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UNITED STATES COMMISSION ON
CIVIL RIGHTS
THE DISTRICT OF COLUMBIA ADVISORY COMMITTEE
THE U.S. COMMISSION ON CIVIL RIGHTS

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FACTFINDING MEETING ON CIVIL RIGHTS IN
HOME MORTGAGE LENDING IN WASHINGTON, D.C.

624 Ninth Street, N.W.
Washington, D.C.

Monday,
December 12, 1994

The above-entitled meeting was held, pursuant
to notice, at 9:45 a.m.

- BEFORE:
- MS. M. CHARITO KRUVANT, Chairperson
 - MS. MARI CARMEN APONTE, ESQUIRE
 - MS. LAURA CHIN
 - MS. RITA DI MARTINO, Not Present
 - MRS. YETTA GALIBER
 - MR. JOSE GUTIERREZ
 - MR. STEVEN SIMS
 - MR. CLIFTON B. SMITH, ESQUIRE
 - MR. JOHN TOBBINGS, SR.
 - MR. JEFFREY R. WEINTRAUB
 - MRS. ANN F. HEUER
 - MR. DONNIE A. MCKETHAN
 - MARY K. MATTHEWS
 - MR. ED DARDEN, Civil Rights Analyst
and Commission Officer, Staff

ORIGINAL

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P R O C E E D I N G S

[9:45 a.m.]

1
2
3 MS. KRUVANT: Good morning. I would like to
4 thank everyone for coming. Let me begin by saying that
5 this is the body of the District of Columbia Advisory
6 Committee to the U.S. Commission on Civil Rights.

7 The Commission, as you may know, is a
8 temporary, bipartisan federal agency that does not have
9 enforcement authority. Eight Commissioners are
10 appointed by the President and Congress.

11 The Commissioners, in turn, appoint members
12 of the State Advisory Committees through its network of
13 advisory committees. The Commission provides an
14 opportunity for more than 600 citizens, who serve
15 without monetary compensation to render government
16 service in all 50 States and the District of Columbia.

17 Under federal law, the Commission and its
18 advisory committee have authority to collect and study
19 information regarding discrimination and the denial of
20 equal protection of the laws under the U.S.
21 Constitution when the denial is based upon race, or
22 color, or national origin, or sex, or age or
23 disability.

24 It is pursuant to that mission that our
25 factfinding meeting convenes today.

1 To assist the advisory committee, a record of
2 the proceedings is being made and all persons
3 submitting information to the advisory committee are
4 going to do so voluntarily.

5 Failure to give information will not result
6 in either penalties or sanctions. For access to any of
7 this information provided here today or any contained
8 in the files of the Commission, you may contact the
9 Office of the Solicitor of the U.S. Commission of Civil
10 Rights in Washington, D.C. And that information will
11 be made available to you.

12 We're also required by federal law to request
13 that all persons who provide information please refrain
14 from degrading or defaming other individuals

15 Federal law also protects anyone who appears
16 here today who does not wish to be photographed or
17 their comments reported in the press.

18 If that is your wish, please inform us and we
19 will take appropriate steps to respect your wishes.

20 Before we begin, let me take a moment and
21 introduce myself and my colleagues and explain how we
22 would be conducting the meeting today.

23 I am Charito Kruvant, Chairperson of the
24 District of Columbia Advisory Committee to the U.S.
25 Commission on Civil Rights. When I'm not doing this, I

1 head Creative Associates International, a consulting
2 firm.

3 The other members are in alphabetical order:

4 Mari Carmen Aponte, Laura Chin, Ann F. Heuer,
5 Rita Di Martino, who is not present today; Donnie A.
6 McKethan; Yetta Galiber; Jose Gutierrez, who has not
7 yet joined us; Steven Sims; Clifton Smith; John
8 Tobbings, Sr., who is not here yet; Jeffrey R.
9 Weintraub. These are the members of the Committee.

10 We also will have the pleasure of welcoming
11 the staff director, Mary K. Matthews, later on. And,
12 Mr. John Binkley as our Eastern Regional Director, and
13 Ed Darden, Civil Rights Analyst and principal staff to
14 the Committee, will be helping us for the day.

15 I will take just a couple of minutes to
16 explain what the Committee's rules are for the
17 proceedings today.

18 As you see in the agenda, which is available
19 at the rear of the room, we have scheduled three panels
20 to make presentations.

21 And after the panelists have completed their
22 statements, questions will be posed by members of this
23 committee.

24 Due to limitations on time, we will not be
25 able to take questions from the audience. However, let

1 me underscore that the Advisory Committee is empowered
2 to receive individual complaints that come within the
3 jurisdiction of the Commission.

4 If there are any persons who feel that they
5 have grounds for any discrimination complaint, please
6 see Mr. Darden and we'll provide you with information.

7 Just another word about our complaint-
8 handling process. The Commission is not an enforcement
9 agency, and we will not investigate your individual
10 complaint. We will forward your complaint to the
11 appropriate enforcement agency for review and possible
12 investigation.

13 The complaints we receive here today will be
14 turned over to the Commission's headquarter's staff for
15 processing. If you prefer to contact the headquarters
16 directly, you may do so at the Commission's toll-free
17 complaint hotline. The hotline number is:

18 1-800-552-6843.

19 Persons who are hearing impaired should
20 contact the operator in their area for assistance when
21 placing the call. The operator will contact the call
22 through the appropriate equipment to accommodate you.

23 As the chairperson, I am required to take
24 such measures as may be necessary to ensure that the
25 business of the committee is conducted in an orderly

1 fashion and may require of the audience to preserve
2 decorum.

3 In the event that the person, or persons
4 refuse to conduct themselves in a manner conducive to
5 the process of the committee's business, I must order
6 them to cease such an interference with the conduct of
7 the meeting, and may in the case of continuing
8 misconduct order the expulsion of the person, or
9 persons from participation in the meeting.

10 As the Commission Officer, Mr. Darden will
11 ensure that the orders of the chairperson in this
12 regard are carried out. And in the case of an
13 expulsion of an individual by the chairperson, Mr.
14 Darden will undertake such steps as are necessary to
15 expedite the expulsion, including seeking assistance
16 from personnel security.

17 The objective of today's forum is to gather
18 information on Home Mortgage Lending Discrimination in
19 Washington, D.C. The advisory committee decided to
20 undertake this inquiry sometime ago.

21 We're returning to our work on this topic
22 following the committee's involvement with the
23 Commission's hearing into racial and ethnic tensions in
24 Mount Pleasant. That Commission's effort produced a
25 milestone report, Racial and Ethnic Tensions in

1 American Communities, Poverty, Inequity and
2 Discrimination, Volume One, the Mount Pleasant Report,
3 which has served us as a benchmark for follow-up and
4 monitoring by the advisory committee over the past
5 year.

6 The advisory committee's interest in home
7 mortgage lending practices stems from our long-term
8 commitment for housing issues, including our earlier
9 report entitled Neighborhood Renewal, Reinvestment and
10 Displacement in D.C.

11 As background for our subjects today, the
12 Committee refers to 1989 Amendments to the Home
13 Mortgage Disclosure Act of 1975, known as AHMDA.

14 This just strengthens the framework of
15 federal laws governing the national institutions. The
16 AHMDA amendments supports civil rights enforcement,
17 efforts by requiring financial institutions to report
18 additional information on the disposition of lending
19 application.

20 This became useful data for fair housing
21 groups and others who are concerned that lenders may be
22 red-lining minority communities and over-identifying
23 minority applicants for credit denial.

24 Red-lining as a term has come to mean a wide
25 range of discriminatory actions. Its earliest meaning

1 derives from the belief that at one time sub-lenders
2 actually drew red circles on real estate maps to
3 identify areas where they would not do business.

4 The use of that term today refers to blatant forms
5 of unfair lending practices.

6 Mortgage discrimination has other, more
7 subtle manifestations. For example, the disparate
8 treatment of minorities. This form of discrimination
9 takes place when two applicants identified in all
10 aspects except for a particular characteristic, such as
11 gender, race or property location, receive different
12 treatment based on that characteristic.

13 A third form of discrimination occurs when
14 seemingly innocuous lender -- result in the unfair
15 denial of credit to protected classes. The adverse
16 impact on the protected group need not entail conscious
17 mainstream mistreatment of minorities.

