidewalks.

23 MR. JONES:

24 But do you have those  
25 statistics, though, that --

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SGT. FONSECA:

~~I didn't bring them with me.~~  
And, anyway, I will not release that  
~~information unless I'm subpoenaed because~~  
that's not -- to my knowledge, that's not  
public records, that's confidential.

MR. JONES:

For what period of years were  
there statistics of this sort developed for?

SGT. FONSECA:

Okay. From -- well, the  
information that I gathered was about a year,  
a year and a half, going back.

MR. JONES:

And what --

SGT. FONSECA:

That was the most -- that was  
the most recent, yes, sir.

MR. JONES:

You went back approximately  
one year?

SGT. FONSECA:

Yes, sir.

MR. JONES:

Sergeant, my problem with that

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1 testimony is that we this morning heard some  
2 rather mature and responsible people who are  
3 knowledgeable about this problem, including  
4 three lawyers, and it's been my experience  
5 that lawyers don't manufacture evidence or  
6 lies --

7 CHAIRMAN FONTHAM:

8 Come on.

9 SGT. FONSECA:

10 Come on. Where you coming  
11 from?

12 (Laughter)

13 MR. JONES:

14 -- of this sort.

15 SGT. FONSECA:

16 You just destroyed your  
17 credibility.

18 MR. JONES:

19 In any event, we heard three  
20 lawyers this morning who testified about  
21 their knowledge from representing particular  
22 individuals who had been affected by what  
23 was described as "selective law enforcement"  
24 as it related to these ordinances we're  
25 talking about: blocking the sidewalk and that

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1 sort of thing. And what they have described  
2 to us sounds far different than what the  
3 statistics you indicate that you had  
4 reviewed.

5 SGT. FONSECA:

6 Let me state this: It's not  
7 the policy of the New Orleans Police  
8 Department to discriminate against anyone.  
9 It's not the Police Department's policy to  
10 selectively enforce the law against any  
11 particular person. We enforce the law, in my  
12 opinion and with my knowledge of what's going  
13 on, fairly and equally to all parties.

14 I cannot deny that there are  
15 abuses out there, but I can assure you that  
16 if those abuses are brought to the attention  
17 of the proper authority, disciplinary action  
18 will be taken. We will not tolerate that.

19 The information I gave you is  
20 general information. It's information that I  
21 could impart to you based on an overview of  
22 the arrests that are made.

23 As I stated, these arrests for  
24 blocking the sidewalk are not directed  
25 specifically at the French Quarter. It's

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1 Citywide. And, usually, where those arrests  
2 are made are in crime-related areas -- areas  
3 in the French Quarter, if we want to focus in  
4 on that; areas where there's prostitution; as  
5 I stated before, where there's open hustling  
6 on the street.

7 This is where the law is  
8 used. And I would think it's used  
9 effectively to get those characters off the  
10 street, to use the law in a general way.  
11 Again, I can't sit here and tell you that  
12 it's being used to persecute any particular  
13 person.

14 MR. JONES:

15 Okay. Just one final  
16 question: So your testimony is that there is  
17 no evidence --

18 SGT. FONSECA:

19 I didn't realize I was  
20 testifying.

21 MR. JONES:

22 So your statement is that  
23 there is no evidence that there are more  
24 arrests of this sort in the French Quarter  
25 area than there are any other area of the

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1 city?

2 ~~SGT. FONSECA:~~

3 What I'm telling you is I  
4 ~~reviewed a printout -- several printouts, a~~  
5 stack of printouts, about this thick  
6 (indicating) and, no, I couldn't see from  
7 reviewing that they're directed against the  
8 gay community. No, sir. I did not have the  
9 time to take each one of these individuals  
10 that were arrested -- and, again, I couldn't  
11 release that information because it's  
12 confidential -- what these people -- what  
13 their criminal record was.

14 But, as I stated in the  
15 beginning, usually, when the "obstructing the  
16 sidewalk" law is enforced, it's because of  
17 some criminal activity that the officer knows  
18 occurred within a year's period of time. The  
19 law is pretty clear on defining that. This  
20 individual has to have been arrested within a  
21 year and has to be to that officer's  
22 knowledge, and that's when enforcement action  
23 is taken. And, as I stated before, it's  
24 usually against the prostitutes that are  
25 hustling in the Quarter.

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1 It doesn't usually indicate or  
2 that particular arrest what this individual  
3 was doing at the time. It just says  
4 "obstructing the sidewalk."

5 MR. JONES:

6 Thank you.

7 CHAIRMAN FONTHAM:

8 Okay. Who's next?

9 MS. MADDEN:

10 Sgt. Noble, one quick question  
11 and then another longer one. What does "FTO"  
12 mean?

13 SGT. NOBLE:

14 Field Training Officer.

15 MS. MADDEN:

16 Okay. And the other is you  
17 mentioned the 40 hours of community relations  
18 training. Does that include specific  
19 training on race relations and wife beating  
20 and rape?

21 SGT. NOBLE:

22 Race relations, yes, because  
23 it comes under the part of situational and  
24 impartial enforcement of the law, where I  
25 described that we treat special problems in

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1 handling certain people, like elderly,  
2 handicapped, ethnic, et cetera.

3 As far as wife beating, no.

4 ~~There is a separate course, which is a~~  
5 minimum of 15 hours in instruction and  
6 lecture and tape that is called "Crisis  
7 Intervention." That's family disputes. And  
8 we do that in the Academy with the lecture  
9 and training. Furthermore, we have done that  
10 with a pilot program in the Fifth District  
11 under the auspices of NOBLE, which is the  
12 National Organization of Black Law  
13 Enforcement Executives.

14 MS. MADDEN:

15 So then what you're saying is  
16 you do have some specific training about race  
17 relations and about rape victims and about  
18 wife abuse but apparently not any specific  
19 training about dealing with homosexuals?

20 SGT. NOBLE:

21 Yes, that's in the same  
22 portion of the Police Community Relations.  
23 There -- I listed a group of -- a list of  
24 different groups, segments of the community  
25 that we discuss, special problems in handling

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1 them, not to discriminate against another  
2 group but rather to show, for example, with  
3 the elderly, that you may be dealing with  
4 ~~someone who cannot walk, cannot hear, may be~~  
5 senile, with the handicapped, who you may  
6 have to physically lift and move from a place  
7 to another place and things like that.

8           As far as the training for  
9 different areas of our cross-sectional City,  
10 that is left up to the Field Training  
11 Officer's Program, where they are -- the  
12 recruits leave the Academy and go into their  
13 own assigned districts. And each district,  
14 of course, represents a different portion of  
15 the City, with its own particular problems  
16 and different treatments of those problems in  
17 that area.

18           For example, the Sixth  
19 District has six housing projects in it. You  
20 don't, in the Field Training Program, address  
21 a different area of the City when you're  
22 going to be working in the projects. You  
23 have to do specialized training in the Field  
24 Training Program for that.

25           Thank you.

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LT. KESSEL:

I'd like to add one small thing, and I'm sure you'll agree with this: Sgt. Noble said that in the community relations and so forth we do address the specific needs of given groups -- of certain groups again, and she went on to say, for example, with the elderly, we address the fact that maybe they're hard of hearing and so forth.

Well, then, you might say then, "Well, what problem could possibly arise with the gay community? They aren't hard of hearing, you know. What problems do you address there?"

So, quite frankly, the special need, if you will, that we address in that area is a caveat of sorts, in that we tell the officer, try to train them, not to carry any personal prejudices or vices or prejudice any situation based upon their own system of beliefs. In other words, "Don't put yourself in that situation. Don't see yourself as an active part of this -- let's say a dispute," which by the way is one of our simulation

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1 scenarios in simulation training -- is a  
2 domestic dispute in a gay setting, if you  
3 will.  
4 ~~"Don't bring your own biases~~  
5 in there. Don't bring your own prejudices.  
6 Don't you prejudge that they're wrong already  
7 because of the fact that they're gay or  
8 whatever." So that's the caveat that's  
9 theirs. "Be somewhat objective. Stand back  
10 from it and treat it as you would anyone  
11 else, whether they're old, elderly, young,  
12 black, white, green, orange. Handle the  
13 dispute, mediate the dispute, and leave your  
14 own value system or whatever out of it.  
15 Handle it professionally and go on from  
16 there."

17 MS. MADDEN:

18 Okay. You're saying that is a  
19 standard part of the training?

20 LT. KESSEL:

21 Yes, ma'am, it is.

22 CHAIRMAN FONTHAM:

23 We'll let Jean Adams go first  
24 because she --

25 MR. ADAMS:

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1 At any rate, Sgt. Noble, you  
2 mentioned that you're expecting good things  
3 from your new recruits. And, as I was  
4 listening to you describe the training, I  
5 wondered what kind of sensitivity training  
6 are the older, more experienced police  
7 officers receiving in the area of  
8 sensitivity.

9 SGT. NOBLE:

10 Specifically, you could look  
11 at the NOBLE project, the grant that they had  
12 sent, that we're administering now for the  
13 Crisis Intervention & Family Disputes. We --  
14 as a matter of fact, the Academy was  
15 responsible for discovering the State law had  
16 changed in the areas of R.S. 14:103, which is  
17 disturbances, family disturbances, and we  
18 immediately changed our training to advise  
19 and further train the police officers, the  
20 recruits that we had, as to how this was.

21 Now, there is ongoing in-  
22 service training which we have not mentioned  
23 yet, and this is really important because  
24 it's not just done in firearms, which we're  
25 mandated to do by State law once a year, but

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1 it's also done in Police Officer 1, 2, 3 and  
2 4 training, which each -- each of which is a  
3 two-week training program conducted on the  
4 officer's own time, and he does not get paid  
5 for coming to it and we get an amazing  
6 turnout. Of course, the incentive is  
7 promotion to the next seniority rank of PO-2,  
8 3, and 4.

9 But, during those in-service  
10 programs, we address every recent development  
11 in legal aspects, particularly, for example,  
12 since we're on this topic, under the 103 law,  
13 and then, too, we use the Fifth District as a  
14 pilot program for the NOBLE grant, but that  
15 doesn't mean that it's not being used in all  
16 the other districts, as well. That was just  
17 when we first started it for Crisis  
18 Intervention. So it's an ongoing thing for  
19 the seasoned officers, as well.

20 MS. ADAMS:

21 I was particularly interested  
22 -- you mentioned that you worked with your  
23 Public Affairs Office, and if there is some  
24 device for the Police Department to monitor  
25 the environment with regard to community

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1 relations. You've had some training since  
2 1980 with regard to the gay community, but I  
3 was wondering: Is there someone out there  
4 who is trying to capture maybe a training  
5 need and that that need address specific  
6 groups within the community and does it  
7 address specific police officers or  
8 assignments, such as the officers in the  
9 French Quarter, who maybe have more specific  
10 needs with regard to the gay community for  
11 training?

12 SGT. NOBLE:

13 The best vehicle for this was  
14 the one I mentioned with the Crime Prevention  
15 Officers. Each district has a Crime  
16 Prevention Officer assigned to it. That's  
17 all he does. He does not just assess homes  
18 for security and locking devices. He  
19 administers the Neighborhood Watch Programs,  
20 he helps NONPAC, which is centered at  
21 Headquarters but is also out in the  
22 community.

23 MS. ADAMS:

24 I'm not so much talking about  
25 crimes --

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SGT. NOBLE:

No, no, neither am I.

MS. ADAMS:

-- as I am about the relations  
or problems that segments of the community  
are indicating --

SGT. FONSECA:

Miss Adams?

MS. ADAMS:

Yes?

SGT. FONSECA:

May I interrupt just for a  
moment? If I may, just for one moment. I  
was just telling Lt. Kessel I participated in  
the program that Mr. Munster spoke of, the  
Coke program. I'm an Administrative Officer,  
but I still wanted to do it, to get the  
exposure. And I went to one of these  
classes. In fact, I participated in the  
whole process.

What they did is they took  
experienced officers, officers that did not  
have the benefit of the new approach to the  
police training, the officers that deal on  
the street with the different groups. They

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1 took people from the gay community, the  
2 homeless community, the people out of the  
3 projects, and other segments of the  
4 community, got them in there, and it was a  
5 face-on situation, where everyone had the  
6 opportunity to speak their piece and develop  
7 an understanding as a result of the -- you  
8 know, talking.

9           And I was amazed. After about  
10 eight or ten weeks, as Mr. Munster stated, it  
11 was that type of environment where the people  
12 developed friendships and actually went to  
13 one another's houses and participated in  
14 programs.

15           And we also found that as a  
16 result of this type of program, we got better  
17 cooperation from the people in the community  
18 who actually new what the police were about  
19 and also the police who knew what these other  
20 segments of the community were about. And it  
21 really did help.

22           And, yes, it was a training  
23 program, and I believe that the program is  
24 still going on, and it's done on City time.  
25 It's a program that's sponsored and done at

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1 -- while the officer's working.

2 ~~MS. ADAMS:~~

3 Well, I'm sure that is very  
4 ~~beneficial to the police officers, but this~~  
5 morning there seemed to be a very large group  
6 of people who haven't had that experience  
7 with the Police Department, and I just  
8 wondered if you were going to spread the good  
9 word.

10 MR. MUNSTER:

11 This department also has --  
12 because of our office, the CAO has double  
13 feedback with the Police Department. The  
14 Chief Administrative Officer is the boss of  
15 the Chief of Police, Warren Woodfork.  
16 Because of us, he gets two views of the  
17 Police Department. He gets Woodfork's view  
18 of the Police Department -- not that they're  
19 divergent or different. He also gets our  
20 view of the Police Department.

21 We write up a group of papers  
22 on occasion, do an annual Mardi Gras report,  
23 tell how Mardi Gras looked this year as  
24 opposed to last year -- or compared to last  
25 year, I should say. We do a -- we find

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1 something that we think is a recurring  
2 ~~problem with the Police Department and~~  
3 things, we bring it to Chief Frazer (spelled  
4 ~~phonetically), the CAO's attention.~~

5 We do this with all City  
6 agencies, not just the Police Department.  
7 We bring it to the CAO's attention. He is  
8 the boss of all the agency heads, and he has  
9 taken -- he has talked to Chief Woodfork on  
10 some problems in the past that we have  
11 identified, particularly Mardi Gras.

12 And this is one of the ways  
13 they do have feedback: through us. We're  
14 civilian. It's completely -- we're separate.  
15 So he gets a different view from us.

16 CHAIRMAN FONTHAM:

17 Mr. Brass?

18 MR. BRASS:

19 I heard two different stories  
20 today. This morning I heard from members of  
21 the gay and lesbian community and they  
22 related to me specific instances of police  
23 indifference because the individual happened  
24 to be gay or lesbian.

25 Today I hear from -- this

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1 afternoon I hear from particularly Sgt.  
2 ~~Fonseca that that's not true, and from~~  
3 Munster that he has not received any  
4 ~~complaints. And I have no reason to doubt~~  
5 that.

6 And then I question whether or  
7 not Sgt. Fonseca is correct regarding his not  
8 bringing statistics because it's not public  
9 information.

10 SGT. FONSECA:

11 I think you're misquoting me,  
12 sir.

13 MR. BRASS:

14 Well, you were asked --

15 SGT. FONSECA:

16 I cannot give you arrest  
17 information.

18 MR. BRASS:

19 But that's information --

20 SGT. FONSECA:

21 That's a Federal violation of  
22 the law.

23 MR. BRASS:

24 My only question is -- well,  
25 I just question whether or not that's correct

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1 because this morning, if you'll look in any  
2 hometown newspaper, I can tell you who got  
3 arrested and what they were charged with,  
4 their names and their addresses, and that's  
5 the same information.

6 SGT. FONSECA:

7 I suggest you familiarize  
8 yourself with the Truth and Information Act,  
9 sir.

10 MR. BRASS:

11 Well, I'm not trying to argue  
12 with you. I just want to ask a simple  
13 question.

14 SGT. FONSECA:

15 I don't want to argue with you  
16 either, sir, but if you're going to continue  
17 on this line, I'm going to have to object.

18 CHAIRMAN FONTHAM:

19 Why don't we do this? Why  
20 don't we try to get a question on the table  
21 and see if we can get a response to it.