18 The Federal National Mortgage Association,
19 Fannie May, notes that the lender policy must meet two
20 criteria to provide evidence of adverse impact. It
21 must disproportionately deny credit to minorities, and
22 it cannot be rationally-related to a legitimate
23 business purpose.

24 Unlike some civil rights problems that evoke
25 this response among large segments of the public,

1 lending discrimination may perhaps be a silent form of
2 bias against minorities where we're unaware of its
3 methods.

4 Through the presentations today, we hope to
5 better understand aspects of lending discrimination and
6 government civil rights enforcement. We will be
7 convening three panels of knowledgeable speakers to
8 bring us information.

9 In panel one, we cover what we know about
10 Mortgage Discrimination, a Research Perspective. A
11 distinguished panel of three experts will treat the
12 topic.

13 In panel two, Estimating Discriminatory
14 Practices, two panelists will present information on
15 practical aspects of identifying problems of equal
16 access to home lending and the tools that industry and
17 consumers can use to lower and eliminate barriers.

18 In panel three, we will round out today's
19 sessions with a discussion on federal and local
20 government commitments to civil rights enforcement.

21 At the conclusion of the factfinding session,
22 the advisory committee will begin a review of the
23 information that we have gathered, and prepare a
24 written report to the Commission.

25 The meeting record will remain open for 30

1 days to receive comments from any person, or persons
2 who wish to contribute to our understanding of this
3 important topic.

4 Again, I would like to thank you for
5 participating today.

6 Shall we start the panels?

7 Are members of panel one available?

8 Good morning. Thank you for coming. I
9 understand that Mr. Reiman is on his way, and is not
10 here yet. So we will start with Ms. Bennett and Mr.
11 Galster. Thank you very much.

12 Is there a particular order?

13 Thank you so much for being here. We really
14 appreciate that you are providing us with this very
15 useful information.

16 Shall we start with you, Ms. Bennett?

17 MS. BENNETT: Thank you.

18 PANEL I:

19 WHAT WE KNOW ABOUT MORTGAGE DISCRIMINATION:

20 RESEARCH PERSPECTIVES

21 STATEMENT BY LORAIN BENNETT

22 GREATER WASHINGTON URBAN LEAGUE, INC.

23 WASHINGTON, D.C.

24 MS. BENNETT: Good morning. My name is
25 Loraine Bennett. I thank you for the opportunity to

1 share with you the findings of a recently-released
2 study of single-family mortgage lending in the District
3 of Columbia, entitled "District of Columbia Single-
4 Family Mortgages Among Minorities, 1990-1992."

5 The study was prepared by the Greater
6 Washington Urban League through a grant from the D.C.
7 Department of Housing and Community Development.

8 I would like to note that the grant also
9 provided for a number of public education initiatives
10 on fair housing, fair lending. That included a
11 television panel discussion, several radio shows, and a
12 community forum with panelists from the Department of
13 Housing and Urban Development, Department of Justice,
14 Financial Institutions and grassroots leaders in
15 community reinvestment.

16 I served as the League's Project Coordinator
17 for those initiatives, including co-authorship of the
18 Mortgage Lending Study, which we'll be sharing with you
19 today.

20 The study was the third in a series of
21 mortgage-lending studies contracted by the District
22 Government to support the monitoring efforts of the
23 D.C. Office of Banking and Financial Institutions.

24 One of the responsibilities of that office is
25 to track the lending performance of financial

1 institutions that fall under the authority of the D.C.
2 Regional Interstate Banking Act of 1985. That includes
3 six of the 14 banks reported on in this study.

4 I should note that there have been many
5 studies of local mortgage-lending in the D.C.
6 metropolitan area and you've already discussed this --
7 there will probably be many more.

8 What is unique about our study is that it is
9 focused solely on mortgage applications for homes in
10 the District of Columbia. My testimony today will
11 summarize the findings of that study.

12 As stated earlier, we examined the 1990
13 through 1992 Mortgage Applications of 14 financial
14 institutions and their mortgage affiliates. The first
15 six that I will name fall under the supervision of the
16 D.C. Banking Office. They are American, Security,
17 Citizens, Crestar, Dominion, Nation's Bank and Signa.

18 The latter eight do not. They are Citibank,
19 Columbia First, First American, Home Federal Savings
20 Bank, Independence, Industrial, Riggs and Washington
21 Federal.

22 Our data are based on loan application
23 registers filed by these institutions and compiled by
24 the Federal Financial Institutions Examinations
25 Council, or FFIEC, as required by the HMDA, or Home

1 Mortgage Disclosure Act.

2 Loan applications reported include those for
3 purchase, home improvements and refinancings. Note
4 also that since the time period reported in this study,
5 Dominion, First American and Home Federal have been
6 acquired by the 1st Union Corporation, and American
7 Securities has been acquired by Nation's Bank.

8 Based on the 1990, census, 70.4 percent of
9 the District's population is minority, including 65.8
10 percent black residents.

11 Further, using a two-thirds minority
12 population to define a minority census tract, which is
13 the criteria that we determined, 122 of the City's 192
14 census tracts, or 64 percent are considered to be
15 minority tracts in the study.

16 And I understand from Mr. Darden you have a
17 copy, or do you, of the studies? You have the map that
18 shows where those are.

19 Using these data as a barometer, we asked two
20 basic questions related to minority mortgage lending in
21 the District:

22 Does the three-year trend from '92 show
23 progress in lending to minority applicants and
24 neighborhoods?

25 And, how do the banks compare with one

1 another?

2 The answer to the first question, has there
3 been progress, is mixed. Following the national
4 pattern, the total volume of mortgage lending activity
5 in the District of the 14 banks between '90 and '92
6 increased by more than 50 percent in the number of
7 loans, from 2,157 to 3,275.

8 An increase by 110 percent in the dollar
9 value of those loans for more than \$249 million to \$525
10 million.

11 However, the three-year trend demonstrates
12 mostly negative results for minority applicants. We'll
13 focus first on the borrower, who these loans were made
14 to.

15 The volume of dollars loaned to minorities
16 decreased from '90 to '91, though it did rebound
17 somewhat in '92. The number of loans shows the reverse
18 pattern.

19 In '90, minority borrowers received 925
20 loans. That number rose to 946 in '91, but then fell
21 back to 935 in 1992. In other words, while the total
22 number of loans to minority borrowers increased by more
23 than 30 percent between '90 and '92, the number
24 actually decreased in the latter, from '91 to '92.

25 Further, the percentage of the total number

1 of loans that were approved for minority borrowers
2 dropped from 43 percent of the total approved loans in
3 '90 to 29 percent in 1992.

4 This is the comparison of the total of loans
5 approved for minorities to the total loans approved by
6 the 14 institutions. And the percentage of total loan
7 dollars that went to minority borrowers also declined
8 from 27 percent in '90 to 18 percent in 1992.

9 Now we looked at where the loans were made,
10 or where the properties were.

11 Looking at loans approved for properties in
12 minority census tracts, the volume of loans increased
13 over the three-year period by 1 percent, and the
14 dollars loaned in minority neighborhoods increased by
15 59 percent.

16 However, despite the increase in the volume
17 of lending to minority communities, their relative
18 position deteriorated. In 1990, 41 percent of the
19 total number of loans were made in minority census
20 tracts. This figure dropped to 32 percent in 1992.

21 When the dollar value of loan activity is
22 examined, the percent of all loan dollars which went to
23 minority communities fell from 26 percent in '90 to 20
24 percent in 1992.

25 Remember that 64 percent of all census tracts

1 in the District have two-thirds or more minority
2 populations.

3 Comparison of average loan sizes demonstrates
4 further disparity in lending among ethnic categories.
5 The average minority loan size in 1992 was \$97,000, up
6 considerably from \$63,000 in '91 and \$72,000 in '90.

7 At the same time, successful white loan
8 applicants received an average loan of \$190,000 in
9 1992, up from \$163,000 in '91 and \$160,000 in 1990.

10 Unfortunately, we were unable to examine
11 reasons for denial due to insufficient information to
12 provide a fair analysis. But, I would like to add
13 something to respond to earlier questions about reasons
14 for denials and the suggestion that lifestyles might be
15 involved.

16 The Federal Reserve Bank of Boston in 1992
17 released a study that was a very thorough examination
18 of their own member banks.