22 MR. BRASS:

23 I didn't say a word, Mr.  
24 Chairman, when he was, you know, making his  
25 statement. And I'm making my statement to

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1 ask a question. And my only question is that  
2 I question the

3 SGT. FONSECA:

4 It's an allegation.

5 CHAIRMAN FONTHAM:

6 Please. Please. We can  
7 handle this very nicely here.

8 Okay. Your turn, Mr. Brass.

9 MR. BRASS:

10 My question, pure and simple  
11 is whether or not there exists any violation  
12 of the civil rights of persons in this City  
13 because they have to be gay, homosexuals or  
14 lesbians, which is what we're trying to get  
15 to, based on the allegation which we've  
16 heard: that they're being treated different  
17 when police are called to their domestic  
18 problems, if they're treated any different  
19 from male and male or female and female as to  
20 male and female.

21 SGT. FONSECA:

22 Yes, sir, I understand that.  
23 And I appreciate and respect your question.  
24 As I stated before, it is not the  
25 Department's policy to discriminate against

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1 anyone. And, when we do have a problem that  
2 ~~is called to our attention, we'll handle it~~  
3 expediently. If the problem is not brought  
4 ~~to our attention, we can't handle it.~~

5 And, if they do not want to  
6 handle it through Mr. Munster's organization  
7 and they don't want to handle it through our  
8 Internal Affairs, there are other Federal  
9 organizations that will entertain civil  
10 rights violations. And I'm not opposed to  
11 anyone proceeding along those avenues to get  
12 satisfaction.

13 I can't account for the  
14 officer on the street that abuses his  
15 authority. But, if it's not called to our  
16 attention, we can't handle it. And,  
17 obviously, there are some problems on the  
18 street if these people are coming forth and  
19 making these types of complaints.

20 The only thing I can tell you  
21 is what I'm privy to. We have no reason to  
22 hide anything. I'm not trying to hide  
23 anything by failing to bring those statistics  
24 to you. All I'm telling you is that the  
25 information that I reviewed this morning does

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1 not indicate to me that arresting people on  
2 ~~the sidewalk is located in the~~ French Quarter  
3 area --

4 CHAIRMAN FONTHAM:

5 Okay.

6 MR. BRASS:

7 Mike, just as a closing  
8 comment:

9 You indicated at one point in  
10 time that we ought to -- if we can find  
11 something in our conversation, we might put  
12 these persons together. I would suggest that  
13 we get these three lawyers who came in here  
14 and gave all these, you know, specific  
15 instances of complaints to Sgt. Fonseca. We  
16 ought to put them together and lock the door  
17 so maybe we can get some of this information  
18 out into the open.

19 (Laughter)

20 CHAIRMAN FONTHAM:

21 Okay. I think I did skip Bill  
22 Quigley. Do you have a question?

23 MR. QUIGLEY:

24 We were supposed to hear at  
25 4:15 from Councilman Jackson. Can Councilman

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1 Jackson's office released a study about six  
2 ~~weeks ago for -- a computer study of the~~  
3 arrests for obstructing the sidewalk in the  
4 ~~City of New Orleans over the last eighteen~~  
5 months to two years, which may be the same  
6 thing you looked at.

7 SGT. FONSECA:

8 It may be.

9 MR. QUIGLEY:

10 So it is a public record.  
11 Maybe we can ask him to supplement our  
12 hearing with that.

13 But, when I looked at those,  
14 it indicated to me that a substantial number  
15 of arrests were in the French Quarter, and  
16 the other group was mostly along the homeless  
17 corridor, the other side between Poydras and  
18 Felicity, in that area in there.

19 Are those the same statistics  
20 that you looked at this morning?

21 SGT. FONSECA:

22 The records that I looked at  
23 indicate to me that a lot of the arrests that  
24 are made are in the area of the Sixth  
25 District, where there's a crime-related area,

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1 in that section. I didn't count the points,  
2 I didn't check them off to see --

3 MR. QUIGLEY:

4 I think it was 4,000.

5 SGT. FONSECA:

6 Yeah, it was quite lengthy.  
7 And what I did is just scanned it to see if  
8 there was any pattern of where those types of  
9 arrests were made.

10 MR. QUIGLEY:

11 Maybe we could, just as a  
12 suggestion, hold the record open. That is  
13 public record now. Maybe if Councilman  
14 Jackson comes, we can ask him to provide the  
15 Committee with that.

16 CHAIRMAN FONTHAM:

17 Why don't we ask him when he  
18 gets here?

19 MR. JENKINS:

20 But, as a follow-up to that, I  
21 want to make a request of the Sergeant to --  
22 the information that you reviewed this  
23 morning in preparation for your presentation,  
24 to provide that information to us, as a  
25 formal request from this Advisory Body to

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1 you.

2 ~~CHAIRMAN FONTHAM:~~

3 In other words, if it's not  
4 ~~confidential for some specific reason.~~

5 MR. JENKINS:

6 I'm simply making a request.

7 SGT. FONSECA:

8 I would be happy to discuss  
9 with my Superintendent to determine if I can  
10 do that. I can't release that information.  
11 I'm sorry, sir.

12 MR. JENKINS:

13 Will you so advise us in  
14 writing to that effect?

15 SGT. FONSECA:

16 Let me consult the  
17 Superintendent.

18 MR. JENKINS:

19 We expect a written  
20 explanation from your office concerning this  
21 information for the Advisory Committee's  
22 consideration.

23 SGT. FONSECA:

24 All right.

25 CHAIRMAN FONTHAM:

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1                   Okay. I think we're about to  
2 ~~take about a five-minute break~~

3                   MS. REIBOLDT:

4                   ~~I just have one quick~~  
5 question.

6                   CHAIRMAN FONTHAM:

7                   You have a question?

8                   MS. REIBOLDT:

9                   A quick question.

10                  CHAIRMAN FONTHAM:

11                  Okay.

12                  MS. REIBOLDT:

13                  I'm from Shreveport, South  
14 Arkansas.

15                  (Laughter)

16                  MS. REIBOLDT:

17                  You know, forgive me for these  
18 -- what I know are terrible questions, but  
19 how large is the French Quarter?

20                  SGT. FONSECA:

21                  It's a 10-square-block area  
22 which begins at Iberville Street, it goes to  
23 Esplanade, and runs from North Rampart Street  
24 to Decatur Street.

25                  MS. REIBOLDT:

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1                   How many police officers are  
2 assigned per shift to this area?

3                   SGT. FONSECA:

4                   Not many.

5                   MS. REIBOLDT:

6                   Can you give me just a --

7                   SGT. FONSECA:

8                   Believe me, this is just a  
9 wild guess. I would probably say maybe 25 or  
10 30 officers per watch, if they have that  
11 many. And that's a very densely populated  
12 area.

13                   MS. REIBOLDT:

14                   How many different types of  
15 crime in this area -- and not the particular  
16 one, but how many different types of crime  
17 would be subject to obstructing the --

18                   SGT. FONSECA:

19                   What do you mean?

20                   MS. REIBOLDT:

21                   Prostitution?

22                   SGT. FONSECA:

23                   We have prostitution, yes,  
24 ma'am.

25                   MS. REIBOLDT:

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What else?

SGT. FONSECA:

We have purse snatchers. We have narcotics, quite a bit of narcotic traffic. We have a lot of characters that just play that area looking for a victim.

MS. REIBOLDT:

So what you're telling me is this large area --

SGT. FONSECA:

Yes, and we have one other problem that's becoming quite prevalent down there is the "stash and dash," where they break the window and steal your purse out --

MS. REIBOLDT:

There are 10 blocks here where there are probably 25 people per shift, officers --

SGT. FONSECA:

Please don't hold me to that figure.

MS. REIBOLDT:

But they're trying to keep justice on all of these different kinds of crimes.

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SGT. FONSECA:

~~Yes. If I may just say one~~  
thing in response to that: that most of the  
~~times these officers are going from call to~~  
call and do not have the luxury of choosing.

LT. KESSEL:

What do you base this on? The  
First District?

SGT. FONSECA:

No, I'm talking of the --

CHAIRMAN FONTHAM:

Okay. Miss McDade, did you  
have something?

MS. McDADE:

I just want to say one thing:  
I don't want this panel to give the  
impression that we consider any of your  
remarks any more or less responsible than  
those made this morning, and we do appreciate  
you coming and sharing the things you have  
shared with us.

SGT. FONSECA:

Thank you.

CHAIRMAN FONTHAM:

Let me ask this: Is this -- I

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1 don't see Okla Jones in the audience.

2 ~~MR. GLENNON:~~

3 Representative.

4 ~~CHAIRMAN FONTHAM:~~

5 You're a representative, okay.

6 And what about Kevin Boshea? Is he here.

7 MR. BOSHEA:

8 I'm right here.

9 CHAIRMAN FONTHAM:

10 Okay. So you all are ready to  
11 go?

12 MR. BOSHEA:

13 Yes.

14 CHAIRMAN FONTHAM:

15 Well, if you don't mind, I  
16 think we're going to take a five-minute  
17 recess and let everybody do whatever they  
18 need to do. But we are going to start up  
19 again in five minutes. At least I will be up  
20 here --

21 (Laughter)

22 CHAIRMAN FONTHAM:

23 -- trying to call the meeting  
24 to order.

25 I want to thank, each of the

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1 representatives who appeared, very much for  
2 ~~doing so and for responding to all of our~~  
3 questions. Thank you.

4 ~~(Five-minutes recess)~~

5 CHAIRMAN FONTHAM:

6 Okay. The proceedings will  
7 now come to order.

8 I see that Mr. Bo -- "Boshea,"  
9 is that correct?

10 MR. BOSHEA:

11 Boshea.

12 CHAIRMAN FONTHAM:

13 -- Boshea is here.

14 Sir, would you tell us who you  
15 are?

16 MR. GLENNON:

17 My name is William Glennon.  
18 I'm in the Criminal Division of the City  
19 Attorney's Office. Mr. Jones has asked me to  
20 represent him here today. He was called out  
21 of town this afternoon. So I'm here.

22 CHAIRMAN FONTHAM:

23 Okay. Mr. Glennon --

24 MR. GLENNON:

25 G-L-E-N-N-O-N.

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CHAIRMAN FONTHAM:

~~All right, sir, Mr. Jones was~~  
scheduled first, Mr. Glennon.

~~MR. GLENNON:~~

I'm going --

CHAIRMAN FONTHAM:

You're going to defer?

MR. GLENNON:

I'm going to defer to my  
colleague here. He's better prepared than I.

CHAIRMAN FONTHAM:

Okay. What we have been doing  
is take a statement from each of our speakers  
on each panel, and then we'll ask questions  
to you more or less jointly.

MR. GLENNON:

That's fine.

CHAIRMAN FONTHAM:

If you are going to give your  
prepared remarks from the table, you're going  
to have to speak in an extra-loud voice.

(Kevin Boshea approaches podium.)

MR. BOSHEA:

That's what the judge told me  
this morning.

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1 Good afternoon. My name is  
2 Kevin Boshea -- B-O-S-H-E-A. I'm presently  
3 the Head of the Screening Division of the  
4 Orleans Parish District Attorney's Office.

5 Just to give you a little  
6 background of who I am and, you know, why I'm  
7 here: I've been a prosecutor for the last  
8 seven years. In addition to being a trial  
9 attorney, I was the head of a task force in  
10 1983 involving pornography in the City of New  
11 Orleans. From 1984 to 1987, I was ahead of  
12 the Sex Crimes & Child Abuse Unit at the  
13 D.A.'s Office, and after that I became the  
14 Chief of the Screening Division.

15 The function of the Screening  
16 Division is to review all State arrests and  
17 make a determination as to whether or not  
18 criminal prosecution should be involved. My  
19 experiences run the gamut of everything from  
20 police brutality to pornography to what I  
21 just got out of, which was a tax trial.

22 I want to talk a little bit  
23 about the problems that I see that exist in  
24 this particular area. And I want to begin,  
25 first of all, with the recognition of the

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1 situation, and that is that -- and I'm  
2 ~~speaking primarily from my own experiences as~~  
3 far as a prosecutor is concerned: that there  
4 ~~does exist a bias and a prejudice within the~~  
5 community with respect to people of  
6 homosexual orientation. I believe that. I  
7 firmly believe that.

8 I have seen it especially true  
9 in the jury sector, and I have examples of  
10 that, and I'd like to bring to mind one  
11 specific example. There's a case that was in  
12 Section B of Criminal District Court. The  
13 Honorable Patrick Quinlin (spelled pho-  
14 netically) was the judge. The defendants  
15 names are Robert Claiborne and Kelvin  
16 Cornelius. It was an aggravated rape  
17 prosecution, and the facts are as follows:

18 On the night of the incident,  
19 the victim of the case, whose name I won't  
20 mention but who is present here today, was  
21 leaving her place of work, which is a French  
22 Quarter restaurant, in the late evening hours  
23 and was on her way back to her residence when  
24 she was attacked by two individuals: Mr.  
25 Claiborne and Mr. Cornelius.

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1                   The attack was taking place in  
2 ~~an alley in the French Quarter, and a~~  
3 citizen, in fact, overheard her screaming and  
4 ~~notified the police. When the police~~  
5 apprehended the defendants, one of the  
6 defendants was on top of the victim with a  
7 knife in his hand. Pretty strong facts, I  
8 dare say.

9                   The defense attempted and was  
10 successful in introducing evidence to show  
11 that the victim was, in fact, homosexual --  
12 or attempted to introduce that evidence. The  
13 jury got it. I wasn't present in the trial,  
14 but I know the jury got that evidence across.

15                   In spite of what was very,  
16 very strong and compelling evidence, 12 noble  
17 New Orleans Parish citizens said the words  
18 "Not guilty" and put them back out on the  
19 street.

20                   Do I think that that had  
21 something to do with it? Yes, I do. I  
22 honestly do. I think that was a direct --  
23 the defense in the case was "The lady offered  
24 me \$3 for sex." Ridiculous. And yet it  
25 happens.

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1 In other instances, and in  
2 ~~many instances, we attempt as trial attorneys~~  
3 to keep irrelevant information out. Just as  
4 ~~in a sex charge, for instance, the victim's~~  
5 prior sexual history, if not with the  
6 offender, is not relevant and there's  
7 statutory law on that particular aspect. So  
8 should it be with respect to sexual  
9 orientation. It's absolutely irrelevant.

10 However, it does appear, in  
11 fact, to impede the criminal justice process  
12 because jurors apparently, in certain  
13 instances, will, in fact, consider that in  
14 terms of making determinations of guilt and  
15 innocence. And, of course, that's not  
16 involved.

17 What we primarily try to do is  
18 keep that information out via a motion "in  
19 limine," which is filed pretrial. And, in  
20 instances where we've been able to be  
21 successful in the trial courts and that  
22 information has not been delivered to the  
23 jury and the jury relied solely on the facts  
24 and the evidence, as they are supposed to,  
25 most of the time the juries have come back

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1 with what I perceive to be acceptable  
2 verdicts -- verdicts that are based on the  
3 facts.

4 ~~Let me continue a little bit.~~

5 I wanted to use that as an example. I have  
6 handled, personally, cases before involving  
7 gay citizens and, as far as I'm concerned, I  
8 don't care whether they're green, red, blue,  
9 black, or what their sexual orientation is.  
10 That makes no difference to me -- absolutely  
11 none. And I can speak for my office as  
12 saying that my office does not feel that way  
13 either.

14 One of the problems, however,  
15 that exists is one of a legal problem, and I  
16 think it's a problem that you need to be  
17 aware of, and that is that there is what may  
18 be perceived to be a statutory disparity that  
19 exists with respect to statutes. And I'm  
20 calling to mind, for instance, the R.S.  
21 14:89, which is the Crime Against Nature  
22 Statute, versus the R.S. 14:82 Statute, which  
23 is the Prostitution Statute.

24 If a person solicits a person  
25 for vaginal intercourse, it is a misdemeanor.

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1 If a person solicits a person for oral sex,  
2 ~~it's a felony. That seems to be a little bit~~  
3 unequal, I dare say. And there's been a lot  
4 ~~of discussion about trying to change it~~  
5 legislatively; however, no legislation, to my  
6 knowledge, has been filed at this particular  
7 point.

8 With respect to the kind of  
9 cases that I see as Chief of Screening  
10 involving the R.S. 14:89 Statute, the vast  
11 majority of those cases are that of  
12 solicitation; that is, a male or female  
13 individual solicits another person for  
14 intercourse.

15 Based on the statute and my  
16 responsibility under my oath of office, if  
17 the evidence is sufficient to prosecute, a  
18 prosecution will be, in fact, instituted. If  
19 I perceive or if my screeners perceive  
20 evidence of entrapment that is readily  
21 apparent or insufficient evidence to justify  
22 a prosecution, that prosecution will be  
23 refused.

24 With respect to the balance of  
25 cases in that particular area, there are

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1 instances involving public masturbation in  
2 the areas of -- the City Park area, for  
3 instance, where a lot of cases seem to  
4 emanate from, Scout Island in particular, as  
5 well as incidents of public homosexual  
6 conduct in automobiles or in parks or what  
7 have you.