19 Mr. Galster, I don't know if you know how
20 many member banks, but it's more than --

21 MR. GALSTER: More than 300.

22 MS. BENNETT: About 300 of their member banks
23 where they were able to do something that of course we
24 as researchers are unable to do. And that is go into
25 the loan files, and as Mr. Darden suggested, match

1 characteristic for characteristic of approved white
2 applicants with denied minority applicants --
3 "characteristics" meaning things like debt-to-income
4 ratio, credit employment history.

5 And what they found in matching those
6 characteristics with each other that the basic -- or it
7 still came down to discrimination and a matter of
8 judgment on the part of the originator -- not the
9 originator, but the underwriter. And those findings
10 were further examined and verified recently by James
11 Carr, who is with the research arm of Fannie Mae. I'm
12 sorry that I don't have those here with me, but I'd be
13 glad to help anyone who would like to get hold of those
14 studies to do so. And they provide a much better
15 description of the story than I have just given. I
16 wasn't prepared to do that, but I did want to add.

17 As I said, because we had insufficient data,
18 we couldn't get into the reasons for denial, such as
19 the Federal Reserve Bank's study did. However, for
20 every four minority applicants applying for a single-
21 family mortgage loan in each of the three years that we
22 looked at, one was rejected.

23 This compares to one rejection for every 10
24 white applicants in '92, one for every six in '91 and
25 one for every 12 in 1990.

1 Analysis was also performed to determine
2 whether applicants, both minority and non-minority, had
3 different denial rates depending on the location of the
4 property, whether it was in a minority or a non-
5 minority census tract.

6 This can sound a little tedious, but bear
7 with me. We looked at four categories for each of the
8 three years. The minority applicants applying for
9 mortgages for properties in a minority tract, minority
10 applicants applying for a mortgage in a majority tract,
11 the majority applicants in a minority tract and
12 majority applicants in a majority tract.

13 Simply put, the data demonstrate that
14 whenever there's a minority indicator, the probability
15 of rejection increases. The applicant most likely to
16 be denied a mortgage application is a minority trying
17 to obtain a mortgage in a minority area.

18 The least likely to be denied is a white
19 applicant applying for a mortgage in a white area.

20 The final area of examination I'd like to
21 share with you today concerns the numbers of mortgage
22 applications received from minority borrowers as
23 compared to the whole.

24 As we all know, the Department of Justice
25 recently indicated that a bank may be found guilty of

1 discrimination if it excludes certain communities in
2 its marketing.

3 Our study found that while the number of
4 white applicants at the 14 banks increased by 95
5 percent between 1991-1992, the percentage of black
6 applicants decreased by 8 percent.

7 The picture I have presented to you today is
8 a depiction of the summary data, who the 7,627 loans
9 amounting to more than \$1 billion that were approved by
10 the 14 institutions from '90 through '92, who those
11 loans were made to and which neighborhoods benefitted
12 from those loans.

13 For each principal component of analysis,
14 specific bank by bank data were also presented, and
15 provide the bases upon which rankings of the
16 institutions were prepared.

17 Again, those elements are percentage of the
18 number of total mortgage loans made to minority
19 borrowers, the percentage of total mortgage dollars
20 loaned to minority borrowers, the percentage of the
21 total number of mortgage loans made for properties in
22 minority census tracts, and the percentage of total
23 mortgage dollars loaned for properties in minority
24 census tracts.

25 Based on these elements, composite scores

1 were developed for each financial institution for the
2 three years examined. The final rankings are as
3 follows from first, or the highest, to the last, which
4 is the bottom. And I will read them:

5 Industrial, Independence, Crestar, 1st
6 American, Signa, Riggs, Dominion are the top seven in
7 that order. And then followed by American Security,
8 Washington-Federal, Nation's Bank, Citizens, Columbia
9 First, Home Federal and Citibank.

10 Prior to release of this study each of the 14
11 institutions was invited to review a draft of the study
12 and respond in two ways. They were asked to provide a
13 description of the extent to which their bank had
14 undertaken activities to reduce disparities in lending,
15 and were asked to comment directly on the study's
16 findings.

17 It is in this chapter of the study that there
18 is the most promising news. Many institutions
19 responded in detail on their efforts to reduce
20 disparities in lending. Those efforts generally break
21 down into four areas: Internal and external review of
22 denied mortgage applications, new affordable mortgage
23 products that have flexible underwriting criteria, new
24 steps to educate existing employees on fair lending
25 issues, and to hire an ethnically-diverse work force,

1 and increased efforts to provide effective outreach in
2 marketing to all segments of the District's
3 neighborhoods and populations.

4 Those who were involved in fair lending
5 issues are aware of many of these initiatives, and we
6 applaud and support them. However, we are all too
7 aware that it is not good will and a desire to be a
8 good corporate citizen alone that are responsible for
9 these efforts.

10 They are also the result of the growing
11 public scrutiny of lending practices and performance at
12 the federal and local level.

13 I thank the District of Columbia Advisory
14 Committee to the U.S. Commission on Civil Rights for
15 convening this factfinding meeting, and I urge you to
16 do everything within your power to not only continue to
17 get the facts, but to support and initiate efforts to
18 provide public education on fair lending and community
19 reinvestment requirements.

20 After all is said and done, it's an educated
21 consumer who is the ultimate regulator.

22 I have with me copies of a press release
23 about this study in the rear of the room that provides
24 information on where copies can be secured. And I
25 thank you, again.

1 MS. KRUVANT: Thank you again.

2 Are there some specific questions that we
3 would like to address?

4 MRS. HEUER: Is there a study going on now
5 for the 1993-94 census?

6 MS. BENNETT: I'm sure that there are. It's
7 not one that I'm engaged in. The '93 data just became
8 available this fall, and '94 isn't reported until next
9 year. So, the most current would be one that adds one
10 year to what we've done, and that's 1993.

11 I think the District of Columbia government
12 has been the only institution interested in this kind
13 of specific data about the District. And I don't know
14 that, with limited resources, that --

15 MRS. HEUER: Well, I guess my concern would
16 be that if there is another study going that it include
17 some of these other mortgage companies because I'm
18 concerned that by looking just at the banks, I think
19 there's some of them that may in fact not be doing as
20 good a job as they could.

21 But, there's also a great deal of competition
22 out there to get mortgages. And I feel that any study
23 that is going to offer a true picture of the District
24 of Columbia should consider all these other
25 institutions.

1 MS. BENNETT: I agree with you. I believe
2 it's effective with '93 reporting for the first time
3 most mortgage companies had to report their mortgage
4 loans. That is a new -- the data was unavailable.
5 They were not required until on the '93 reporting to
6 report those loans.

7 So we haven't been able to do so. But, I
8 agree with you. And something else on mortgage
9 companies. There are proposed revisions to the D.C.
10 Banking Act which would broaden the authority of that
11 law in the D.C. Banking Office to include mortgage
12 companies, because they're unregulated locally also.

13 MR. SMITH: I have several questions having
14 to do with the very beginning of your discussion,
15 talking about those institutions that fall under the
16 authority of the D.C. Office of Banking's provisions
17 versus the others.

18 Would you just perhaps explain to this group,
19 this body, the difference between those that fall under
20 the Office of Banking supervision versus the others?

21 MS. BENNETT: Generally, those holding
22 companies that come into the District that acquire
23 local banks, as they make application, they have to
24 make application locally and fall -- and make local
25 community development commitments that are negotiated

1 with the Banking Office, and ultimately legislated by
2 Council before they can begin to -- before the
3 acquisition is complete.

4 As an example, the first was Crestar and its
5 acquisition I believe of NS&T. And it was first
6 acquisitioned following this law in '85 or '86. They
7 made commitments at that time, a 10-year commitment, to
8 do particular lending in the under-served community.

9 The earlier commitments were pretty general.
10 Everybody was learning how to do this thing.
11 District's law is one of the most far-reaching in the
12 country. But, as an example, with the most recent
13 acquisition of American Security by Nation's Bank and
14 1st Union's acquisitions of 1st American and Dominion
15 particularly, the commitments that were made were I
16 think over the 10-year period, it's been over \$824
17 million in commitments to under-served communities in
18 the District.

19 But, the more recent commitments have been
20 much broader than they were in the past. For instance,
21 they went to the percentage of procurements that had to
22 go to local minority businesses. They went to the
23 constitution of the make-up -- composition rather of
24 the local board of 1st Union and of Nation's Bank.
25 Talked to very specific areas rather than a general \$10

1 million to under-served areas.

2 MS. KRUVANT: Were there other questions?

3 MRS. GALIBER: Just a statement.

4 I just wanted to say I was very happy. I'm
5 the chairperson of the advisory board for the
6 Industrial Bank, so I'm glad to see it ranked number
7 one.

8 [Laughter.]

9 MS. BENNETT: They were also.

10 MR. WEINTRAUB: I have a couple of questions.

11 On page three of your opening statement here,
12 you mentioned something about the total volume of
13 applications that were made to these banks during the
14 period.

15 First of all, is it possible that that has
16 some impact on what findings are that you reported
17 earlier in this -- in your statement earlier in the
18 study?

19 I mean, is it possible for whatever reason
20 that there were just fewer people who were applying for
21 loans? Therefore, fewer loans that were given out
22 during the time period?

23 And is there any way to surmise why the
24 figure dropped -- well, there were so few black
25 applicants during the time period? Is there any

1 analysis of that at all, or any ability to understand
2 why that occurred?

3 MS. BENNETT: Clearly.

4 MR. WEINTRAUB: It's a stark number, I think.

5 MS. BENNETT: Clearly, refinancings impacted
6 on application numbers. Probably, most significantly,
7 white applications were refinancing. I mean, it speaks
8 to the broader issue of home ownership and the
9 percentage of District residents who are homeowners as
10 opposed to renters, and I don't know all that.

11 But, clearly, refinancings impacted on the
12 number.

13 MR. WEINTRAUB: And that probably --

14 MS. BENNETT: I don't know why that --

15 MR. WEINTRAUB: It has something to do with
16 the 95 percent of white applicants?

17 MS. BENNETT: But I cannot speak to the drop
18 in black applicants.

19 MR. WEINTRAUB: But, in answer to the first
20 question, is it possible that this disparity which
21 you're showing, which is a very, you know, troubling
22 one and significant one, has something to do with just
23 the fact that there were, for whatever reasons, fewer
24 minorities who were actually applying for loans in the
25 first place?

1 I mean, is that --

2 MS. BENNETT: If we had the data, if I had
3 the data right now to look at, if I could look at the
4 District and see if in District applications that the
5 mortgage companies picked up the slack and the people
6 started moving to mortgage companies, maybe that's --

7 MR. WEINTRAUB: Okay, but that wasn't part of
8 the study?

9 MS. BENNETT: No. No. No.

10 MR. WEINTRAUB: And how much of an impact do
11 you think might the refinancing activity, the huge jump
12 in refinancing, have had on the outcome of the data
13 here? Particularly because what little I know about it
14 I think that during that time period especially there
15 was an enormous amount of refinancing going on.

16 MS. BENNETT: Clearly, refinancing impacted
17 on this.

18 MR. WEINTRAUB: Yes.

19 MS. KRUVANT: Are there any other questions?
20 Yes.

21 MR. DARDEN: I had one. In trying to get
22 through some of the data in a sort of simple way, you
23 mentioned that Ward III at 88 percent white, it's got a
24 fairly high rate of mortgages as well as acceptances.

25 In your mind, if that figure was reversed

1 and, instead of 88 percent white, that population was
2 88 percent African-American and Hispanic, would the
3 lending patterns change as well?

4 MS. BENNETT: Well, I guess the only way I
5 can respond to that is look at Ward III as compared to
6 Ward IV and Ward V, particularly Ward IV, where, you
7 know, Ward IV has the highest percentage of home
8 ownership, owner-occupied homes in the District, and to
9 see the disparity there.

10 I mean, again, I would only be guessing.
11 It's an unfortunate, easy conclusion, I guess.

12 MS. KRUVANT: In your judgment, where and
13 when does discrimination occur, if discrimination
14 occurs?

15 MS. BENNETT: I can only speak to
16 disparities. You were discussing testing before, and
17 testing is where I can really point the finger and say
18 this was discrimination.

19 We could say that what builds up to this is
20 our economy in a way, and the polarization, the
21 disparities in incomes, disparities in situations for
22 our children. I mean, we could look there and talk
23 about ourselves as a community and how we're preparing
24 ourselves and our young people for, you know, all the
25 benefits of adult life.

1 I would say that -- to stick to the issue of
2 mortgage lending -- that the extent to which a bank
3 promotes its products in every community and every
4 branch and provides assistance there at that branch in
5 that community, in every community in completing an
6 application and giving some general information and
7 advice about the whole mortgage process probably
8 impacts as much as anything else on the success ratio.

9 Rather than going to the negative point,
10 going to the positive, the extent to which banks
11 actively do that, you know, with regionalization of our
12 banks, with super powers, you know, coming in and
13 acquiring a lot of our local banks. I mean, there are
14 some benefits. Maybe, they have the ability to do some
15 more flexible underwriting and some creativity.

16 But, on the other hand, you lose a local
17 flavor and a local touch, and you also lose local
18 decision-making about underwriting criteria and
19 marketing, and how to market.

20 And so I think that's something that needs to
21 be worked on.

22 MS. KRUVANT: One more question.

23 MS. CHIN: When you talked about the banks,
24 do they then use their own resources to market, to
25 promote their mortgage?

1 MS. BENNETT: Yes.

2 MS. CHIN: Each bank is responsible. So this
3 is over these broader corporations that own the banks.

4 How much impact do they have then on the
5 local market and how they would outreach the people,
6 and educate people, and want their business?

7 MS. BENNETT: I can give you the example of
8 one of the megabanks. When it completed some
9 acquisitions here, it set up a local advisory
10 committee.

11 That has even gone so far as to look at the
12 photographs used in their local marketing, and argue
13 and dicker about underwriting criteria and the kinds of
14 mortgage products that they have.

15 That's not been the case with others. So, it
16 varies. I would still say, even with that institution,
17 that the bottom line is held by the mother corporation,
18 or the holding company, but there's a lot more
19 flexibility.

20 So it depends. There's no rule.

21 MS. KRUVANT: Ms. Bennett, we're hoping that
22 you could stay throughout the end of these panels so we
23 can address some additional questions.

24 But, we do thank you for your presentation.

25 MS. BENNETT: All right.

1 MS. KRUVANT: Mr. Galster.

2 MR. GALSTER: Thank you.

3 GEORGE GALSTER, SENIOR RESEARCH ASSOCIATE

4 THE URBAN INSTITUTE

5 MR. GALSTER: Thank you for the committee for
6 the opportunity to speak with you this morning.

7 My name is George Galster. I'm a Senior
8 Research Associate of The Urban Institute.

9 What I'd like to do is address the very
10 pointed question that our chairperson offered just
11 recently:

12 What do we know about discrimination in
13 mortgage lending?

14 The answer to that question is:

15 Enough to conclude that it's been identified
16 in certain circumstances, but not enough to tell us
17 exactly how often it occurs, in which institutions and
18 in which locations across the country.

19 We have, if you will in my opinion, a vague
20 outline of the nature of the problem, but not a good
21 indication of how severe the problem is and exactly
22 where it occurs.

23 Now, in order to expand on that conclusion up
24 front, I will be talking about a paper that was
25 commissioned by the Department of Housing and Urban

1 Development that I presented last year. And that paper
2 attempted to review the studies that have been
3 conducted from a variety of perspectives across the
4 nation over the last several decades.

5 Unfortunately, those studies do not, with
6 rare exception, focus on what's happening in the
7 District. So I will admit up front that what we think
8 we know about discrimination is much more from a
9 national perspective and less from a local perspective.

10 What do we know about discrimination?
11 Nationally? Well, I think the appropriate parable that
12 we should think of is the old story about the blind
13 scientists feeling different parts of the elephant and
14 trying to come to conclusions about what the whole
15 beast looks like.

16 Everyone grasps a little appendage and draws
17 an incorrect conclusion based on that one little piece
18 that he or she is feeling.

19 Unfortunately, the studies of mortgage
20 activities fall in a same sort of situation. We only
21 have a partial view of what's going on. And it's not a
22 problem of the researchers. It is most frequently a
23 problem of inappropriate data to get the answers we'd
24 really like to get.