8 Now, I do not, unfortunately  
9 -- and I was not able to bring in the actual  
10 statistics. I don't have them in front of  
11 me, and I apologize for that fact. I can  
12 only give you generalities. And, if you want  
13 additional statistics, I'll be more than  
14 happy to furnish this Body with them.

15 In the instances where you  
16 have a public display of that nature, usually  
17 the New Orleans Police Department apparently  
18 is responding to citizen complaints. I do  
19 not receive those complaints, personally; the  
20 Police Department does, and the Police  
21 Department responds accordingly.

22 If -- there's a case that  
23 stands out in my mind, and it's presently in  
24 court, where two individuals were apparently  
25 engaging in activity in an automobile in the

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1 French Quarter at approximately 9:00, on what  
2 I believe was a Friday evening. That was  
3 accepted as a "crime against nature" charge.  
4 And I assume that this Body is familiar with  
5 the statutes that I'm talking about. And, if  
6 not, I'll be happy to go through them.

7                   With respect to some of the  
8 other prosecutions, such as the masturbation-  
9 type prosecutions, a lot of those emanate,  
10 again, in the City Park area and are usually  
11 in response to citizen complaints. In those  
12 instances where the evidence is sufficient, a  
13 prosecution may result.

14                   After that prosecution the  
15 defendant has several options, one of which  
16 is to plead guilty. And, in instances where  
17 defendants plead guilty, unless there's a  
18 substantial criminal history -- and I don't  
19 have those stats in front of me, but I cannot  
20 recall of any case where an individual was  
21 sentenced to jail time under that particular  
22 circumstance. Usually, it appears to be a  
23 fine or active or inactive probation that's  
24 involved.

25                   With respect to other options

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1 of the defendant, of course, he has the  
2 option to go to trial and determine his guilt  
3 or innocence. And the basic reading of the  
4 last couple of cases has been that, with  
5 respect to 14:106, Subsection A, which is the  
6 Exposure Statute, the jurors appear to be  
7 quite willing to convict under those  
8 circumstances.

9 There are certain individuals  
10 who have requested periodically that they be  
11 allowed to go into a counseling program.  
12 Now, I do not administer that program. That  
13 program is administered by Mr. Timothy  
14 McElroy, who is with the Trial Division. And  
15 certain individuals have been involved in  
16 going into some sort of counseling which  
17 their attorneys recommend to us.

18 In those instances where the  
19 terms and conditions of the counseling are to  
20 the satisfaction of all parties concerned,  
21 prosecutions have been dropped in certain  
22 instances. I do not have those numbers for  
23 you, but I can, again, of course, furnish  
24 this Body with it.

25 I am at this time open to any

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1 questions that the Body has and, if my  
2 ~~remarks are insufficient or inconclusive, I~~  
3 apologize. I just got out of a trial.

4 ~~CHAIRMAN FONTHAM:~~

5 Mr. Boshea, we're going to  
6 hear from Mr. Glennon, and then we'll ask  
7 questions of both of you.

8 MR. BOSHEA:

9 Thank you.

10 (William Glennon approaches podium.)

11 MR. GLENNON:

12 My name is William Glennon.  
13 I'm the Chief of the Criminal Division of the  
14 City Attorney's Office. I have been in that  
15 position for the past six years. In general,  
16 that puts me in charge of all of the  
17 prosecutions in four divisions of the  
18 Municipal Court and four divisions of the  
19 Traffic Court.

20 I'm assuming that you all are  
21 primarily concerned about the Municipal  
22 Court. I don't think there's any  
23 discrimination as far as driving while  
24 intoxicated, which is also one of our primary  
25 concerns.

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1 We handle every type of  
2 ~~misdemeanor case that's written by the New~~  
3 Orleans Police Department or walks in off the  
4 ~~street to make a complaint, in the Municipal~~  
5 Court, in four sections. Regrettably, I --  
6 we do not keep -- at least my office does not  
7 keep statistics on the individual type of  
8 prosecutions which go on in Municipal Court.

9 But, just to give you a  
10 general picture, we handle family disputes;  
11 assault, minor assault and battery; threats;  
12 violations of all of the Municipal Ordinances  
13 relative to zoning, housing, health -- 40,000  
14 cases plus per year.

15 And the function of our  
16 office in Municipal Court is we do not --  
17 first of all, we do not screen the cases. We  
18 do not see a case until it is set for trial.  
19 The cases are originated by the New Orleans  
20 Police Department or by walk-in complaints.  
21 Affidavit is filed with the clerk, but the  
22 arraignment is conducted by the court. And  
23 then, when the matter eventually gets to  
24 trial, my assistant -- I have one in each  
25 division -- is called upon to prosecute the

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1 matter. So we have very little discretion  
2 about what kind of charge is filed.

3 The primary concern of this  
4 Subcommittee and the Committee, in general,  
5 is to determine whether or not there is  
6 discrimination against, you know, minorities,  
7 and the focus apparently of this Subcommittee  
8 today is on the question of whether or not  
9 there exists prejudice against homosexual  
10 persons.

11 And all I can say is that, as  
12 far as I am concerned, in our prosecution, I  
13 can state unequivocally there is none. We  
14 don't distinguish between black, white,  
15 green, or blue, and we hopefully do not  
16 distinguish whether or not the complainant is  
17 a homosexual or the defendant is a homo-  
18 sexual. The complainant is treated just  
19 like any other citizen. We proceed with the  
20 trial of the matter where a trial is called  
21 for.

22 The note that I received from  
23 Mr. Jones indicated that you all were  
24 concerned about this statute which we have on  
25 the books that relates to obstructing the

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1 sidewalk. You know, my prosecutors -- most  
2 of them are quite experienced in these  
3 matters -- realize that this statute, in  
4 general, you know, is normally used because  
5 the police receive a complaint from the  
6 public about the assemblage on the street  
7 corner or rowdy behavior. And --

8 CHAIRMAN FONTHAM:

9 Can you speak up a little,  
10 sir?

11 MR. GLENNON:

12 I'm really sorry. That's one  
13 of the first times in my life I've been  
14 accused of being too quiet.

15 Most of these complaints arise  
16 because the Police Department -- that are  
17 written under Obstructing the Sidewalk  
18 Statute, arise because the Police Department,  
19 in my experience, just doesn't know what else  
20 to charge a person with and has an irate  
21 citizen yelling and screaming about somebody  
22 out in front of their home, creating a  
23 disturbance.

24 Naturally, I think I can  
25 mention we also handle in our -- I'm almost

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1 at a loss to understand why the Police  
2 Department representative I just heard did  
3 not talk more about "drunk in public." We do  
4 do a lot of drinking down here, both  
5 homosexual and otherwise, in that little  
6 area, and we get all the drunks in town.

7 That, generally, is my  
8 presentation. I really want to apologize.  
9 Mr. Jones called me at the last minute to  
10 tell me to come on down. But he would not  
11 have had statistics either. Those statistics  
12 are not kept by our office. They would have  
13 to be obtained, if they are obtained at all,  
14 through the Police Department and possibly  
15 the Office of the Criminal Justice  
16 Coordinating Counsel.

17 I'll be glad to answer any  
18 questions.

19 CHAIRMAN FONTHAM:

20 Okay. Thank you. Why don't  
21 you just return -- and maybe you can sit on  
22 the other side of Mr. Boshea so you can both  
23 get onto that mike.

24 What I would like to do is to  
25 start at the right-hand of the table and just

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1 ask questions one at a time, if you've got  
2 one. I've got to make a quick phone call, so  
3 you all are going to have to regulate  
4 yourselves.

5 MR. BRASS:

6 Just one brief question:  
7 There was an allegation here this morning by  
8 another member of the bar that -- as it  
9 pertains to the Obstruction of the Sidewalk  
10 Statute, that when there are cases that are  
11 presented to, I would imagine, the City  
12 Attorney's Office, that those cases -- when  
13 that particular -- when that case comes up  
14 and the constitutionality of that statute is  
15 challenged, that those charges are dropped.  
16 I'd just like you to respond to that.

17 MR. GLENNON:

18 Well, first of all, the  
19 ordinance is on the books. It has not been  
20 declared unconstitutional. There is no  
21 litigation pending, that I know of, from the  
22 Municipal Court, anyhow, that has challenged  
23 the constitutionality of that.

24 We handle each individual --  
25 we handle cases on an individual basis. We

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1 try to be fair to both sides: the complainant  
2 and the victim. And we don't just throw the  
3 thing out because we don't think it's  
4 constitutional. We throw it out on the basis  
5 of the facts.

6 MR. BRASS:

7 That's all.

8 MR. MULDROW:

9 Could I just spout off on  
10 that? The allegations actually were that  
11 this is an occurrence of considerable  
12 magnitude. In other words, up to 100 people  
13 have been arrested under the City ordinance  
14 for obstructing a sidewalk, and invariably  
15 we have been told that the charges are  
16 dropped so that the constitutionality of this  
17 ordinance is never able to be tested.

18 Are you aware that -- that's  
19 the word that's been used invariably: the  
20 charges are "dropped."

21 MR. GLENNON:

22 I assure you that there is no  
23 plan on the part of the City Attorney's  
24 Office to drop these charges automatically  
25 because of fear of the constitutional

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1 challenge.

2 ~~All right. When you mention~~  
3 the number of such cases, you know, it  
4 ~~surprises me. I don't personally prosecute~~  
5 in Municipal Court at present, although I  
6 have done it, you know, for a number of  
7 years. Very, very few of those cases come  
8 before us -- very, very few. You know, I  
9 mean -- when you say 100, over what period of  
10 time?

11 MR. MULDROW:

12 What City?

13 MR. GLENNON:

14 Over what period of time.

15 MR. MULDROW:

16 Oh, in one instance, one day.

17 MR. GLENNON:

18 Well, you know, that would be  
19 surprising to me. I'd like to see the cases.  
20 I'm not familiar with it.

21 MR. KUTCHER:

22 You know, I've heard two  
23 different stories today. The folks who were  
24 here this morning said one thing, and the  
25 representatives of the Police Department said

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1 another regarding this. And I'm wondering if  
2 there's anybody in the audience who can  
3 specifically recount that event. Mr. Jenkins  
4 told me I could ask that question.

5 MR. GLENNON:

6 I was --

7 MR. KUTCHER:

8 Mr. Glennon, let me just tell  
9 you that there were people who did state this  
10 morning that on a particular weekend, and I  
11 gathered it was on more than one occasion,  
12 and I think other people said this, as well,  
13 that there were, in fact, a number of people  
14 arrested based on obstruction of the  
15 sidewalk, failure to move along, in front of  
16 what are known to be gay bars in the Quarter.

17 I guess the question that I  
18 would have to ask you is whether you're aware  
19 of any such incidents?

20 MR. GLENNON:

21 Not aware of it and not aware  
22 of any complaints being made, either.

23 Bill -- I know Mr. Quigley  
24 quite well -- who is this that made this  
25 statement, if you recall? Can recall the

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1 specifics of it?

2 MR. QUIGLEY:

3 It was about five years ago,  
4 as I recall. At the time that it happened,  
5 it was --

6 UNIDENTIFIED MALE SPEAKER:

7 1985.

8 MR. KUTCHER:

9 Before your time.

10 MR. GLENNON:

11 Well, I'm not saying it's not  
12 the same statute. The statute has been on  
13 the book for a long, long time.

14 MR. BRASS:

15 This is my point: As I  
16 understand the testimony or the information  
17 this morning, there were 103 arrests made  
18 and, to be specific, there were three  
19 lesbians and 100 gays that were arrested, and  
20 those charges were dropped, as I understand  
21 the information that was given to us this  
22 morning, under the Obstruction of the  
23 Sidewalk Statute.

24 Mr. Kellog, I think it was,  
25 was the individual who indicated that because

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1 he said he represented them and those charges  
2 were dismissed. His allegation was that the  
3 arrests were made purely as harassment.

4 ~~My question is whether or not~~  
5 that happened, if you have any knowledge of  
6 it, and try to get your response to it, that  
7 they were made purely because the persons  
8 were gay or lesbians.

9 MR. GLENNON:

10 I really do not have any  
11 specific information on that. As Mr. Quigley  
12 points out, we're talking about something  
13 that happened in 1983. I don't know --

14 MR. BRASS:

15 As I get the information, this  
16 is a recurring occurrence when homosexuals or  
17 lesbians are arrested under this statute and,  
18 when the constitutionality of this statute is  
19 challenged, the charges against them are  
20 dropped.

21 So your response is that does  
22 not happen, to your knowledge?

23 MR. GLENNON:

24 Well, certainly not in the  
25 past two years. To my knowledge, we have not

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1 had a whole parcel of people arrested for  
2 ~~molesting the sidewalk who would fit under~~  
3 the category of gay or lesbian under this  
4 ~~statute. If it has been, it was disposed of~~  
5 before it got to the District Attorney's  
6 Office.

7 As I told you, we don't screen  
8 cases. It might have been filed, and it also  
9 might have been dismissed by the court  
10 without our knowledge, and I'm unaware of it.

11 MS. MADDEN:

12 I'm not unconcerned about  
13 these "obstruction of sidewalk" cases, but  
14 I'm more concerned about rapes and murders  
15 and some of those more serious brutal crimes  
16 which Mr. Boshea talked about a little bit.

17 And, Mr. Boshea, I wonder if  
18 you could tell us, in the cases you talked  
19 about, the woman who was raped and, because  
20 she was known to be gay, the rapists were set  
21 free, what do you think would be an  
22 appropriate remedy? Is there a legal  
23 remedy?

24 MR. BOSHEA:

25 There is --

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MS. MADDEN:

Can a law be passed or what do we need to do?

MR. BOSHEA:

Well, there's a couple of options that are available. For instance, the Criminal Code has within it a Rape Shield Statute which states, basically -- and I've got it here and I'm going to paraphrase it -- that a victim cannot be questioned about her prior sexual history unless it is with the offender and the issue of consent is involved.

I've had rape cases before where women have been convicted of prostitution and I still won the case. I've had rape victims before that have been convicted for possession of heroin and I still won the case. It's not been easy, but I still won them.

The prior sexual history of a woman is never at issue and never allowed to be discussed pursuant to statutory law unless it is with the consent and the issue of consent is involved. Perhaps an amendment to

1 the Code of Criminal Procedure using some of  
2 the language of the Rape Shield Statute and  
3 indicating that questions involving sexual  
4 orientation should not become at issue unless  
5 it is pursuant to a consent-type defense.

6 For instance, to give you a  
7 hypothetical, if we're dealing with a  
8 homosexual rape, for instance, and the issue  
9 -- the defense in that case is consent --  
10 that is that the sexual act happened between  
11 individuals of a voluntary nature -- then  
12 legally and fairly, I think that questions  
13 involving the individual's orientation should  
14 be brought to the jury because it is part of  
15 an individual's defense and he's entitled to  
16 that.

17 However, when that is not at  
18 issue, when it is not germane at all to the  
19 facts and circumstances, it does not belong  
20 in front of the jury.

21 The only temporary solution  
22 that I can deal with at the present time is  
23 that of a pretrial motion "in limine," which  
24 basically we have to argue on an individual  
25 basis to the judges and, if the judge goes

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1 along with us, great. But, if the judge  
2 doesn't go along with us and the defense is  
3 allowed to bring it out, it can cause  
4 problems.

5 That's my answer.

6 MR. QUIGLEY:

7 Mr. Boshea, do you know, in  
8 terms of the arrests or the prosecutions on  
9 crime against nature -- would you have any  
10 idea of the percentage of the arrests or the  
11 prosecutions that were between heterosexuals  
12 as opposed to homosexuals? What would your  
13 experience be in that?

14 MR. BOSHEA:

15 I'll be candid with you,  
16 Bill: I have not -- I have seen three or  
17 four -- and I was discussing this about a  
18 week ago, two weeks ago, with one of the Vice  
19 people -- I'm aware of about three or four  
20 incidents where prosecutions were instituted  
21 -- of course, pursuant to an arrest --  
22 involving individuals that are engaged in the  
23 conduct -- publicly now; I'm talking about  
24 two individuals, male and female, that are  
25 engaged in, for instance, oral sex in a

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1 vehicle, in public. I am not aware of a  
2 large ~~there is not a large number, to my~~  
3 knowledge, of arrests being made involving  
4 heterosexuals.

5 With respect, however, to  
6 incidents where, for instance, a police  
7 officer is involved in a situation involving  
8 a female who is a prostitute and there is  
9 conversation involved and perhaps a sex act  
10 is committed, there is a higher percentage of  
11 that, but that number still is not that high,  
12 to be totally honest with you.

13 I don't know if that answers  
14 your question or not. The bottom line is  
15 that the majority of cases involving the act  
16 in question in general, the actual physical  
17 act, Subsection A of the statute, is small  
18 overall in comparison to the total number of  
19 14:89's.

20 Breaking that down further, I  
21 would say that the number of homosexual  
22 caught-in-the-act situations versus  
23 heterosexual caught-in-the-act situations --  
24 it's tough. I can only tell you that I'm  
25 only aware of three or four incidents where

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1 heterosexual caught-in-the-act situations  
2 have been prosecuted over the past five years  
3 -- I think is a fair statement.

4 MR. QUIGLEY:

5 You said three or four. What  
6 a rough estimate for the number of  
7 homosexuals if it's three or four for  
8 heterosexuals?

9 MR. BOSHEA:

10 There isn't that many more.  
11 There isn't that many more. I'm aware of  
12 only one in the building right now. I'd say  
13 there's perhaps two or three times that  
14 number. I think that's a fair statement.  
15 There just isn't that many incidents where  
16 we actually have cases involving caught-in-  
17 the-act situations between two citizens.

18 I hope that answers you.

19 MR. QUIGLEY:

20 I have one more question for  
21 Mr. Glennon: In terms of if somebody -- and  
22 I think Councilman Jackson's office got the  
23 computer-generated list of obstruction of  
24 justice arrests that would indicate the  
25 affidavit of the ticket, where the arrest

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1 occurred, if it's in the City, the dates, and  
2 that

3 If someone want to follow  
4 those through in Municipal Court to find out  
5 what happened to them, is there a way? Is  
6 there a systematic way to do that? Or do you  
7 just have to pull each and every case?

8 MR. GLENNON:

9 You have to pull each case.

10 MS. ADAMS:

11 Michael, you want to take  
12 over?

13 CHAIRMAN FONTHAM:

14 Okay. Well, Mr. Muldrow?

15 MR. MULDROW:

16 One question for Mr. Boshea:  
17 I received an allegation by record of a  
18 person in the judicial system that within the  
19 past two years -- and I think reference is  
20 made to Orleans Parish -- there have been six  
21 murders in which the victims were homosexual  
22 persons, and a weapon in each case was  
23 involved and which I was told, by definition,  
24 is a first-degree murder charge. And, in  
25 each case, however, reduced charges were

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1 brought against the perpetrators, second-  
2 ~~degree, and the understanding of the person~~  
3 who made this allegation was this was done  
4 ~~because it was felt that a conviction could~~  
5 not be obtained due to the fact the victim  
6 was a homosexual.

7 Are you familiar with this?

8 MR. BOSHEA:

9 I am aware of a couple of  
10 cases, in particular. I can't go through  
11 every single homicide off the top of my head,  
12 and I would be misleading the panel if I  
13 would do so.

14 As I stated in my opening  
15 remarks, there is a recognition, and it is  
16 not a recognition that we like, but it's a  
17 recognition that exists: that apparently  
18 there is a degree of bias and/or prejudice  
19 that does exist with respect to the minority  
20 of which we pick.

21 I'm not saying anything  
22 against the jury system. I believe  
23 wholeheartedly in the jury system. But you  
24 have to remember the reality of the  
25 situation.

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1 Now, it's easy for somebody to  
2 say, "Well, you should have gone forward with  
3 the first-degree murder" and "You should have  
4 gone all the way with it" and "You should  
5 have taken it all the way." But, when you're  
6 not the person involved, or you're not the  
7 family that's affected, it's a little bit  
8 different.

9 For instance, the case I talk  
10 to you about right now, the case I mentioned  
11 in my opening remarks, the sex case, the rape  
12 case, I don't know for a fact, but I would be  
13 surprised if the victim in that case wouldn't  
14 have been happy with 40 years instead of  
15 going all the way at this particular point  
16 because she went all the way. She got  
17 nothing.

18 There are instances where  
19 manslaughter or second-degree murder charges  
20 have been accepted. I am sure. There is no  
21 doubt about that in my mind. And it may well  
22 be that those charges were either screened as  
23 first-degrees and reduced to second-degrees  
24 or taken as second-degrees, or what have you,  
25 as a result of that. There's -- you know,

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1 I'm sure that has happened.  
2 ~~But you have to remember what~~  
3 the number one responsibility is, and that is  
4 ~~to my client, who may be the victim. And~~  
5 I'll be honest with you, ladies and  
6 gentlemen: If I see a situation where --  
7 whether it be a little five-year-old girl  
8 who's the victim, or a woman who's the  
9 victim, or a man who's the victim, and I know  
10 that if I go all the way with this thing,  
11 based on what's -- the middle of that trial,  
12 that we may well end up with nothing, and  
13 turn to my client and say, "Look, we can take  
14 ten years right now." And my client says,  
15 "Do it." Yes, that's a reduction. But  
16 that's what my client wants and that's what I  
17 get paid for.

18 And I've done it before in  
19 cases where I've had a child who, although  
20 she was ready to testify, at the moment right  
21 before trial, she simply fell apart and I had  
22 to do something with the charge and I had to  
23 get what I could. And I stand by that. I  
24 have no apologies for that because my  
25 responsibility is to my client.

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1                   The instances that you  
2 referred to may well have happened, and I  
3 don't have the numbers and I'm not denying  
4 that they have happened. But you have to  
5 remember the situation of which we are  
6 dealing with.

7                   We are not dealing with the  
8 abstract, we are dealing with the realities.  
9 And, if the realities indicate that it is in  
10 the best interest of my client to get 15, 20,  
11 30, 40 years as opposed to a life sentence,  
12 based on certain circumstances which may have  
13 to do with orientation, then that has to be  
14 done on a case-by-case basis.

15                   I can tell you, however, that  
16 there are plenty of instances where the  
17 allegation has been made or the allegation --  
18 or, in fact, it was involved and we've gone  
19 forward and we've been successful. A lot of  
20 it depends on the circumstances of the  
21 individual cases.

22                   That's as best an answer as I  
23 can give you, sir. And I hope that answers  
24 your question.

25                   CHAIRMAN FONTHAM:

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1                   Okay. We appreciate you  
- 2 gentlemen appearing. Thank you.

3                   MR. BOSHEA:

- 4                   Just one final thing, and this  
5 is in response to your question, sir.

6 There's one other case I just wanted to make  
7 mention of that was reminded to me before I  
8 came down here, and this is an incident where  
9 an individual was being prosecuted for  
10 attempted murder and the victim was, in fact,  
11 gay. And the victim was so concerned about  
12 that being exposed to a jury, and he had no  
13 insurance whatsoever that it would not be  
14 exposed to a jury that he told us to take  
15 whatever we could get, and we ended up having  
16 to plead the guy on an armed robbery as  
17 opposed to an attempted murder charge.

18                   So what I'm trying to say to  
19 you -- and, again, this is in response to  
20 your question -- is a lot of decisions that  
21 are made as far as charge changing are, in  
22 this instance, in fact, as a result of either  
23 the victim's concern related to us or our  
24 realities of the situation with respect to  
25 the individual case.

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1 Thank you, gentleman and  
2 ladies.

3 CHAIRMAN FONTHAM:

4 Thank you very much.

5 The net formal item on the  
6 agenda is the representatives of the City  
7 Offices.

8 Is Penelope Brazille here?

9 MS. BRAZILLE:

10 Yes, I am.

11 CHAIRMAN FONTHAM:

12 Okay. Great. Johnny Jackson,  
13 I see, is here. So would you all come  
14 forward, please?

15 (Ms. Brazille and Councilman  
16 Jackson comply.)

17 CHAIRMAN FONTHAM:

18 What we would like to do is  
19 receive a formal statement, if you have one,  
20 from each of you, and then after that we'll  
21 ask questions.

22 Councilman Jackson, you're  
23 first on the agenda.

24 COUNCILMAN JACKSON:

25 I defer to my colleague.

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CHAIRMAN FONTHAM:

~~You defer to your colleague.~~

Okay. Miss Brazille, if you would give a formal statement from the podium, the Court Reporter could pick you up better. But we will ask the questions from your seated position.

(Penelope Brazille approaches podium.)

MS. BRAZILLE:

This statement I am about to give has been prepared on behalf of the Mayor of the City of New Orleans because, as his Director of Human Resources, I thought it was important that I discuss this with him in my presentation. So pardon me if I do some reading.

We, the City of New Orleans, support all efforts to guarantee basic civil rights for all citizens and to end legal forms of discrimination currently practiced. We strongly believe that public institutions must be available for full and equal participation of all citizens and that barriers built on prejudice must come down.

We find that, in this time in

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1 the City of New Orleans in our economic  
2 ~~crisis, it is particularly important that all~~  
3 of our citizens be allowed to reach their  
4 ~~maximum economic capacities, thus not only~~  
5 maximizing the economic health of the City  
6 but also contributing their amount -- optimum  
7 amount of fair taxes.

8 We are a City of caring  
9 people. Now is the time for us to work  
10 together to restore the City. We have a  
11 responsibility to see that all citizens have  
12 equal rights and by -- only through equal  
13 rights, we expect an appreciation of full  
14 participation in pulling this City together  
15 as a community.

16 There were many concerns over  
17 the last two years since Mayor Bartholomey  
18 has taken office that we have had expressed  
19 by members of the gay community, and I just  
20 want to share with you some of those  
21 concerns.

22 We had an effort to organize a  
23 Gay Advisory Commission to the Mayor within  
24 the last year. That effort is still under  
25 way. The groups that wanted to be composed

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1 -- who wanted to comprise the advisory  
2 ~~committee had not determined in their own~~  
3 organization who would be members of that  
4 ~~committee and thus represent those groups~~  
5 equally. So they are still under way.

6 But, in approaching the Mayor  
7 for his support of an advisory committee on  
8 gay issues in this community, this statement  
9 was shared with him: It says, "We're  
10 governed by the same laws as non-gay people  
11 but we must live in constant fear of our  
12 reputations, jobs, family attitudes, and our  
13 general well-being because of the presence  
14 of uneducated, unsophisticated, and untrue  
15 fears about our gayness.

16 "We work hard, are productive  
17 human beings, pay our taxes, obey the laws,  
18 fight for our country, teach, tend the sick,  
19 and are renown for our participation and  
20 contribution in the Arts and Humanities, yet  
21 we remain without our basic rights and  
22 dignity because we are different.

23 "Difference brings  
24 discrimination and oppression. Unlike our  
25 black brothers and sisters, we cannot march

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1 openly as a whole. The great majority of our  
2 ~~members must remain closeted. Because of the~~  
3 above-mentioned reactions of the non-gay  
4 ~~community, our closet brothers and sisters~~  
5 would risk their jobs and their well-being if  
6 they participate in public marches. They  
7 must remain unseen and behind the scenes of  
8 our demonstrations for civil rights, 'least'  
9 they be stripped of their resources and  
10 unable to even contribute to our own causes  
11 financially or in other non-public ways.  
12 Only a small percentage of our members can  
13 push and fight openly on behalf of all gay  
14 people and their long overdue civil right."

15 As a result of the  
16 approaching of those groups and, in part,  
17 statements such as these, the Mayor of the  
18 City very aggressively supported the 1986  
19 change in the Code for the City of New  
20 Orleans, equal rights for all citizens in the  
21 community. It was within distress on the  
22 part of the Mayor and his Administration that  
23 that amendment and those changes did not pass  
24 in the area of fair housing, and I won't  
25 speak to that since Councilman Jackson was a

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1 very active and primary supporter, and I  
2 think he can better address the issues that  
3 were involved there.

4 ~~In part, it is our belief that~~  
5 the ordinances did not pass because of the  
6 fact that there are a great many people who  
7 had fear of homosexuality. Things that you  
8 don't understand, you usually are afraid of.  
9 Coupled with the fact that the virus of AIDS  
10 has been associated as a gay disease, we have  
11 many people in the community and the City of  
12 New Orleans that we feel are subject to  
13 hysteria and, as a result of that, want to  
14 isolate and have people who have different  
15 sexual orientations live in an areas which  
16 are not in their own neighborhoods.

17 The dialogue between the gay  
18 community and the Bartholomey Administration  
19 has been open and has been frequent. The  
20 Deputy of the City Health Department  
21 represents the Mayor on the Metropolitan Area  
22 AIDS Committee, and we have most recently  
23 initiated a program through the Department of  
24 Health addressing the problems of AIDS as it  
25 relates to minorities in the community.

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1 We recognize that there is  
2 ~~discrimination targeted toward the gay~~  
3 community, and this is why the Mayor has and  
4 ~~will continue to aggressively support a City~~  
5 ordinance change.

6 We also recognize that the  
7 AIDS virus can result in additional  
8 discrimination to this community, and this is  
9 why the Administration is taking a proactive  
10 role in AIDS education.

11 In conclusion, the Mayor fully  
12 supports equal rights for all citizens,  
13 pledges its continued support in protecting  
14 the rights of every citizen regardless of  
15 race, creed, religion, or sexual orientation.

16 Thank you.

17 CHAIRMAN FONTHAM:

18 Councilman Jackson, do you  
19 have any prepared remarks to make?

20 (Councilman Johnny Jackson approaches podium.)

21 COUNCILMAN JACKSON:

22 Ladies and gentlemen, my name  
23 is Johnny Jackson, Jr. I'm a Councilman for  
24 the City of New Orleans, representing  
25 District E. And, on behalf of my fellow

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1 councilmen and women, it is a pleasure to  
2 welcome you to the City of New Orleans.

3           Being a black man, I've known  
4 injustice. Also being a black man, I've  
5 known -- as most black people have known in  
6 this country, I've known discrimination.  
7 Being heterosexual, I've not known injustice  
8 or discrimination based on sexual orien-  
9 tation, but I've just recently learned.

10           I've learned about discrimi-  
11 nation and violence and harassment and  
12 injustice targeted at gay men and lesbian  
13 women from my friends in the gay community.  
14 And what I have learned disturbs me and, to  
15 large degree, frightens me.

16           It disturbs and frightens me  
17 because it represents hatred. It represents  
18 a hatred that gay people suffer, which is no  
19 different from that which, as black people,  
20 we suffer. And, with all hatred, we under-  
21 stand that hatred is evil.

22           Gay people are, in my opinion,  
23 hated because of their membership in a group,  
24 just as surely as black people in most cases  
25 are hated because of their membership in

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1 groups. Gay people are hated because of  
2 their sexual orientation, as well as black  
3 people in the past were hated and even today  
4 are hated because merely of the color of  
5 their skin.

6 In October, I marched in  
7 Washington with my gay brothers and sisters  
8 because I believe that their struggle for  
9 equality is, indeed, all of our struggle for  
10 equality. To me, there is no issue more  
11 important for Government than the struggle  
12 for equal rights, civil rights, and for human  
13 rights.

14 The defeat of the proposed  
15 City ordinance, as Miss Brazille mentioned in  
16 her testimony, that was, indeed, supported by  
17 the Mayor, would have prohibited discrimi-  
18 nation in jobs, housing, and in public  
19 accommodations. But it was a defeat for all  
20 of us here in the City of New Orleans.

21 And I'd just like to just  
22 comment that when that ordinance was -- it  
23 was there when we heard testimony from those  
24 who were pro -- for the ordinance and against  
25 the ordinance that, indeed, this hatred

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1 surfaced; for, indeed, those in the religious  
2 community, as well as those I'm sad to say,  
3 in the black community voiced their  
4 opposition to the ordinance in a tone that  
5 really, in my mind, sensitized the kind of  
6 hatred that they had for other fellow human  
7 beings.

8 I personally can bear  
9 testimony to that hatred that was experienced  
10 -- that are being experienced in the City of  
11 New Orleans because, during the debate that I  
12 just mentioned raged for weeks and weeks on,  
13 I and my family received the grotesque  
14 hatred. People phoned my office, people  
15 phoned my home with all kinds of threats. My  
16 children were confronted, my wife, my family,  
17 even within my church, and from people from  
18 all segments of this community -- not  
19 necessarily only the police, but whites,  
20 blacks, religious people. People who  
21 heretofore had pronounced a commitment for  
22 the struggle of human rights, indeed, came --  
23 approached myself and my family in a manner  
24 in which it scared me.

25 We cannot, in my opinion,

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1 continue to allow the festering sore of  
2 ~~hatred to grow until it consumes us all. We~~  
3 cannot ignore the injustices done in the name  
4 ~~of justice, and we cannot allow the~~  
5 Administration of Justice to be administered  
6 in one way to one group and in another way to  
7 another group.