25 And it's the limitations of the data that's

1 probably more frustrating in this area than in any
2 other area relevant to civil rights.

3 Ms. Bennett's study is a perfect example of a
4 well-done study that can answer some interesting
5 questions, but as she was very careful to point out, it
6 can't directly answer the question of how much
7 discrimination is happening in the District? And,
8 ideally, at what point? And by what institution? The
9 data just can't give you that power.

10 As she pointed out, it correctly can tell you
11 some disparities. You can identify patterns, but it's
12 very problematic to go beyond the identification of the
13 pattern to look at the causes for that pattern.

14 The patterns we see are consistent with a
15 variety of different causes. And I'm going to be
16 arguing that we need to get behind that with some
17 different kinds of research to find out what the real
18 causes of these patterns are because without that we
19 don't have any idea of where to direct our scarce
20 policy enforcement resources.

21 Having said that there are a variety of
22 different possible reasons of why we see disparities
23 such as Ms. Bennett's study have pointed out. Let me
24 talk about three areas of research which at least
25 nationally have been able to come to what in my opinion

1 are reasonably definitive conclusions about what's
2 going on out there, at least in the area in which these
3 studies were conducted. Again, with the caveat that
4 with one exception these are not D.C.-based studies.

5 The three areas where I think there has been
6 persuasive, convincing evidence of discrimination-- not
7 just disparities, but discrimination-- are in the pre-
8 application process, in some statistical analysis of
9 lending files, and in some geographic analyses of
10 office locations. And I'll talk about all three of
11 those.

12 First was the pre-application investigations
13 which used fair testing. There have been pilot studies
14 that have been published that purport so far -- one
15 done in Chicago and one done in Louisville, Kentucky--
16 that used paired individuals, one minority/one
17 majority, who posed as mortgage seekers.

18 And one of them would go into a mortgage
19 company or a bank and try to gain information, as any
20 of us typically would when we're trying to start the
21 mortgage process off.

22 And, at the end of that situation, would go
23 and record all the information that he or she was told.

24 Their team mate, who would have similar sorts
25 of qualifications, family desires, would have a

1 practice scenario that they would ask to the lender as
2 well, would go in sometime later, again, record the
3 treatment and information and courtesies that he or she
4 was given. And, at the end of the day, you compare the
5 treatment given to these two testers.

6 Now, these studies were not designed for
7 enforcement purposes, but they did find examples of
8 what they thought were illegal acts of differential
9 treatment.

10 Typically, what took place when these acts
11 occurred was that less information and assistance was
12 given to the minority inquirer than the majority one.
13 Little helpful hints about, "Gee, if you only come back
14 next month and you clean up this little piece on your
15 credit history," or "If you have this little extra
16 amount of money in the bank, you'll get this
17 application through."

18 Those kinds of pieces of helpful advice were
19 given to the majority tester, not to the minority
20 tester.

21 So there does seem to be indications that
22 even before you file that application, there is
23 differential treatment which does the test control for
24 everything besides race can only be due to racial bias.

25 And that, I would suggest, is illegal.

1 The National Fair Housing Alliance here in
2 Washington, D. C. is currently conducting tests that
3 use this same methodology and they're in a variety of
4 cities nationwide being sponsored by HUD funding. And
5 they will be using the results of those tests to file
6 litigation.

7 Those are not publicly available at this
8 point, since they're obviously using it for enforcement
9 purposes. But, we'll be interested in seeing what
10 sorts of information these court cases come up with.

11 The second area where I think there is
12 interesting data that is reasonably conclusive is in
13 the area of the statistical analysis of loan files.

14 Ms. Bennett already referred to the most
15 famous one of those studies, the Boston Federal Reserve
16 Study. This statistical analysis of thousands and
17 thousands of applications suggested that equally
18 credit-worthy minorities, which included both African-
19 American and Hispanic applicants in Boston, had a 60
20 percent higher probability of being denied than their
21 white compatriots.

22 There was another similar sort of statistical
23 analysis that was conducted as part of the Department
24 of Justice suit against the Decatur Federal Savings and
25 Loan in Georgia in 1992. And they, too, saw in this

1 particular bank's files examples of differential
2 treatment of individuals who had made applications, and
3 they seemed to be equally credit-worthy, but the
4 benefit of the doubt seemed to be given to the white
5 applicants -- the folks who were on the borderline and,
6 well, the judgment call could go either way, yes, for
7 the majority, no for the minority.

8 So, again, those are limited studies. We
9 have this kind of evidence for one savings and loan in
10 Atlanta and a group, a variety of institutions in
11 Boston. Not such a study has been conducted in the
12 D.C. area.

13 And the last area that's interesting is the
14 office location area of study. DOJ also in the Decatur
15 Federal case analyzed where office locations were done
16 and where marketing activities were conducted by
17 Decatur Federal, and found that that pattern was
18 consistent with the discriminatory intent to remove
19 itself from predominantly minority-occupied residential
20 areas.

21 And as was alluded to by Ms. Bennett, a
22 similar sort of investigation and finding was made in
23 the case of Chevy Chase here in the Washington, D.C.
24 area by the Department of Justice.

25 Other than these studies, however, I think we

1 only have the vaguest outline of the scope of the
2 problem. And I know that you'll think, well, it's
3 self-serving for a researcher to say we need more
4 research. Don't they always say that?

5 Well, perhaps. But, in this case, it's
6 absolutely crucial because if we don't know more about
7 why these patterns are occurring, we simply don't know
8 how to direct our policy efforts.

9 I mean, let's take, for example, the
10 particular findings that Ms. Bennett just reported
11 about these disparities. We see higher denial rates,
12 let's say, for minorities than majority applicants in
13 the District, as we do in virtually every other
14 metropolitan area.

15 Well, what's the cause of that? It's a fact.
16 Well, one possible cause is that equally-qualified
17 minority and majority borrowers are being illegally
18 discriminated against by lenders. That's one
19 possibility that explains the fact that we see.

20 Clearly, that has some very dramatic policy
21 implications about regulatory agencies, Fair Lending,
22 Fair Housing, Civil Rights agencies doing better
23 enforcement and in bank examination efforts.

24 However, another explanation for that fact
25 could be that the typical minority applicant is simply

1 not as well qualified as the typical majority
2 applicant, the lending institutions in the City.

3 And the HMDA data will only allow you to
4 compare their income levels and their gender, and it
5 won't allow you to compare some other very important
6 things like their credit histories, their employment
7 histories, how much money they have in the bank, and
8 things which really should matter to lenders in a fair
9 world.

10 Well, if that difference in their actual
11 qualifications is primarily responsible for the
12 disparity in rejection rates here in the District, that
13 implies a very different policy strategy. It could
14 imply that we need to get education and outreach
15 activities into the minority community so that folks
16 realize you can't have these blots on your credit
17 records. You can't just blow off your credit card
18 payments for a couple of months and expect not to see
19 some consequences later on.

20 Maybe it's a whole set of consumer counseling
21 activity and other kinds of credit counseling
22 activities that are the real policy thrust that needs
23 to be pursued.

24 We could go under this in more detail if
25 you'd like. But, I'm trying to suggest that we know

1 some things but we know relatively few things in enough
2 clarity to allow us to clearly direct our policy.

3 And I think that the Civil Rights agenda
4 would be much better served by getting some better
5 sense of what the whole elephant is out there before we
6 leap into some perhaps ill-founded conclusions about
7 what's the best way to get that beast to move in a way
8 that's fairest for everyone.

9 Thank you.

10 MS. KRUVANT: Thank you.

11 Are there any questions? Mr. Sims.

12 MR. SIMS: I guess I'd like to start with
13 saying here we are, for all intents and purposes, in
14 1995 and hearing that we just don't have enough
15 information.

16 And whether the lack of information results
17 in lack of education or training or preparing people to
18 go in and compete for these loans, or the issue of
19 looking at sanctions or looking at a monitoring process
20 for the lending institutions because of discrimination,
21 I mean, I get really upset because we're going to have
22 to either wait years and years to identify more
23 portions of the elephant so that we can say what the
24 subject looks like and, therefore, enforcement
25 policies, or we allow the process to continue as it has

1 continued without the people being served.