8                   Undoubtedly, you have heard  
9 today from those representing the City of New  
10 Orleans and throughout the State that there  
11 is no concerted effort to sanction a plan of  
12 discrimination regarding justice. I would  
13 hope that this is true.

14                   Last year, representatives of  
15 the gay community came to me as a City  
16 Councilman, as an elected official of the  
17 City of New Orleans, to go with them to speak  
18 with our Chief of Police, the Honorable  
19 Warren Woodfork, regarding the unequal  
20 application of the City's laws regarding the  
21 blocking of sidewalks.

22                   This is not the first time  
23 that I can recall that members of the gay  
24 community have been targeted, in my opinion,  
25 by members of the Police Department for

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1 selective enforcement of this law. I know  
2 ~~our Police Chief to be a very honorable man.~~  
3 I know him to be a very fair man. He  
4 ~~promised that the laws at that meeting would~~  
5 be fairly enforced.

6 But members of the gay  
7 community who have been victimized by past  
8 injustices are not convinced that this will  
9 not happen again. I think you've heard some  
10 testimony about that today.

11 Therefore, I would urge you,  
12 as members of the Advisory Committee, to  
13 recommend to the U.S. Civil Rights Commission  
14 and the Congress that funds to do your work  
15 be increased so that a thorough, a very  
16 thorough study of arrest records could be  
17 made to determine if, as gay activists have  
18 suggested, that they're being victimized by  
19 the American system of justice in the most  
20 un-American of ways.

21 Furthermore, I would like to  
22 let this Committee know and to announce it  
23 publicly, that I will offer a resolution to  
24 the City Council at our next meeting that  
25 would urge the cities of the United States

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1 to follow the lead of the House of  
2 ~~Representatives in passing the Hate Crime~~  
3 ~~Statistics Act offered by John Connors and~~  
4 ~~supported by our own representative here~~  
5 from the City of New Orleans, the Honorable  
6 Lindy Boggs.

7                   Furthermore, if you would look  
8 at this resolution, this resolution will urge  
9 the President of the United States to  
10 recognize that unless we enact laws to deter-  
11 mine if, indeed, hate crime is based on race,  
12 religion, sexual orientation, or ethnicity,  
13 crimes against blacks, Hispanics, Southeast  
14 Asians, Jews, and gay men, and lesbian women.

15                   Unless we do the investi-  
16 gatory work necessary to verify the  
17 existence of hate crimes and whether or not  
18 it is getting worse, in my opinion, as you  
19 are doing today, we can never enact laws to  
20 fight the crime of violence that, in my  
21 opinion, endanger us all.

22                   As Dr. King said when he was  
23 sitting along in his jailhouse in Birmingham,  
24 "Injustice everywhere is a threat to justice  
25 everywhere." And we're caught in an

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1 inescapable network of mutuality, tied in a  
2 single garment of destiny. ~~Whatever affects~~  
3 one, directly affects all indirectly.

4 ~~I think that we would be~~  
5 fooling ourselves if we thought that there  
6 are not police officers who are anti-gay. I  
7 think we would be fooling ourselves if we  
8 would not think that there are elected  
9 officials who are not anti-gay. I think we  
10 would be fooling ourselves if we would think  
11 that there aren't blacks who are anti-gay.  
12 In my opinion, we would be denying the truth  
13 if we believed that all people, gays --  
14 particularly gays and lesbians, have equalit  
15 before the law.

16 Equality before the law is a  
17 goal, is a goal that we, as black people,  
18 have sought for "a hundred of years." It is  
19 a goal that gay men and women have set for  
20 themselves, also.

21 By you conducting this  
22 historic community forum, the first in the  
23 United States, it is the goal that you find  
24 people from across Louisiana have now set for  
25 the U.S. Civil Rights Commission. This goal

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1 of equality before the law must be achieved  
2 if our nation is to endure and to flourish.  
3 I believe we can be successful. I believe we  
4 will be successful.

5 I thank you for allowing me to  
6 make this presentation.

7 CHAIRMAN FONTHAM:

8 Thank you very much,  
9 Councilman Jackson.

10 This time we'll start from my  
11 left. Mr. Kutcher, do you have any  
12 questions?

13 MR. KUTCHER:

14 It strikes me that -- I  
15 understand what you've said, and it seems to  
16 me that you all may be the only folks who  
17 have been here today who have some authority  
18 to do something, frankly, about what  
19 everybody else has talked about.

20 There has been, as everybody  
21 who has been here throughout the day will  
22 agree, vast discrepancies as to past events  
23 related by one side by the participants,  
24 either the police or gays. And what can the  
25 City do in terms of -- and I understand our

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1 economic situation as well as anybody. What  
2 ~~can the City do to try to come up with some~~  
3 sort of program to make the Police Depart-  
4 ~~ment, specifically, and I guess everybody in~~  
5 general, more sensitized to what we all agree  
6 is a discrimination, or I at least view as a  
7 discrimination?

8 I'm curious. Where do we go  
9 from here? I understand where we all are --

10 COUNCILMAN JACKSON:

11 First of all, I think that the  
12 City must make a public statement. I  
13 understand when the Civil Rights Ordinance  
14 failed to pass, indeed, it was the kind of  
15 statement that I was cautioning my fellow  
16 lawmakers that that really makes another kind  
17 of statement.

18 If you don't say, first of  
19 all, "We are against discrimination" as a  
20 public body, then how can you very well  
21 expect your employees to honor that kind of  
22 self-imposed commitment? And so I think that  
23 the failure of that ordinance seriously  
24 hampered. But, I mean, you just don't stop  
25 there.

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1 We have constantly -- and one  
2 ~~of the things that I attempt to do as~~  
3 Councilman when that comes to my attention, I  
4 ~~demand a thorough investigation and a written~~  
5 report. I am presently working with ACLU  
6 because we're trying to document, as you are  
7 trying to document, more succinctly and more  
8 clearly the prevalence of the discrimination.

9 I think you might have heard  
10 about my request from the Department to  
11 receive statistics so we can see whether or  
12 not they're -- quote -- "indiscriminate  
13 stopping." I believe it. I have seen it  
14 happen with my own eyes, but we have to  
15 validate that.

16 I think the Mayor has set the  
17 tone and has said to the Chief, but obviously  
18 -- obviously, we have much more to do as a  
19 City. And, you know, I don't want to  
20 rationalize that whatsoever. I think you  
21 raised a very pertinent question. We are  
22 within our limited resources.

23 Every time an incident, be it  
24 gay, be it crimes against blacks that are  
25 committed, maybe by police officers, or just

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1 the incidents of violence, indiscriminate  
2 violence, as a public body, and I can speak  
3 for the Council. You know, we continuously  
4 make statements on it and we continually try  
5 to get the Mayor's Department to respond  
6 appropriately.

7 We are -- too are struggling.  
8 But I think it must begin -- in my honest  
9 opinion, it must begin by us having some  
10 formal law, some formal ordinance, some form  
11 of preamble or some statement that indeed  
12 that this City, through its elected body,  
13 will not tolerate that, be it the Police  
14 Department, be it NORD, be it the Finance  
15 Department, be it whatever.

16 But, again, I think there's  
17 much more than we can do.

18 MS. BRAZILLE:

19 A final comment: The Police  
20 Department comes from the same kind of  
21 community that all of us that live in New  
22 Orleans are a part of. And all of us that  
23 live in this community are part responsible  
24 for defeating of that ordinance. We all have  
25 to play a part in that.

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1                   So, when you talk about  
2 ~~sensitizing the police to specific issues,~~  
3 minority groups -- and I think we can  
4 ~~consider gays a minority group, then you're~~  
5 talking about persons who are going to step  
6 out the role of what the community expects  
7 them to do. And, if we, as a Governmental  
8 body, have said it's okay to treat these  
9 people different because of their sexual  
10 preferences, then it's very difficult, as  
11 Councilman Jackson pointed out, to say to the  
12 police, "We're going to hold you accountable  
13 for doing what the community has said it's  
14 okay for you to do."

15                   Now, the Police Department --  
16 and I can speak because of my personal  
17 relationship with Chief Woodfork, he is very  
18 aggressively trying to sensitize officers to  
19 all kinds of people. We -- I work very  
20 closely with them, as it relates to the  
21 homeless community, and there's a lot of  
22 minds that change that we have to do in that  
23 area.

24                   Within the last year, they  
25 have started groups with policemen who patrol

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1 the housing projects so that there can be a  
2 ~~close relationship between those persons who~~  
3 are residents of the project and the Police  
4 Department.

5 I think that one of the ways  
6 that helps people better get along with  
7 people who are considered different than  
8 themselves is to get to know them and to  
9 understand them. And so I think that's what  
10 we need to do -- and I'm sure that Chief  
11 Woodfork would be in support of this -- is to  
12 start groups among the gay community and  
13 start them talking to each other about what  
14 they feel are violations toward one another  
15 because you hear within the police force the  
16 same kinds of things that you hear from the  
17 gay community, and that is that the community  
18 rouses up against them, and they respond or  
19 they'll react to an action.

20 So what's true and what's  
21 untrue, I'm just not sure, but I do know that  
22 when you want to make sense of something and  
23 make people understand each other, the only  
24 way to start doing it is to stop fighting and  
25 screaming and hollering and sit down and talk

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1 to one another because we all have  
2 differences, and we're all not going to agree  
3 with each other's differences.

4 ~~The person who is considered a~~  
5 mature reasonable person is that one who can  
6 accept your differences and be your friend  
7 in spite of your differences.

8 COUNCILMAN JACKSON:

9 I guess just as a short final  
10 response is that I know ever since I was  
11 introduced into this legislation, my  
12 sexuality -- and I'm heterosexual, but my  
13 sexuality is really nobody's business, but I  
14 can tell you that what I experienced from my  
15 friends, black, white, from ministers, from  
16 people in the -- quote -- "business  
17 community" scared me. It scared me.

18 So I imagine -- and  
19 particularly for people who had come through  
20 that whole Sixties movement, you know,  
21 protests and sit-ins and fought for voter  
22 registration and everything else, and the  
23 kinds of comments, and their reactions to me  
24 as an individual and as an elected official  
25 and the kinds of just conversations that

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1 were done with members of my family scared  
2 me.

3                   So I would -- and I guess, you  
4 know, in the past, where you all had clearly  
5 had -- where, you know, you were white  
6 against black -- in this case where you have  
7 the religious -- quote -- "upstanding  
8 people," people who've had some sort of  
9 record in the struggle, themselves, beginning  
10 to perpetuate their prejudices and their  
11 biases, it makes -- it almost reinforces, as  
12 Penny said, in the community that it's all  
13 right to dump on gays and lesbians because  
14 they -- quote -- "are people who may be less  
15 than -- considered less than human beings."

16                   And though -- particularly  
17 that comes from the people who have -- quote  
18 -- "good-standing" in the community.

19                   MR. KUTCHER:

20                   I don't think the issues that  
21 you raised are a lot more solvable, you know,  
22 unfortunately, than the police issue --

23                   COUNCILMAN JACKSON:

24                   Oh, I understand.

25                   MR. KUTCHER:

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1 -- and I've got to tell you:  
2 ~~I've got to believe that -- I think you're~~  
3 absolutely right. And, if people sit down  
4 ~~and talk to each other about everybody's~~  
5 concerns, at least you might have a better  
6 shot at solving the immediate face-to-face  
7 interaction problems that come up with the  
8 humiliation that follows along the lines that  
9 Councilman Jackson said, that's a broader  
10 problem in the society.

11 MS. BRAZILLE:

12 You know, we have -- and this  
13 is not in defense of any particular group,  
14 but in the Catholic Church, sodomy is a  
15 mortal sin. So you have lots of people who  
16 consider themselves very upstanding citizens  
17 that look at particular acts of a group and  
18 then decide that the whole group is bad.

19 You know, in the area of  
20 mental health, homosexuality is still to be  
21 considered a mental illness. It is still  
22 classified as people who are ill. So, you  
23 know, it's no wonder the community's  
24 reaction is so adverse to this particular  
25 group, when it tells you the medical

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1 community, who is very significant, tells  
2 you they're -- and then the religious  
3 community, they also tell you that they're  
4 sinners.

5 So that's, you know, why I  
6 think Councilman Jackson got so many threats  
7 and was so violently attacked.

8 CHAIRMAN FONTHAM:

9 Ms. McDade?

10 MS. McDADE:

11 This is the second time in two  
12 days I've heard the -- quote -- "fear of  
13 AIDS" used in a political vein in liberal  
14 ways. You mentioned the sodomy, that some  
15 people objected to it.

16 I think we have to face some  
17 realities here. Whether we object to  
18 something or whether we don't object to it,  
19 the realities are that according to the CDC,  
20 somewhere around 80 per cent of those people  
21 polled on AIDS are homosexual or bisexual  
22 males.

23 We also have to face the  
24 reality that every time we hear the absolute  
25 definite fact about AIDS, it generally

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1 contradicts something we heard in the past.  
2 ~~So I guess my question is~~  
3 the fear of AIDS to many people is a logical  
4 ~~concern. Are we going to treat AIDS as a~~  
5 ~~political issue, or we going to treat AIDS,~~  
6 as I think it should be treated, as a health  
7 issue?

8 MS. BRAZILLE:

9 Any issue is a political  
10 issue.

11 MR. KUTCHER:

12 You're not elected.

13 COUNCILMAN JACKSON:

14 You know, before AIDS -- let's  
15 talk about before AIDS because I think that  
16 people justify their discrimination or their  
17 prejudices or their bias on -- quote -- "the  
18 emergence of AIDS crisis."

19 And I will tell you while  
20 there was some mention of AIDS at the  
21 hearings on and while people objected to the  
22 passage of the ordinance, a lot of it had to  
23 do with their prejudice and it wasn't  
24 imbedded in -- quote -- "the AIDS crisis."  
25 In fact, you'll find that most people who

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1 will tell you, you know, "I don't like gays,  
2 ~~I don't like lesbians, but I really think~~  
3 that we need to do something about this  
4 health problem," ~~so they justify.~~

5 Even doing something in terms  
6 of equality because they're doing something  
7 about -- quote -- "the health problem." It  
8 is a --quote -- "a political" -- it's a  
9 health issue, but, indeed, it is, in my  
10 opinion, a political issue.

11 I think, however, that the  
12 violence that the gay community has expressed  
13 to me has not totally been and the  
14 discrimination that they perceive has not  
15 really been totally founded in the fact of  
16 our fear of AIDS.

17 Now, I think that the phobia,  
18 the AIDS phobia, has really been perpetuated  
19 in many instances, you know, to really  
20 heighten the overall community against AIDS.

21 But I guess my gut feelings  
22 are simply that I think it is a political  
23 issue, it is a health issue, and even if it's  
24 solved tomorrow -- pray God that it would be  
25 -- you still would have people who would --

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1 for their own biases and prejudices, who want  
2 to discriminate against rent -- renting homes  
3 to people they suspect are gay, who would  
4 fire people who would suspect they're gay, or  
5 would not want gay people to work -- quote --  
6 "in a church based community," school  
7 systems, or even in the public school system  
8 -- nothing to do with the contributions  
9 people make.

10 MS. McDADE:

11 As a follow-up: I want you to  
12 understand that I wasn't throwing that out.

13 COUNCILMAN JACKSON:

14 Oh, I'm --

15 MS. McDADE:

16 Because I've heard it several  
17 times today, people just making the  
18 statement that they're rude to them, that  
19 people are afraid of AIDS; therefore, they  
20 are homophobic.

21 COUNCILMAN JACKSON:

22 I think that --

23 MS. McDADE:

24 And I think -- I would like --

25 MS. BRAZILLE:

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1 I'd like to coment on that, a  
2 well, and that is that, first of all, any  
3 health issue is a political issue, particu-  
4 larly as it relates to a male because the  
5 health of the community is of extreme  
6 significance. So it is a political issue.

7 Secondly is the fact the gay  
8 community has so-called "gotten their act  
9 together" in regards to AIDS and AIDS  
10 education. So we no longer have the facet  
11 going into today of new AIDS patients in the  
12 gay community. It is in the intra-venous  
13 community, those who are drug users. And the  
14 fastest growing number of affected persons  
15 are intravenous drug users. We have more  
16 babies born with AIDS now than ever before.

17 So, when you look at it in  
18 terms of number and where it's growing, it's  
19 not in the homosexual male, bisexual male  
20 because this community has educated  
21 themselves and have begun protecting  
22 themselves. It is now into other areas.

23 So the homophobic reaction and  
24 the things you've heard today, if people read  
25 and listened more about the issue of AIDS,

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1 they would realize that where we ought to be  
2 more concerned about are the housing  
3 developments in the community. This is where  
4 ~~the highest incidence of drug abuse is -- in~~  
5 the housing developments around the country.

6 And the real fear -- and this  
7 is one of the reasons why the Mayor did  
8 establish an office in the Health Department  
9 just this year for education -- AIDS  
10 education to minorities because of the  
11 disproportion of minorities that are now  
12 represented as AIDS victims.

13 MS. McDADE:

14 And just for point of  
15 clarification: The fastest growing group of  
16 AIDS victims today are those that are  
17 categorized as "unknowns" as to how they  
18 acquired AIDS, from recent reports to the  
19 CDC?

20 MS. BRAZILLE:

21 It depends on what month you  
22 read it.

23 MR. JONES:

24 Councilman Jackson, in  
25 connection with the proceedings and the

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1 ordinance on equal rights being considered,  
2 ~~I'm interested to know whether or not there~~  
3 were any academic types or other types who  
4 ~~testified so as to inform people, generally,~~  
5 including the Councilmen, about the true  
6 basis for homosexual activities; namely, the  
7 fact that it isn't simply a preference but  
8 rather more than that, an orientation, for  
9 example.

10 I know that it shouldn't make  
11 any difference -- from a Government  
12 standpoint, it shouldn't make any difference.  
13 However, the response to wrongdoings against  
14 homosexual people, whether their homo-  
15 sexuality is a preference or whatever, it  
16 shouldn't make any difference.

17 But part of the process of  
18 getting delegates to respond appropriately  
19 might be to educate those who are in a  
20 position to do something about this, the  
21 legislators, such as City Councilmen, State  
22 Representatives, and so forth, to the fact  
23 that you aren't simply talking about a  
24 preference, an entirely elected lifestyle.

25 Was there any kind of

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1 educational information of that sort provided  
2 to the other Councilmen during those  
3 proceedings to help along that process of  
4 education?

5 COUNCILMAN JACKSON:

6 Well, because then you -- I  
7 don't -- as I recall -- now, it's been some  
8 time, but as I can recall, I don't think that  
9 we had any medical, any -- quote --  
10 "psychological" or any expert testimony  
11 talking about the origin of homosexuality  
12 other than personal testimony by people,  
13 themselves. No one put forth the theory that  
14 other than those who were in our position,  
15 that homosexuality is one's preference, one  
16 orientation. No, we didn't get into -- you  
17 know, get into that.

18 But you did have individual  
19 folks who -- I can recall persons who were  
20 married and raised children and everything  
21 who gave testimony that it wasn't until their  
22 later life, and it wasn't a question of  
23 preference to them. It was just a question  
24 of their orientation. It was something  
25 beyond their control.

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1 And so, no, we didn't get into  
2 that aspect of it. And

3 MR. JONES:

4 Does it appear to you that  
5 official response, that is to say the laws  
6 that have been passed and are on the books,  
7 seemed to be based on the assumption that  
8 homosexuality is a preference that is  
9 voluntary entirely and, therefore, the  
10 Government ought to respond, rather than  
11 proceeding from the understanding that it is  
12 biologically, I suppose, held kind of  
13 conduct, just as heterosexuality is.

14 Does it appear to you that  
15 the underpinnings of our law is built on the  
16 assumption that homosexuality is a  
17 preference.

18 COUNCILMAN JACKSON:

19 I suggest that to some degree  
20 that is the basis for it. I suggest that  
21 even if it wasn't a preference, I don't think  
22 that -- you know, what I decide to do in my  
23 bedroom is -- being honest with you, it's  
24 still a preference. Then I'm not supposed to  
25 be stopped on the street or denied a job or

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1 something because even if I prefer it, you  
2 know.

3 If you tell me I'll give you  
4 the rights because you can't do something  
5 about it, you, I don't know if that's the --  
6 well, I agree that that might be more support  
7 for laws. I don't necessarily believe that,  
8 in my own opinion. Again, you understand,  
9 I'm learning just as you are learning.

10 Heretofore, my exposure is  
11 basically people who I went to school with,  
12 people I know in the community. But it's  
13 been over the last two years that I've gotten  
14 more involved in the kinds of fights that's  
15 affecting the -- and there are a lot of  
16 questions I really don't have the answers to.

17 But I guess directly to your  
18 point: I believe it's a question of  
19 orientation. But I don't believe that  
20 Government ought to ground itself in  
21 justifying what it chooses -- what it does  
22 against a person because that's the way the  
23 person's orientated, as to look at whether or  
24 not it's an orientation or preference.

25 MR. JONES:

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1                   Just one follow-up question.  
2 ~~The reason I'm -- the point I'm trying to~~  
3 make is this: Federal law makes a suspect  
4 ~~classification of race and sex, for example.~~  
5 These are unchangeable facts of a person's  
6 life. You and I were born black. We can't  
7 change that. Penny Brazille was born a  
8 female. She can't change that.

9                   So those are suspect  
10 classifications. And, therefore, for an  
11 employer to discriminate against us because  
12 we're black or Penny Brazille because she's a  
13 woman is prohibited by Federal law. It is a  
14 suspect classification. And there are other  
15 -- you see other kinds of things that are not  
16 suspect classifications because they're not  
17 so obviously inherent, unchangeable.

18                   You understand what I'm  
19 saying?

20                   COUNCILMAN JACKSON:

21                   I understand clearly what  
22 you're saying, and I think you have some  
23 merits to your question. I guess we chose to  
24 dealing with the -- dealing with the  
25 ordinance as to not to dwell or to get into

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1 one's -- quote -- "sexual orientation" to the  
2 ~~extent versus sexual preference versus -- I~~  
3 mean I think you get to the old -- you know,  
4 as to -- I think your question addresses the  
5 concerns about maybe should the -- say if you  
6 can't -- quote -- "change your races."

7 MR. JONES:

8 It is fundamentally unfair to  
9 penalize a person because they were born  
10 black by denying them employment, this kind  
11 of thing --

12 COUNCILMAN JACKSON:

13 I think it -- yeah, and I  
14 guess you're right, but I think you run the  
15 risk of saying that it's fundamentally fair  
16 for Government to discriminate against  
17 someone because they have a preference as to  
18 -- quote -- "not necessarily" -- yeah, but  
19 I'm not --

20 MR. JONES:

21 I'm not trying --

22 COUNCILMAN JACKSON:

23 I know you're not saying that.  
24 Yeah, you're not making that argument. I  
25 understand you're not making that argument,

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1 but that's the dilemma that we were in.

2 ~~CHAIRMAN FONTHAM:~~

3 Okay. We're starting to use  
4 up our time here

5 MS. MADDEN:

6 Councilman Jackson, as a  
7 citizen of Louisiana, I would like to express  
8 my appreciation and my respect and admiration  
9 for your speaking out on this, for  
10 participating in that march for pushing the  
11 ordinance. And we'd like to ask you a  
12 question.

13 Certainly laws and ordinances  
14 are not the remedy for every kind of  
15 discrimination that we've been talking about  
16 here today, but what do you think are the  
17 remedies that we need in the laws on the  
18 Federal level? You alluded to the Hate  
19 Crimes Act. On the State level, what kind of  
20 laws do we need to pass or improve, and then  
21 on the local level?

22 COUNCILMAN JACKSON:

23 I think you need a clear  
24 statement by the Federal Government that  
25 discrimination based on one's sexual

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1 orientation, you know, is against the law. I  
2 think we need to make that statement loud and  
3 clear, and I think you ought to provide for  
4 the enforcement and prosecution of it as you  
5 would do with other civil rights.

6 I think the same thing ought  
7 to happen on the State level, and I think it  
8 ought to happen here, as we've tried to do,  
9 on the City level. And I just think that  
10 reinforcement -- and I think that the courts,  
11 themselves, ought to -- that the courts,  
12 themselves, ought to be more aggressive in  
13 prosecuting folks who violate, you know,  
14 one's civil rights, be it a question of one's  
15 -- whether a person -- violation of civil --  
16 be it Hispanic, black, or otherwise, in my  
17 opinion.

18 Now, there may be other more  
19 specific activities, but in my mind I -- you  
20 know, I'm disgruntled with that. I think the  
21 fact that we got the Civil Rights Law enacted  
22 by Congress, it became the law of the land,  
23 people's behavior were modified to some  
24 extent by that. I mean you got to start  
25 there, and then you necessarily give the

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1 Government the wherewithals to monitor, to  
2 enforce, and to hold people accountable, and  
3 to prosecute those who violate it.

4 ~~I mean we -- again, we have a~~  
5 rich history of civil rights efforts that's  
6 ongoing, and it's just a matter of just  
7 duplicating those kinds of remedies that we  
8 have done for that.

9                   And I think obviously  
10 education -- and, you know, I don't want to  
11 take what she said, but that's strong. I  
12 think we have to come with a very massive  
13 education program, by all three levels of  
14 Government, as it relates to not only the  
15 whole question of AIDS but just on the fact  
16 that the -- to change people's minds and at  
17 least to provide the information.

18                   CHAIRMAN FONTHAM:

19                   Mr. Quigley?

20                   MR. QUIGLEY:

21                   A couple of questions just for  
22 Councilman Jackson.

23                   First of all, the statistics  
24 on obstructing the sidewalk arrests, if we  
25 could leave the record open, would you be

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1 able to get a copy of it? I think I already  
2 ~~have a copy, but could you get a copy that~~  
3 could be submitted to the Committee so they  
4 ~~could look at it in the terms of long-term~~  
5 review?

6 COUNCILMAN JACKSON:

7 Yes.

8 MR. QUIGLEY:

9 The second thing: I know that  
10 the hearings that were held before the City  
11 Council were very long, took a very, very  
12 long time, and I wouldn't want all that  
13 information to be attached to this record.  
14 But were there any sort of summaries in terms  
15 of the positions that people took? I think  
16 particularly in understanding discrimination,  
17 as Miss Brazille said, in terms of  
18 understanding where the police come from,  
19 understand where the community comes from, if  
20 there is a summary of the people who  
21 testified against the ordinance --

22 COUNCILMAN JACKSON:

23 Yes, we have that summary and  
24 we'll make it available to this Committee.  
25 Also, I would tell you because, again, it

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1 was an experience for me, too -- it's been an  
2 ~~ongoing experience for me. But, if you had~~  
3 the opportunity either as a committee or  
4 ~~individually to review the individual tape~~  
5 proceedings, we would also make that  
6 available to the Committee in case you -- at  
7 a convenient time to the membership of this  
8 review.

9                   If not all, at least some of  
10 the testimony, not only by those who spoke  
11 for and against but even by some of the  
12 members of the Council.

13                   MR. QUIGLEY:

14                   The third thing that I'd like  
15 if you'll quickly go through some of these  
16 potential remedies that were outlined in an  
17 earlier presentation we go on anti-gay  
18 violence causes consequences of this kind.

19                   I think, as you had said, the  
20 civil rights -- the beginning of the  
21 restoration of civil rights to the black  
22 people didn't start on the local level and it  
23 didn't start on the State level, it started  
24 on the Federal level. I'd like to just --  
25 you have served in the State Legislature for

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1 some time. How realistic is it that the  
2 State of Louisiana is going to repeal the  
3 sodomy law? Are they going to do that  
4 anytime soon, in your --

5 COUNCILMAN JACKSON:

6 No. In my honest opinion,  
7 that will -- unfortunately, I'm sad to say  
8 it, we're a long way from that on the State  
9 level.

10 MR. QUIGLEY:

11 The second thing: What about  
12 passage of a State law prohibiting  
13 discrimination on the basis of sexual  
14 orientation? Is that likely to happen in the  
15 near future?

16 COUNCILMAN JACKSON:

17 No.

18 MR. QUIGLEY:

19 Thirdly, increased monetary --  
20 money dedicated to research into anti-gay  
21 violence and it's consequences, is that  
22 realistic? Is that going to come on either  
23 the local or the State level here in  
24 Louisiana?

25 COUNCILMAN JACKSON:

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1                   Let me just say, I don't think  
2 ~~it will be a long time coming from the~~  
3 State level. I do believe that even with --  
4 ~~we have at our local level provided general~~  
5 funds to try assist in that, but it's no --  
6 it nowhere meets the kind of demand,  
7 realistic demand that it is.

8                   So I would say that as our --  
9 as our ability to do it here locally, we'll  
10 put moneys in it, but I would think that the  
11 types of money to do the kind of thorough  
12 broad-based study would have to come from the  
13 Federal level.

14                   MR. QUIGLEY:

15                   The City of New Orleans has  
16 done some research on that?

17                   COUNCILMAN JACKSON:

18                   Yes.

19                   MR. QUIGLEY:

20                   Is there a report --

21                   COUNCILMAN JACKSON:

22                   We've provided moneys for it,  
23 and I'm sure that we provide the moneys in  
24 the area of the AIDS research. I think the  
25 City put 50,000 in it. We provided, I think,

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1 some moneys to the Police Department.

2 MS. BRAZILLE:

3 If there had been money  
4 ~~provided to the Police Department to deal~~  
5 with the community issues and better  
6 understanding of the community, which  
7 includes the issues of gay people, as well;  
8 however -- and not to speak on behalf of  
9 Councilman Jackson; but, generally, whenever  
10 there is a lack of money on a Federal, City,  
11 or State level, the first thing that goes  
12 is the heavy severance area of community  
13 services. And the understanding of  
14 differences of people is in the area of  
15 community services.

16 So I certainly don't see an  
17 increase in any money. And, based on my  
18 relationship with those persons in the State  
19 Health and particularly your legislators from  
20 the northern part of the State, I don't  
21 think --

22 COUNCILMAN JACKSON:

23 Let me just add that -- and I  
24 don't want to just confine it to the northern  
25 part of the State, either. I want to let it

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1 -- it comes all the way down here -- in fact  
2 the legislator from Orleans Parish. But, you  
3 know, we provide very minuscule funds based  
4 upon our ability.

5 But, as Penny had said, I  
6 don't see it in the near -- in the  
7 foreseeable future, any significant lot of  
8 moneys now to do that, you know, because our  
9 City is broke. But, even with that, I know  
10 of at least 50,000 general fund money. I know  
11 general fund that we did for the AIDS  
12 problem.

13 MR. QUIGLEY:

14 One final question: Are you  
15 familiar with any activities that have been  
16 undertaken from any of the other 64 parishes  
17 in Louisiana to enact an ordinance  
18 prohibiting discrimination against people  
19 based on sexual orientation or preference at  
20 all?

21 COUNCILMAN JACKSON:

22 No, I'm not aware. It could  
23 very well be, but I'm not aware. I think  
24 that just from my experience -- and I hate to  
25 make this generally categorized, but I think

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1 the general -- if I was involved -- let's  
2 ~~say it was away from New Orleans -- not to~~  
3 suggest that your gay community is confined  
4 ~~to New Orleans because the gay community is~~  
5 represented -- even those who oppose gay  
6 rights and oppose them because -- quote --  
7 "they're closeted," they just don't want  
8 anybody else to know, you know.

9 But I would generally think  
10 that the attitude across the State, if New  
11 Orleans could not, given -- quote -- "what is  
12 perceived as a high concentration," just  
13 based on population, "of gay men and women,"  
14 and we cannot pass an ordinance, and they  
15 dare not even attempt to. That would just be  
16 my general impression.

17 MR. QUIGLEY:

18 Thank you.

19 MS. REIBOLDT:

20 My question, specifically to  
21 you, Penny, goes back to your comment about  
22 the Mayor's attempt to organize a Gay  
23 Advisory Committee to him. Can you tell me  
24 a little bit about that? I was a little bit  
25 shocked that couldn't be done, realizing the

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1 type of representation that was here this  
2 morning.

3 MS. BRAZILLE:

4 It can be done, and I think  
5 because I was so intimately involved in  
6 trying to get this done. One of the things  
7 that I found in working with the Mayor in  
8 organizing an advisory committee to him is  
9 that just as we have different political  
10 groups within our own community and within  
11 our own orientation, whatever it is we do, so  
12 does the gay community.

13 And one of the problems with  
14 getting that organized is that the different  
15 groups within the gay community who saw  
16 themselves as representatives of a certain  
17 organization, representatives who were going  
18 to be part of the committee. And to the  
19 point of where we had actually sent a letter  
20 to one member who was identified with the  
21 group as to be the chairperson of this  
22 committee, and that person wrote back and  
23 declined because they did not associate  
24 themselves with that particular group.