2 I mean, it doesn't make any sense to have
3 enforcement policies at all if we have no idea in hell
4 what the issues of concerns are. And we have no way
5 then to look at some reasonable, rational policy that
6 allows us to straighten out a difficult situation.

7 MR. GALSTER: I would not go so far as to say
8 that we have to wait another 10 years until everyone is
9 completely clear about what the world looks like before
10 doing anything. I think there are clearly some steps
11 that can be taken now that will have payoffs.

12 But, it will have to be some steps that we're
13 not quite sure if this was, you know, perfectly
14 informed world, the first step we should take, or maybe
15 the second or third step.

16 I mean, it's clear from the evidence that
17 there is discrimination out there.

18 MR. SIMS: Right.

19 MR. GALSTER: So there is clearly a role for
20 enforcement. And I think that more enforcement that
21 takes the form of pre-application testing is not only
22 good for an enforcement standpoint, but simultaneously
23 it helps fill out the research question of how often
24 that kind of activity occurs, regionally, with what
25 kind of lenders.

1 So, certainly, that's an area where both
2 enforcement and research would benefit from additional
3 activity.

4 MR. SIMS: Anything else that you would
5 recommend?

6 MR. GALSTER: Well, I think that there's
7 absolutely lots of reasons that we should think more
8 about consumer credit education, written large, both
9 for adults and for school children because that's an
10 area that I'm sure that there's a good deal of payoff
11 to be had.

12 And so, once again, even though we can't
13 quantify how much of the total differential and
14 disparity is due to those real differences in credit
15 capabilities, I'm sure that's a big part of the story.

16 MS. KRUVANT: Ms. Galiber, you had a
17 question?

18 MRS. GALIBER: Well, I guess I was listening
19 to you speaking about the individual problems that are
20 faced by minorities in the application process,
21 wondering if that person who is taking the application
22 at the moment is bringing his or her prejudices or, in
23 fact, if that is coming down from the policies that be
24 in that particular agency.

25 Is there any way to get at that? Because,

1 you know, it's so pervasive. It happens everywhere in
2 every situation that you've got to deal with that
3 individual and what they bring to the job.

4 And is it reflecting the policy of the body?
5 Is there any way that you might have looked into that?

6 MR. GALSTER: I think that's a million dollar
7 question. I don't think we have a definitive answer
8 but let me offer some possible ways that we might be
9 able to trick that out.

10 We have been seeing in many lending
11 institutions over the last couple of years a greater
12 concern, perhaps due to fear of Enforcement's actions,
13 to monitor the behavior of their line employees, the
14 folks of whom you were speaking.

15 Many institutions, for example, have taken
16 the gauntlet of testing up and have hired private
17 consultants to do testing of their own employees.

18 Presumably, those institutions want their
19 employees to do the right thing, don't want to let them
20 have the option of expressing their own preferences, or
21 prejudices.

22 And those institutions, I would say, would
23 clearly be ones who don't want to have a discriminatory
24 policy from the top/down, and want to make sure that
25 none of the personal prejudices of their employees is

1 getting in the way of a corporate policy.

2 I hope that that's the motivation. I would
3 presume that it is for self-testing activities.

4 Other kinds of institutions, it just is not
5 nearly as clear that it's not a top/down policy. And I
6 think only when we see some court cases filed, which I
7 hope we will in the near future, that link up what goes
8 on via testing evidence at the preapplication stage,
9 perhaps documentation that's in the firm's files that
10 might suggest some kind of policy from the top/down
11 will we know the extent to which that goes on.

12 And I'm simply not aware of enough smoking
13 gun evidence revealed in trials to have any idea of how
14 rare or common that top/down policy is.

15 MS. KRUVANT: Ms. Heuer, you had a question?

16 MRS. HEUER: Yes. I wanted to ask you, in
17 these talks about denial, is that -- included in that
18 is when someone goes in to ask for mortgage and the
19 appraisal comes back -- of course, the appraisal is
20 lower, which, in effect, they then don't have enough
21 money or they can't go 95 or 90 percent of the loan?

22 MR. GALSTER: Right.

23 MRS. HEUER: Or whatever, because they then
24 are short of cash.

25 And I think that's one of the biggest

1 problems, because I'm in real estate, and I see this
2 because a lot of people, even when you start out, I
3 mean, they say, "I want to buy something." And I
4 think, well, fine, how much cash have you got up front?

5 Because it's not all free. And when they
6 start-- you start talking to them and they'll say,
7 "Well, I haven't really saved any money," I'll say,
8 "Well, you know, do you have a lot of debt on your
9 credit cards?" It's just sort of a -- and they
10 suddenly say, "Oh, yeah, I have a pretty big debt."

11 And I said, "Look, would you please do me a
12 favor? Would you go back for six months and start
13 saving money, pay off your bills and then come back and
14 let's get -- ask for a loan?" Because I said, "You're
15 going to be turned down. And it's not going to be
16 really discrimination. It's just that's the facts
17 because your credit history stinks."

18 And I think that in some ways you said that
19 this is part of the problem, and that's certainly part
20 of the problem in the District of Columbia because we
21 do see our neighborhoods and our real estate values
22 deteriorating in parts of the City, with the exception
23 of Ward III.

24 And this I think is a very big problem in the
25 City, and it is part of the cause for many of these

1 turn-downs.

2 MS. KRUVANT: So the consumer education would
3 be, once more?

4 MR. GALSTER: Yes. Absolutely, I think
5 that's part of the issue.

6 MS. KRUVANT: Mr. Smith.

7 MR. SMITH: I'm concerned in regard to those
8 instances where the applicants possess very similar or
9 the same backgrounds with the only differences being
10 race, and perhaps gender. And where the disparate
11 treatment, you know, the adverse impact occurs.

12 But, with regard to the regulatory framework,
13 I've got two small questions in terms of how one can
14 police these matters, both from an institutional
15 standpoint, as well as from a government standpoint.

16 Query one, in the interest of improving
17 performance, whether it's self-analysis or whatever on
18 the part of the institution, what would you recommend
19 based on your experiences in terms of what they could
20 perhaps do to get a grip on this matter? I mean, if,
21 in fact, there is an interest in improving performance,
22 number one?

23 And, number two, in recognizing that we have
24 a variegated, I guess, system of regulatory authorities
25 here-- and Ms. Bennett talked about the District of

1 Columbia Office of Banking Supervision.

2 Can you draw any conclusions between those
3 that fall under the District of Columbia versus the
4 other authorities? Fed, or the Office of -- OCC?

5 And I know you'd have to extrapolate from the
6 national data.

7 MR. GALSTER: In terms of what an individual
8 institution should do I think the package should
9 involve very careful Fair Lending training of all of
10 its staff, affirmative actions so that its staff is
11 more diverse at all levels of the institution.

12 Once that training has been completed,
13 ongoing self-testing to monitor that, in fact, people
14 are behaving appropriately.

15 And if the institution is large enough, it
16 has a large enough volume of loans, then they could do
17 a self-analysis of their own loan files similar to what
18 the Boston Fed did.

19 But, for itself, it will. It's another form
20 of self-monitoring.

21 In terms of the regulatory structure, I'm not
22 familiar enough with the details of how the D.C. system
23 works its regulatory structure compared to the national
24 one.

25 I think that that is extremely difficult

1 because the typical way that any sorts of bank exams
2 have worked I don't think have been of a nature that
3 it's likely to discover the instances of discrimination
4 that only these other kinds of sophisticated
5 techniques-- either testing or statistical analysis--
6 can discover.

7 So I think there's a fundamental flaw in the
8 way our banking regulatory process and examination
9 process has been conducted.

10 And until we radically rethink that, I think
11 that the District and the country is not going to have
12 a terribly effective type of regulatory environment to
13 ensure --

14 MR. SMITH: To make recommendations as to
15 what one versus the other could or should do?

16 In the District of Columbia, for example, we
17 are sitting here in the District concerned about unfair
18 lending practices as they exist here.

19 MR. GALSTER: Well, obviously, the kinds of
20 patterns that studies like Ms. Bennett's have
21 identified can lead a regulator to start asking pointed
22 questions to particular institutions. And I think
23 that's the starting point.

24 MR. SMITH: We'll have that in front of us in
25 a day or so.

1 MR. GALSTER: But, past those questions, then
2 these other kinds of investigations might be
3 appropriate. For example, we see this disparity.

4 Is that because you, Institution X, have a
5 particular office location pattern?

6 What are your marketing practices?

7 Is it appropriate to do some testing of
8 Institution X to see what their preapplication behavior
9 is of their intake personnel?

10 Is it appropriate, if they're a big enough
11 volume lender, to look statistically at whether the
12 treatment of applicants is equal?

13 MS. KRUVANT: Are there any other questions?

14 MR. DARDEN: I have one.

15 You mentioned OCC -- you didn't mention this,
16 but you mentioned, yes, OCC regulations and their
17 examining procedures as not really being fundamentally
18 not what we need in order to get at this issue.

19 When you said that, were you also considering
20 the recent procedures or interim procedures that were
21 issued in '93 by OCC for ban examiners?

22 MR. GALSTER: Well, I think those are
23 certainly an improvement. And they even talked about
24 the importance of testing as part of the entire
25 examination process. And I think the OCC has been a

1 leader in trying to rethink what the examination
2 process should do.

3 Certainly, strides have been made. But, I
4 think there's a fundamental dilemma because if we're
5 talking about the type of exams that sees if equals
6 have been treated equally, if equally-qualified
7 applicants have been given the loans equally, or turned
8 down equally, that the dilemma is that for many, many,
9 in fact, most lenders, the volume of loans they do is
10 too small to do the sorts of sophisticated statistical
11 analysis that the Boston Fed did, or the Department of
12 Justice did.

13 And that means that one has to look at a case
14 by case basis and try to find actual applicants that
15 seem to be about comparable. But, they're never
16 completely comparable. There's always some difference.
17 And then it's a value call as to whether what the
18 underwriter said was an important difference? Was it a
19 legitimate difference, or not?

20 And it's just a second-guessing operation.
21 And reasonable people can come to different conclusions
22 about two applicants.

23 And that kind of gray area I don't think we
24 can ever get around. So, in another form, I've made a
25 reasonably radical proposal. And that was that we

1 should search for building a mortgage credit scoring
2 model similar to how we now score applications for
3 consumer credit cards.

4 That is to say, the credit card companies
5 fill in information about you, dump it into a
6 computerized program. And, with no subjectivity at
7 all, that program says "yea" or "nay" on your
8 application.

9 If we could move to that level of scientific
10 underwriting for mortgage lending, it would leave out
11 the option for prejudice and bias to rule.

12 MR. DARDEN: Have you expanded that model?
13 Is it --

14 MR. GALSTER: Well, right now, fortunately,
15 the secondary players, Freddie Mac and Fannie Mae, are
16 working very hard in doing these kinds of statistical
17 analyses to see what it is about the applicants that
18 predicts their ultimate performance.

19 Is it, in fact, the ones who have the high
20 downpayments who are less likely to default?

21 Is it the higher value homes that are more
22 less likely to default down the line?

23 Those kinds of pieces of information are
24 currently being statistically analyzed so that they can
25 come to better decisions about what their underwriting

1 rules should be.

2 Ultimately, if we are successful enough in
3 finding out the characteristics of applicants that
4 correctly predict the performance of that loan, then I
5 suspect that we will start to move more toward an
6 automated underwriting system and less of a
7 personalized underwriting system.

8 And I think that's driven by profits from the
9 organizations, but I think it's going to have a really
10 positive Civil Rights payoff, as well -- unless, and
11 there's the big thing we have to watch out for in the
12 future and this is getting beyond the answer to your
13 question, but I'll do it quickly -- unless these
14 scientific, predictable underwriting criteria have
15 terrible disparate impact on minority borrowers.

16 MS. KRUVANT: Well, we will have to find a
17 way to level the playing field with the information.

18 MR. GALSTER: Then we'd have to worry about
19 that. That's right.

20 MS. KRUVANT: May we ask you, if possible,
21 for you to stay for the end of this panel?

22 MR. GALSTER: Sure.

23 MS. KRUVANT: And then -- Mr. Relman, thank
24 you so much for joining us.

25 MR. RELMAN: Thank you very much.

1 STATEMENT OF JOHN P. RELMAN, DIRECTOR
2 FAIR HOUSING PROJECT OF THE WASHINGTON
3 LAWYERS COMMITTEE FOR CIVIL AND URBAN AFFAIRS,
4 WASHINGTON, D.C.

5 MR. RELMAN: Members of the Committee, my
6 name is John Relman. I direct the Fair Housing Project
7 at the Washington Lawyers Committee for Civil Rights
8 and Urban Affairs. And, with me is Richard Ritter, who
9 has been working with the committee for the last four
10 or five months to work on issues of lending
11 discrimination.

12 Mr. Ritter was formerly with the Justice
13 Department for many years.

14 I'm delighted to have the opportunity to
15 speak with you today. It's a timely moment for us
16 because, tomorrow, we will be releasing to the public a
17 report that we have prepared that we believe is one of
18 the most detailed and sophisticated examinations of
19 racial disparities in marketing and underwriting by
20 D.C. area lenders that has yet been done.

21 The purpose of the study was really twofold.
22 First, what we wanted to do was, for the first time
23 done by an private sector group, we wanted to use the
24 approach that had been taken by the Department of
25 Justice, and pioneered by the Department of Justice in

1 looking at rejection rate disparities in underwriting.

2 And, second, to look at disparities in
3 marketing.

4 As you may know, the Justice Department over
5 the last two years has really taken the lead way out in
6 front of everybody else in the country, in the private
7 sector or elsewhere, in examining and investigating for
8 patterns and practice of lending discrimination.

9 It started with the Decatur Federal case,
10 which has been mentioned, in which the Department
11 looked at both underwriting practices and marketing
12 practices, and culminated in Chevy Chase, which really
13 rocked the industry with its analysis of redlining in
14 D.C. neighborhoods.

15 Now, in those studies, particularly in the
16 first one, in the first case in Decatur Federal, what
17 ultimately was critical to the study was a loan by loan
18 file by loan file review that allowed the Department to
19 really leave no stones unturned, and to compare all of
20 the variables that were at play in the actual
21 underwriting decisions.

22 Short of getting into the bank loan files,
23 that can't be done if you're sitting on the outside.
24 The only one way to do it, either the bank agrees to
25 open their files to you, or you engage in litigation

1 and you get into the files through force -- through
2 force of the Court.

3 We have not gone into the actual files. But,
4 we have used the most sophisticated available
5 techniques that anybody has used to date to look at
6 D.C. area lenders to determine whether there are
7 patterns that raise concerns among D.C. lenders short
8 of getting into those files.

9 And, at the outset, I want to say --
10 careful -- that we cannot conclude in this study that
11 any particular bank has discriminated. The only think
12 we can say is the statistics raise some very, very
13 serious concerns on behalf of some lenders that, in our
14 judgment, warrant further investigation, investigation
15 that should include, or may include through litigation
16 a case by case file review.

17 That is obviously time-consuming and
18 expensive and requires a very complicated statistical
19 analysis called multiple regression analysis, but it is
20 done in and has been done in the Justice Department
21 cases and perhaps it will be done in some private
22 sector cases soon.

23 What we've attempted to do -- I'm going to
24 start first with the underwriting -- is we attempted to
25 control for some of the variables, or factors that

1 lenders say are most important, or most likely to
2 explain disparities in rejection rates.

3 That is, it's well-documented that when you
4 look at aggregate data, for example, that minority
5 applicants are rejected at far higher rates than
6 whites. And as the previous two panelists explained,
7 there can be some explanations for that.

8 For instance, it could be that there are
9 different income levels that people have. It could be
10 that there are problems with credit. And these are
11 frequently answers or explanations that are put forth
12 by lenders.

13 It also could be, the lenders say, that we
14 market affirmatively in some areas where there are less
15 qualified applicants. Therefore, we get a higher turn-
16 down rate.

17 What we've done on the underwriting side to
18 control for these factors is, first, we have with the
19 statistical assistance of the same experts who worked
20 on the Justice Department cases, we have adjusted
21 income levels so that we can compare individuals of
22 different races -- black and white -- at the same
23 income levels. We put them into what we call income
24 bands so that we could tell at what levels we were
25 comparing.

1 We wanted to compare someone who is African-
2 American who earns \$50,000 a year with somebody who is
3 white and earns \$50,000 a year. And we wanted to
4 determine whether there was a disparity there.