25 I can't address all that. All

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1 I can say is that because we have had -- we  
2 have currently so many problems in our City  
3 -- most of them, I would guess, are  
4 financial. And those of us who live here  
5 know that very well -- we recognize, and  
6 surely the Mayor recognizes, that it takes  
7 everybody to make this work. And he does not  
8 take credit to be the authority on all issues  
9 in a relationship to how everybody lives and  
10 to determine what is the best quality of life  
11 for that particular person.

12 So during his administration,  
13 he has been most receptive to have different  
14 groups that represent different parts of the  
15 community advise him to what is the  
16 appropriate way to respond to them in their  
17 neighborhoods and communities.

18 MS. REIBOLDT:

19 Just to clarify: What you're  
20 telling me is that he's open to that type of  
21 an advisory committee, but it's more or less  
22 the people within that community that's  
23 having a hard time coming up with who they  
24 want to represent them and speak for them and  
25 advise the Mayor, is that right.

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MS. BRAZILLE:

That has been my experience,  
yes.

COUNCILMAN JACKSON:

Let me just say that that's --  
isn't in a formal sense but in a very  
informal sense, very loose sense, I suggest  
that we heard the ordinance around the -- for  
the Civil Rights Ordinance, that there was  
unity among the various members of the gay  
community.

So, while that may be a --  
quote -- "formal structure" as an advisory  
committee, as Councilman, I can just tell you  
my experiences, that the gay community is  
just like the close-knit aggressive, you  
know, community that tends to let us know.

I think the defeat of the  
ordinance, per se, you know, was a chilling  
effect on a lot of organized efforts. I just  
want to share that with you.

MS. REIBOLDT:

Just one last comment, and it  
will be directed to you: It's an emotional  
issue with many of us, not only because of

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1 the facts and figures, but it's also -- and  
2 the AIDS question, but religiously and other  
3 areas.

4 So, therefore, you have to  
5 talk to the Shreveport Journal and the  
6 Shreveport Times and get on there because we  
7 hear very little about what you all do in New  
8 Orleans. They're limited on their reporting  
9 area. So, if you'd like to hear more about  
10 things like this. But I'm not aware of what  
11 types went on at the hearings.

12 And your statement concerning  
13 you were disappointed concerning some of the  
14 people that spoke against this movement or  
15 this ordinance, I just wanted to say that it  
16 is an emotional issue on both sides of the  
17 issue, to the extent that members -- or one  
18 member at least of this Committee was  
19 approached in a very negative way at a  
20 previous meeting.

21 So I believe that maybe  
22 that's where we ought to start. Maybe we  
23 ought to realize that if we're ever going to  
24 come together on this, we need to respect  
25 each other's rights.

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COUNCILMAN JACKSON:

~~I think you're absolutely~~  
correct upon that -- again, I made a  
~~reference, and again I would just invite you~~  
-- I would just invite this Committee to just  
review some of the -- not all but just some  
of the testimony at our public hearing, video  
tape.

And when I say "it scared me,"  
it literally scared people -- not from people  
who would -- as you say, it would be -- maybe  
had came and you kind of know where they're  
coming from and you know how they're going to  
react, but really folks who -- to be very  
honest with you, I'm very strong in my  
candidacy. Someone in my campaign invited  
me constantly to his church. We had been  
colleagues and friends for 14 years, through  
my political history at the -- in the  
Legislature but just pointed his hand very  
clearly and he was determined and he said  
that I, in effect, had betrayed him and that  
I was not welcome as an individual in his  
church.

And, you know, it was kind of

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1 hard knowing our relationship over the years,  
2 that it had been -- it was hard to believe,  
3 So I know how emotional it gets, and it's  
4 ~~frightening, and I just wonder sometimes why~~  
5 I heard that for the Council in a very --  
6 and policemen's all around to protect us just  
7 in case. You know, everybody got out the  
8 way. But just how it is when you're  
9 confronted, and you gays and lesbians around  
10 here, you're confronted on the street and  
11 you're confronted in a place where somebody  
12 will approach you like that, with that kind  
13 of fervor against you and it's just  
14 frightening.

15 CHAIRMAN FONTHAM:

16 Okay. It's 5:00. We've had  
17 some people waiting here all day to make some  
18 public presentations.

19 I want to thank both of you  
20 for coming and for spending this time with  
21 us, patiently answering all of these  
22 questions.

23 And at this time I'd like to  
24 call on the participants in the Open Session.  
25 The first one is Cynthia Frandria. I believe

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1 that's right.

2 ~~And I'd like to remind you:~~

3 We'd like you to, if possible, limit your

4 ~~comments to five minutes or less.~~

5 (Ms. Frandria approaches podium.)

6 CHAIRMAN FONTHAM:

7 Simply give us your name and,  
8 if you want to say anything about who you  
9 represent, please do so. But, otherwise,  
10 just go ahead.

11 MS. FRANDRIA:

12 My name is Cynthia Frandria --  
13 F-R-A-N-D-R-I-A. I am the victim of the rape  
14 case that several people have spoken about  
15 today. It sickens me that I have to speak  
16 about it once more.

17 The decision was unanimous  
18 that -- and I quote -- this was brought up by  
19 the defense attorney: "That since she chooses  
20 indiscriminate sex, it would stand to reason,  
21 therefore, that she would pay to be raped."  
22 The amount of money in question was \$2. That  
23 would have been \$1 per rapist. I'm not that  
24 cheap, even if I were going to do that.

25 Also, the defense attorney

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1 addressed me and it was not objected to in my  
2 ~~own testimony, and I think what he was~~  
3 implying was meaning that I'm lesbian so,  
4 ~~therefore, I must be masculine. "If you're~~  
5 so tough or if you were so tough, why didn't  
6 you save yourself from this horrible thing?"

7 I actually did try to  
8 physically walk away from that. I was  
9 strangled and had two knives at me. So I  
10 think I did what I had to do to survive, to  
11 stay alive. And I guess on the one hand I'm  
12 grateful that I'm here to talk about it.  
13 But, again, it sickens me that something like  
14 this has to even exist. It just shouldn't be  
15 this way at all.

16 I don't represent any special  
17 group, interest group, or anything like that.  
18 And I guess I'm not asking for your sympathy,  
19 but the empathy. Perhaps if it were the  
20 other way around and there were a panel of 12  
21 homosexuals asking heterosexuals to appear in  
22 appeal for rights as citizens, maybe things  
23 would be different.

24 Thank you.

25 CHAIRMAN FONTHAM:

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Thank you.

The next person that's on the list is Charlene Schneider.

**MS. SCHNEIDER:**

My name is Charlene Schneider. I own a club at 940 Elysian Fields. You'll have to pardon me. I'm not an eloquent speaker like the rest of these people.

I would like to go back to some things that's been said earlier, and someone brought up that AIDS wasn't political and what could we do about it. I don't know how anyone can say AIDS isn't political when 21,000 of my gay brothers and sisters are dead before our President can say the word "AIDS."

So, when you're setting the precedent, I sort of think this has to come from the top, and I think 21,000 deaths is too far long to wait for people to die.

But I'm forty-eight years old, I own a gay club, and I've owned it for eleven years. We run a very good club. It's very political. We try to stay politically correct. But I can tell you this: I don't

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1 worry about myself because I'm okay, but I'm  
2 worried about our kids.

3 We have young people coming  
4 out every day. These kids are brought up in  
5 the same mold. The three suicides that  
6 happened in our State this year, two were  
7 from fundamental religious backgrounds and  
8 could not take the peer pressure from their  
9 parents. One child had to sleep on the porch  
10 seven months -- seven months -- before he  
11 just couldn't take it any more. These are  
12 the kind of things.

13 At my club, nine women were  
14 arrested outside that bar -- nine women:  
15 three policewomen from Baton Rouge, two  
16 chemists, two school teachers, and two women  
17 who owned their own business. They weren't  
18 hustling, they weren't prostituting, and they  
19 weren't blocking a 14-foot, 8-inch sidewalk.  
20 It was pure harassment. There's no other  
21 reasons but this.

22 This policeman tells me that  
23 OMI -- OMI was organized because of the gay  
24 community and the black community working  
25 together. The other gentlemen would want to

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1 tell about Internal Affairs. The reason OMI  
2 was born, ~~it was born because Internal~~  
3 Affairs wasn't doing anything. And our good  
4 Mayor Morial did help us to institute this  
5 and, with the help of our present, Mayor,  
6 we've continued on with this. And I think  
7 that that's very, very important.

8 But the nine women arrested  
9 outside of my bar -- a councilman came down  
10 because he didn't understand what was going  
11 on. The sergeant was still there. They had  
12 taken my girls away. I was in the middle of  
13 a breakdown because I'd been in jail six  
14 times. I've lost my top-secret clearance,  
15 I've lost everything in my life, but I'm not  
16 going to lose me in this, and I'm not going  
17 to lose my friends and the kids coming up  
18 today who are just good, gay people. And I  
19 mean this.

20 You can talk about pornography  
21 and prostitution and hustling. I would like  
22 to ask all of you: How long do you spend  
23 making love a week? You don't have to  
24 answer that. I just want you to think about  
25 this silly question. How long do you make

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1 love a week?

2 So let's say if you're a  
3 honeymoon couple, five hours. I don't know  
4 what the hours is. So let's go down to after  
5 two years. You're doing two hours a week.  
6 This is what we're here about. The other  
7 hours in my week, I spend shining my shoes,  
8 paying my taxes, running my business,  
9 feeding my cat, cutting my grass, going to  
10 meetings.

11 What -- I don't understand why  
12 we're different. I don't understand what two  
13 hours a week, who I go home to love -- why  
14 that -- why we have to meet about this  
15 (pause). I'm sorry.

16 They want somebody at the  
17 Police Department, I would suggest if  
18 Councilman Jackson and Dr. Nicki Kirby  
19 (spelled phonetically), who is an older  
20 lesbian also involved with our Parents and  
21 Friends of Gays, go down and teach and have a  
22 class an hour.

23 This woman has volunteered.  
24 We aren't asking money. We've done this  
25 AIDS thing by ourselves in our City, you can

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1 believe it. And there's a lot of AIDS in our  
2 City, and our community has just knitted  
3 together and just (pause) -- they're doing  
4 wonderful things, with no help

5 We don't want your help and we  
6 don't want special rights, and I don't --  
7 nobody wants to hustle on the corner.  
8 Prostitution is against the law. Go to jail.  
9 Hustling's against the law. Go to jail. You  
10 commit a crime. Go to jail. I don't care if  
11 you're gay. A crime is a crime. But the  
12 crime of being gay, this -- it's so sweeping,  
13 it just -- (pause).

14 Obstruction of sidewalk, when  
15 you were saying before, obstruction of a  
16 sidewalk might be a very good law if the only  
17 people you were arresting were obstructing a  
18 sidewalk. But what you're saying is, "Oh,  
19 here's two prostitutes and there's three gay  
20 men walking down the street, so we'll bust  
21 them all together and we'll take them off."  
22 And that's it." That's the sweep. The sweep  
23 is we're included.

24 When this woman came to me  
25 after her trial, I cannot tell you how angry

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1 I was to dare think my community are tramps,  
2 are less than equal. It's a disgrace. These  
3 people -- this kid works on her feet all day  
4 long -- all day long. She had to leave her  
5 waitress job, walking home, and then it's --  
6 (pause).

7 Dr. Nicki Kirby would be more  
8 than willing to volunteer her time to work  
9 with the Police Department. I understand  
10 that the Police Department is a very, very  
11 much harassed group. I didn't make it that  
12 way. When they busted my girls outside, they  
13 had been harassing my bar for one month.

14 I went -- and my mother was  
15 dying in a hospital in Slidell 'cause I  
16 couldn't even get her here. I took time out,  
17 went to the 5th District, talked to the  
18 captain, asked him, "I've been here four  
19 years. Never had a problem. Tell me the  
20 problem." "I'm the best cop you got because  
21 I don't allow it." "Just tell me. I will  
22 fix it."

23 "Well, that's a very vague  
24 ordinance. It's up to the discretion of the  
25 officer." I said, "Well, give me some more

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1 facts. Give me a little bit more basic."

2 "Well, I can't do that." "Oh, okay."

3 So I had called Councilman

4 Early, and he arranged to get me a block

5 permit. I explained to him that Gay Pride

6 Weekend was coming up and I had had a big

7 party planned and I didn't want any trouble

8 'cause my kids expect me to protect them.

9 And I try, and I tried.

10 The week -- the day before, I

11 explained to him, "Gay Pride Week's coming

12 up, it's anniversary of Stonewall, our

13 liberation. Please, you can't let anything

14 happen." So I left and went on to get a

15 block permit.

16 The police arrested my women

17 the day before because they obviously knew I

18 had gotten the block permit. This was a --

19 this isn't all. I've been to jail six times.

20 I've lost it. But, without precedent, there

21 is no precedent. And you have to set

22 something.

23 I don't want a law that

24 protects me or makes me better or gives me --

25 I can do things that you can't. I'm not a

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1 handicapped person. We have enough to worry  
2 about with our handicaps. We need to get  
3 ramps. We need special -- our Chinchuba  
4 Institute for the Deaf right here in our City  
5 is just about to go under.

6 We need so many things in our  
7 community, and I think one of them is -- the  
8 last thing we need to add is hate because our  
9 group is a very loving group and, within  
10 every group, you're going to have some bad  
11 eggs. But I can tell you the bad eggs aren't  
12 getting busted. It's the good kids who work  
13 every day.

14 And one lady asked why the bar  
15 is relevant. The bars are relevant because  
16 it's our only exchange. They're less likely  
17 to be drinking places as they are meeting  
18 places.

19 A gay person -- I mean I can't  
20 imagine a straight person wanting to go sit  
21 in a gay bar on a Saturday night. Well, why  
22 in the devil would a gay person want to go  
23 sit in a straight bar? We want to go  
24 someplace where it's our friends, where we  
25 feel safe, where we know somebody's taking

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1 care of us, where we're not going to get  
2 ripped off, where nobody's going to come up  
3 and ask you to dance. That's where we want  
4 to go.

5 I just hope one day -- I would  
6 really want to thank y'all for coming to our  
7 City. I just hope one day that all of this  
8 is just a -- history, hopefully, like the  
9 Civil Rights Movement. Well, I guess we'll  
10 always be working on that, too, because I  
11 suppose there'll always be haters out there.

12 Like Jesse Jackson says,  
13 "They'll always be the dream, the dream  
14 busters, and the dream makers." And we're  
15 going to stick with this dream, Jack. We  
16 ain't going nowhere 'cause we've been here  
17 since year one and we're not going anyplace.

18 And I thank you very much for  
19 allowing me --

20 CHAIRMAN FONTHAM:

21 Thank you, Miss Schneider.

22 Is Richard Sacher (pronounced  
23 "Socker") or Sacher (pronounced "Saker")  
24 here?

25 Maybe you can help me with the

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1 pronunciation, too.

2 MR. SACHER:

3 My name is Richard Sacher  
4 (pronounced "Sat-cher") -- S-A-C-H-E-R. I've  
5 lived in New Orleans for about 20 years, and  
6 I'm a member of the gay community. And, as  
7 you can probably tell by the way I'm dressed,  
8 I hadn't planned to speak today. I just  
9 dropped by in the middle of my work day to  
10 see what you people were up to.

11 And, after listening to the  
12 people at the Police Department, I figured I  
13 just had to stay and give you another view of  
14 the relationship between the Police  
15 Department and the gay community.

16 I was one of four or five  
17 different members of the gay community who  
18 would lecture at the Police Academy during  
19 what they called their "Cultural Forum."  
20 This has not taken place in the last three  
21 years.

22 The Cultural Forum is one  
23 afternoon set aside to sensitize police  
24 officers, both recruits and in-service  
25 personnel, to the needs of various

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1 minorities, whether they were Hispanic, deaf  
2 Vietnamese, gay, or a woman living in the  
3 projects.

4 ~~I don't know any of the people~~  
5 at this table because I apparently came along  
6 after their time, but I could produce three  
7 people from the Police Academy who were well  
8 pleased with the information that was  
9 exchanged during these called-for forums.

10                   Only one time -- and I think I  
11 lectured four times -- was there a police  
12 officer who was outraged by the fact that  
13 this openly gay man had come and asked to be  
14 treated like everybody else. And he was so  
15 angry that he was almost incoherent and he  
16 lost any trace of professionalism. I didn't  
17 have to say a word because his colleagues  
18 knew that he had become unprofessional.

19                   And this was a very clear  
20 example of the kind of police officer who  
21 should be kept away from areas where there  
22 are a lot of gay residents, especially in the  
23 French Quarter.

24                   So the community forum which  
25 fell apart, I believe, during the change in

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1 administration and also due to budgetary  
2 restraints because there were no recruits at  
3 the Police Academy for quite a while, has not  
4 taken place in three years.

5 Now, some of these police  
6 officers have mentioned the COPE seminars.  
7 "COPE," which stands for "Community-Oriented  
8 Police Education," is sponsored by Loyola's  
9 Institute of Human Relations. It is a  
10 voluntary 16-week seminar. Sixteen police  
11 officers and 16 members of various  
12 communities come together 16 weeks in a row  
13 and spend the evening discussing various  
14 issues.

15 I was involved in one of those  
16 seminars. Only five minutes out of the 16  
17 weeks dealt in any way with gay issues or  
18 police relationships with gay people. So I  
19 don't want this Committee to go away thinking  
20 that there is any kind of formal educational  
21 sensitivity training going on right now  
22 between the Police Department and the gay  
23 community. It is not. I wanted that to be  
24 made very, very clear.

25 The other thing you need to

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1 look at that had me somewhat upset was the  
2 attitude of Sergeant Fonseca because he sort  
3 of blurred the issues. "We need to arrest  
4 these people walking down the street because  
5 somebody is masturbating up the block." What  
6 has one thing got to do with another?  
7 Because I'm gay, does that mean that I engage  
8 in that kind of activity? What about all  
9 the hustlers on the street?

10 This is the kind of  
11 information we were able to give to police  
12 recruits and to the in-service trainees.  
13 Just because a kid on the street is selling  
14 his body doesn't mean he's gay. He doesn't  
15 belong to the gay community. He doesn't go  
16 to the gay bars. He's not part of our  
17 organizations. We can't even reach people  
18 like that. If you ask these kids, "Are you  
19 gay?" they'll say, "Hell no."

20 Okay. What about the people  
21 picking them up? They must be gay. Wrong  
22 again. These people generally are married  
23 people, possibly bisexual, can't afford to be  
24 part of the gay community, and for some  
25 reason or other, which I don't understand, do

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1 these things with these teenage hustlers.  
2 ~~So we're going to arrest gay~~  
3 people standing in front of the gay bar  
4 ~~because there are prostitutes down the block?~~  
5 Do you see the confusion of issues? Does  
6 Sergeant Fonseca believe that this is what  
7 gay people do: engage in prostitution?  
8 I mean I have many, many gay  
9 friends. I have never sold my body, and I  
10 don't know of anyone else who does. I have  
11 never had sex in public. It might be nice if  
12 it was very isolated. I've never done it.  
13 But it seemed to me that the impression  
14 coming across from these police officers, the  
15 policymakers, the ones who give the flavor  
16 and the atmosphere to the Police Department,  
17 is that "This is what these people do;  
18 therefore, we have to get them off the  
19 street."  
20 I think you should be aware of  
21 the confusion of issues. I don't know any  
22 gay people that are in favor of public sex.  
23 That is not the issue. The issue is "Am I  
24 allowed, as a citizen of this country, to  
25 stand in the middle of a pedestrian mall on

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1 Bourbon Street with 10,000 other people and  
2 not be arrested?" That's the issue.

3 In terms of reporting crimes,  
4 this Committee is intelligent enough to  
5 realize that in this City, as in so many  
6 others, it is perfectly legal for an employer  
7 to say to somebody, "You're lesbian. You're  
8 fired." "You're a faggot. Get out." And  
9 you have no recourse. So, when somebody is  
10 illegally charged, it's very difficult for  
11 them to make the choice between continuing to  
12 earn a living or press for their civil  
13 rights.

14 Now, I happen to own my own  
15 business. Nobody can fire me. But we deal  
16 with some very large conservative  
17 corporations, and every time my name is in  
18 the newspaper or my face is on television, I  
19 have to worry: "Am I going to lose a big  
20 contract?" "Is one of my employees going to  
21 lose their job?" because I won't be able to  
22 keep them employed because I stood up for my  
23 civil rights. So, even though I am somewhat  
24 insulated from the job security problem, I  
25 still have to be cautious. I still have to

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1 be careful.

2 ~~And, finally, I'm sure you~~  
3 recognize, too, that although the Police  
4 ~~Department claims there's no policy of~~  
5 ~~discrimination -- and I believe that. I mean~~  
6 I personally have never had a negative  
7 experience with New Orleans Police Officers,  
8 but I could tell you about hundreds of them.

9           Although there is no policy  
10 of discrimination against people, it occurs  
11 every single day because of certain officers  
12 who are free to vent their discrimination and  
13 their prejudice and abuse the law and falsify  
14 arrests against gay men and women. I think  
15 this is very important for you to realize  
16 that it does happen. It's only the tip of  
17 the iceberg that you're seeing now.

18           My own partner in life of ten  
19 years was arrested in the middle of Bourbon  
20 Street while he waited for me to run back to  
21 the house and get my wallet, which I had  
22 forgotten. In two minutes, he was arrested  
23 for standing on Bourbon Street.

24           An employee of mine, who is  
25 obviously gay and very effeminate, saw two

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1 men who had mugged him several weeks before,  
2 and two blocks away there were some police  
3 officers standing by their car, and he asked  
4 them to go and arrest them. And they said,  
5 "Sure, honey, you go and hold them for us.  
6 We'll be right over."

7                   And a few weeks ago, a young  
8 gay man was arrested and thrown into Central  
9 Lockup, and the officer putting him into the  
10 holding cell with other men said, "Here you  
11 go, honey. Here's a fairy for you. Have fun  
12 with him."

13                   Ladies and gentlemen, only the  
14 blind cannot see what's happening here. I  
15 thank you for your time.

16                   CHAIRMAN FORTHAM:

17                   Thank you. I believe John  
18 Lewis wanted to make a short response.

19                   W. PASLS:

20                   And, with apologies to  
21 reporters, I'll talk very fast because I only  
22 want to take five minutes. But, first, I  
23 absolutely have to thank you on behalf of all  
24 of us for, first, having this forum; and,  
25 secondly, for the incredible patience you

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1 have shown in dealing in a professional  
2 manner with a very emotional issue and  
3 listening to all sides. We deeply appreciate  
4 it.

5 I only regret that both Police  
6 Superintendent Woodfork and City Attorney  
7 Jones did not bother to favor you with their  
8 presence.

9 Now, I'm going to have some  
10 documents I'm going to be passing --

11 MS. REYNOLDS:

12 Excuse me, sir. May I  
13 interrupt you for a moment?

14 Mr. Chairman, are there other  
15 members who would like to speak in the  
16 audience who have not had the opportunity to  
17 speak?

18 CHAIRMAN FONTRAM:

19 There is. We've got plenty of  
20 time.

21 MR. RAWLS:

22 Thank you, ma'am.

23 I'm going to be giving some  
24 documents to your staff person, including the  
25 letter that I sent to Mayor Bartholomey on

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1 behalf of Board of Lesbian and Gay Political  
2 Action Caucus, charging in this letter two  
3 weeks ago that there is a policy by police  
4 officers of arresting those who are  
5 obstructing the sidewalk and a policy by the  
6 City Attorney's Office of dropping those  
7 charges if the constitutionality is  
8 challenged.

9                   They didn't bother to tell the  
10 people who came here to speak to you today  
11 that those are the issues before you.

12                   I also have the statute. It's  
13 Section -- the ordinance. It's Section  
14 14:114.1, "Obstruction of Sidewalks." I'll  
15 leave it to the lawyers on your committee,  
16 when you read it, you'll see it does not make  
17 sense as an ordinance. And, when you put  
18 Paragraph A and Paragraph B together and drop  
19 out the notice requirement, then you get what  
20 the police are actually enforcing. The  
21 statute by the way is Louisiana Revised  
22 Statute 14:100.1. That's the equivalent  
23 statute.

24                   I also have the "not very well  
25 written but always effective" memorandum that

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1 we use as attorneys to get this statute  
2 dropped, and the specific citations of the  
3 Supreme Court that I would make to you is  
4 Coates versus City of Cincinnati, 1971, case.  
5 It's 402 U.S. 611 91 Supreme Court 1686 -- I  
6 regret I do not have the lawyer edition "2d"  
7 cite -- in which Justice Brennan said, if  
8 you'll bear with me:

9                   "The 1st and 14th Amendments  
10 do not permit a state to make criminal the  
11 exercise of the right of assembly simply  
12 because its exercise may be 'annoying' to  
13 other people. If this were not the rule, the  
14 right of the people to gather in public  
15 places for social or political purposes would  
16 be continually subject to summary suspension  
17 through the good-faith enforcement of a  
18 prohibition against annoying conduct, and  
19 such a prohibition," said Justice Brennan,  
20 "in addition contains an obvious invitation  
21 to discriminatory enforcement against those  
22 whose association to gather is annoying  
23 because their ideas, their lifestyles, or  
24 their physical appearance is resented by the  
25 majority of their fellow citizens."

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1 Justice Brennan had a crystal  
2 ball and could see how this statute would be  
3 enforced against gays and lesbians in New  
4 Orleans. And, as the Supreme Court points  
5 out, ~~citizen complaints, which the police~~  
6 officers have said is justification, is no  
7 justification for denial of constitutionally  
8 guaranteed liberties.

9 Remember for a second how they  
10 said, "Well, it's no big deal. They only get  
11 a \$60 fine." Think for a moment what an  
12 arrest means, ladies and gentlemen, because  
13 most of you probably have never been through  
14 one. It means you're frisked in public,  
15 you're handcuffed, you're put in a police  
16 car. you're taken to Central Lockup, you're  
17 processed. You have to call somebody up to  
18 get you out of jail. You may have to post  
19 bond. And you then have to go to court.  
20 It's a very embarrassing thing to go through  
21 just because you are the way that God made  
22 you.

23 And, believe me, I spent 25  
24 years trying to be straight. God intended  
25 for me to be gay, and it took me a long time

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1 to figure that out.

2                   And, while I'm on that  
3 particular subject, I go to a church, I teach  
4 Sunday school, I've been a Kawanian, I've  
5 ~~been an officer of the Elks Lodge. I could~~  
6 join the VFW. But I go to bars. Even when I  
7 give up drinking for Lent, I go to bars. And  
8 a high percentage of people who go to gay  
9 bars go there and don't drink. They drink  
10 soda water.

11                   On the other hand, the effect  
12 for us, we have three out of ten members of  
13 our community, it's estimate, who are either  
14 chemically or drug dependent. Because of  
15 this prejudice that you've been hearing  
16 about, you can imagine the effect on non-  
17 AIDs, the effect of stopping the spread of  
18 AIDs in this country.

19                   The American Medical Assoc-  
20 ciation, the American Psychology Associa-  
21 tion, the American Psychiatry Association  
22 all say homosexuality is not a disease. I'm  
23 not sick. But the National Association of  
24 Social Workers has gone the other step and  
25 said that the one of the worst diseases we

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1 have in this country socially is homophobia.

2 One last thing and my last two  
3 seconds, you need those statistics. You need  
4 those statistics. They tell you that they're  
5 not selectively enforcing. Fine. They  
6 should be happy to give you the statistics  
7 and put them on the map, pinpoint where they  
8 happen. Put them on the charts. See what  
9 time of night they happen. Take a look at  
10 the sexes of the individuals charged.

11 And I'll tell you what their  
12 position is. Charlene's bar was cracked down  
13 on in May of 1987. That's the date you want  
14 to get statistics for, sir. And the  
15 Superintendent of Police, when he met with  
16 Charlene and other representatives of our  
17 community, told us that the ordinance is  
18 never used indiscriminately but is only  
19 applied when there are specific complaints  
20 against specific individuals. And both  
21 Superintendent Woodfork and Captain Hunter,  
22 who's in charge of the Vieux Carre District  
23 Station, denied that there's any attempt by  
24 police to use this law to deprive lesbians  
25 and gay men of their right to walk the

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1 streets in peace.

2 Thank you, thank you again,  
3 for your time and your patience.

4 CHAIRMAN FONTHAM:

5 Thank you, sir.

6 The last listed speaker is  
7 Rich McGill. Is Rich McGill here?

8 MR. MCGILL:

9 Earlier today, when Stewart  
10 Butler had quoted Sandra McDade at the  
11 January 21st meeting, she had the opportunity  
12 to respond to that.

13 When Miss Reiboldt made a  
14 comment about that meeting and the  
15 emotionalism that's involved in this issue,  
16 I'd like to respond to her comment, when she  
17 said, to some effect, that Miss McDade was  
18 approached rather aggressively.

19 MS. REIBOLDT:

20 would you mind putting the  
21 microphone down a little bit? We can barely  
22 hear.

23 MR. MCGILL:

24 At that meeting, if you  
25 remember, I had my tape recorder on and I

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1 taped our conversation, and I want to read  
2 from that conversation.

3 Sandra McDade, "When I asked  
4 you why you voted 'no' to hold this community  
5 forum" --

6 CHAIRMAN FONTHAM:

7 Mr. McGill, is this going to  
8 really advance the cause here?

9 MR. MCGILL:

10 Yes, sir, I think it will  
11 because one of the problems that you all have  
12 had is deciding whether or not you should  
13 even hear us.

14 CHAIRMAN FONTHAM:

15 Well, we --

16 MR. MCGILL:

17 And I would like you to hear  
18 me.

19 CHAIRMAN FONTHAM:

20 Well, we haven't had -- I  
21 don't think this Committee decides whether  
22 we'll hear you. I'm just concerned -- I mean  
23 we do have rules about --

24 MR. MCGILL:

25 Well, this conversation, sir,

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1 you were not there for, and it does speak to  
2 what you're going to do next.

3 CHAIRMAN FONTHAM:

4 Well, I'm still going to rule  
5 it out of order. I don't want to cut you off  
6 and all. I'll let you submit a written  
7 transcript of it, if you want, to the  
8 committee, but I -- if you have something to  
9 say about the Administration of Justice and  
10 discrimination against homosexually oriented  
11 persons and the Administration of Justice,  
12 fine. But I'm going to rule a specific  
13 review of the facts of a prior meeting of our  
14 committee out of order in this meeting.

15 And I might also say I'm going  
16 to rule out of order any more comments by the  
17 committee members about what may have  
18 happened at that meeting.

19 So, Mr. McGill, I would  
20 welcome a statement from you on the subject  
21 at hand.

22 MR. MCGILL:

23 All right.

24 MR. RAWLS:

25 He can submit that in writing?

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CHAIRMAN FONTHAM:

He can submit a statement in writing if he feels a response to the Committee members appropriate, a statement in writing as to what happened.

MR. MCGILL:

All right. According to your own literature, the Civil Rights and Voting Rights Act and various court decisions -- quote -- "reflect findings and recommendations" -- recommendations -- "resulting from Commission hearings and studies."

I would like to see you recommend to the U.S. Civil Rights Commission and to the Congress -- recommend that they do pass legislation that will prohibit discrimination against based on sexual orientation. We should be included in these laws. We shouldn't have to be before you just regarding the Administration of Justice.

That was my comments.

CHAIRMAN FONTHAM:

I thank you, sir, for your comments.



1 Is there any other business?

2 Well, I think I want to say  
3 this: I have a feeling that the Committee  
4 may take some action with respect to the  
5 presentations that were made here today.  
6 That won't happen today, however. It will  
7 probably happen in the future meetings of the  
8 Committee.

9 I have found this whole day  
10 personally very enlightening, and I'm sure  
11 that everybody on the Committee has. And we  
12 very much appreciate the interest of the  
13 citizens who appeared and the interest of the  
14 citizens who appeared regardless of what they  
15 had to present. And I know that everything  
16 that was presented here today was presented  
17 in good faith in an effort to try to get  
18 things made better.

19 So we appreciate your coming.  
20 and I hereby --

21 MR. QUIGLEY:

22 Can I ask one question of you?

23 CHAIRMAN FONTHAM:

24 Mr. Quigley has a question of  
25 me. It will be a short answer.

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MR. QUIGLEY:

Our next meeting, is the public allowed to come to our meeting where we're going to talk about this and, if so, is there any sort of notice given to them when we're going to discuss what is going to happen?

CHAIRMAN FONTHAM:

I believe all meetings of the committee are publicized and are public. In other words, anybody can come to any meeting of the committee.

Okay. This meeting is adjourned.

\* \* \*

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REPORTER'S CERTIFICATE

I, **SUSAN LEMON**, do hereby certify that the foregoing proceedings were reported by me in shorthand, transcribed under my personal direction and supervision, and is a true and correct transcript to the best of my ability and understanding.

*Susan Lemon*

**SUSAN LEMON**  
Certified Shorthand Reporter

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