5 Then, we went to the next step, which was we
6 took into account the number of loans that an
7 institution had so that we could make sure that we
8 weren't looking at institutions that just handled too
9 few applicants and dealt with too few rejections to
10 make it statistically significant, or statistically
11 important.

12 And, third, we then looked specifically at
13 the area where the Justice Department, when it got into
14 the files in Decatur, found that discrimination was
15 occurring. And that was in what Mr. Galster has
16 pointed to as the gray area, the margins where people
17 are turned down for credit or debt ratio problems.

18 What the Justice Department found is what is
19 being backed up by what a lot of people in the private
20 sector in individual cases found. And that is, if
21 you're a well-qualified African-American, it's not that
22 you get turned down, or if you're a clearly unqualified
23 white that you get accepted, but rather that, in the
24 middle, the benefit of the doubt is given to white
25 applicants.

1 So what we did was we then looked at those
2 applicants who were turned down for credit reasons--
3 these are reasons that are reported by the banks, where
4 they did report them under the Home Mortgage Disclosure
5 Act requirements. We looked at those applicants, and
6 what we found was the disparities got even larger.

7 That is that the difference in the rejection
8 rate between blacks and whites controlling for income,
9 taking into account the numbers of loans involved, and
10 focusing now on the area where we think discrimination
11 is occurring, the difference in those rejection rates
12 got higher than ever before.

13 Specifically, we also wanted to identify
14 particular lenders. We want to do it on a lending by
15 lending institution. At the very end of my remarks,
16 which I'll get to in just one minute, I'll give you the
17 actual results for the banks.

18 The second area that we looked at was in
19 marketing. We wanted to see if there were disparities
20 in the way that banks marketed to predominantly white
21 census tracts and predominantly black census tracts in
22 the D.C. area.

23 We have some maps here to show you, which
24 we'll get to as soon as I come to the conclusion, that
25 I think graphically display these marketing patterns.

1 Of course, many banks, or some lenders will
2 have answers to the marketing patterns. They will say
3 that, well, we looked at certain types of loans, either
4 in the amount of the loan that's offered, or the type
5 of loan. For instance, we like to go with jumbo loans,
6 so we are not interested in marketing in a particular
7 area. And we just make more money, or our business is
8 geared that way.

9 We asked our experts to run statistical
10 samples and to run the data in a way that controlled
11 for the profile of the type of borrower that the bank
12 was marketing to in the different census tracts.

13 And, that way, we were able to get a
14 standardized, what we call disparity index that
15 factored out this concern that the banks have put
16 forward as a possible explanation.

17 And once we factor that out, we still find
18 enormous disparities in marketing in the various areas.
19 And, again, you'll see them on the maps.

20 The results that we'll be reporting tomorrow
21 publicly look to or cover the time period of 1990
22 through 1993. Ninety-three is the most recently
23 available final HMDA data, so we've taken this now a
24 year beyond the Urban Institute Report, I believe,
25 which went through '92.

1 So, we have an up-to-date as of this October.
2 There are 13 large area lenders that rejected African-
3 American applicants for mortgage loans at significantly
4 higher rates than whites after controlling for income
5 differences.

6 And those institutions are, and this is in
7 descending order of their disparities:

8 Nation's Bank Mortgage Company, Margaretten
9 and Company, Signet Mortgage Corporation, NVR Mortgage,
10 Mellon Bank, Maryland National Mortgage Corporation,
11 G.E. Capital Mortgage, Prudential Home Mortgage
12 Company, Columbia 1st Bank, Citibank, Federal Savings
13 Bank, Great Western Mortgage Corporation, Maryland
14 Federal Savings and Loan Association and Ahmenson
15 Mortgage Corporation.

16 At all of these institutions, looking at the
17 years '90 through '93, black applicants were more than
18 twice as likely to be rejected for loans as white
19 applicants. The highest disparities were at:

20 Nation's Bank Mortgage Company, where black
21 applicants overall were more than five times as likely
22 to be turned down for loans than whites.

23 Margaretten, Signet and Mellon had
24 disparities of four times as great black rejection for
25 white rejection.

1 What is particularly interesting though is
2 that when we look at -- when we focus on the credit
3 histories in debt-to-income ratios, just looking at the
4 turn-downs for those reasons and controlling for income
5 -- that we're just looking now at credit and debt
6 rejections and controlling for income -- at Nation's
7 Bank Mortgage Company, black applicants were 12 times
8 more likely to be rejected because of credit histories
9 or debt-to-income ratios than whites. Twelve times
10 more likely.

11 And our conclusion from this is that it's
12 actually quite stunning evidence, which of course
13 cannot be confirmed until one actually does a loan file
14 by loan file examination because, clearly, it could be
15 that in every single instance, there is explanation.
16 Someone had absolutely terrible credit, or terrible
17 debt ratio.

18 But, as you'll see from the chart that Mr.
19 Ritter will show you, the numbers are really quite
20 stunning.

21 On the marketing side, we found 15 large
22 volume mortgage lenders that showed significant
23 disparities in the years 1990 through '93 in the
24 Washington, D.C. area.

25 The highest disparities in marketing were

1 primarily among mortgage companies. Very interesting
2 finding:

3 Atlantic Coast Mortgage Company, American
4 Home Funding, Inland Mortgage Company, James Madison
5 Mortgage Company, Ryland Mortgage Corporation,
6 Huntington Mortgage Corporation, CTX Mortgage
7 Corporation, Developers' Mortgage Corporation and, as
8 one would expect, Chevy Chase B.F. Saul Mortgage
9 Company. However, there is some improvement found with
10 Chevy Chase following, first, the time when they were
11 notified by the Justice Department that they were under
12 investigation, obviously, since the settlement has
13 taken place.

14 With that, let me -- and let me also mention
15 that Citibank, in looking just at the District of
16 Columbia, Citibank showed significant market share
17 disparities in majority and predominantly black
18 neighborhoods in the District of Columbia.

19 I think what I would like to do now is just
20 take a moment, if I could, and ask if Mr. Ritter would
21 display some of these maps and charts.

22 MR. RITTER: Every one is 8 by 10 inches.

23 [Laughter.]

24 MR. REILMAN: We will supply the Commission
25 with copies of our report tomorrow.

1 MR. RITTER: Essentially, this lists the
2 institutions that were identified through the analysis
3 that John has just explained to you as having the
4 highest rejection rate disparities for African-American
5 borrowers and Hispanic borrowers for conventional
6 loans. We're just looking here at conventional.

7 We also separately looked at FHA/VA loans
8 and, as you'll see in the study, we have a different
9 group of lenders who have very high disparities on
10 FHA/VA loans.

11 But, just looking at conventional loans, this
12 chart identifies those and it's based pretty much in
13 descending order of this column here, which is called
14 the Black/White Odds Ratio.

15 Now, that's a little different than the
16 normal disparities that are often reported. And I
17 won't go into detail on the statistics other than to
18 say -- to give you an example, at one institution, 10
19 percent of the black applicants are rejected, and 5
20 percent of the white applicants are rejected. And at
21 another institution, 20 percent of the black applicants
22 are rejected and 10 percent of the white applicants are
23 rejected.

24 At both institutions, blacks are rejected at
25 twice the rate of whites. But the odds of being

1 rejected at the second institution is 20 percent of the
2 black applicants are rejected -- a larger percentage --
3 is much higher. The likelihood of being rejected at
4 that second institution is much higher.

5 But, it's actually about 2.25/1 rather than
6 2/1. So what we've done is use that as the ranking
7 criteria for these lenders. And, as John indicated,
8 Nation's Bank is at the very top of the list on the
9 black/white odds ratio at 6.27/1 followed by
10 Margaretten at 5.55/1.

11 Then, you see Signet Mortgage Corporation at
12 4.69/1. And NVR and on down the list.

13 Now, what's interesting here is you see
14 Citibank is fairly far down on the list with an odds
15 ratio of -- black/white odds ratio of 2.65/1. What we
16 found with Citibank was, however, when we controlled--
17 when we looked only at credit and debt, as we did, for
18 example, with Nation's Bank, we found a much higher
19 black/white odds ratio at Citibank on those two
20 variables.

21 So we think Citibank is a great concern for
22 that reason, as well.

23 Then, as John explained, there will be other
24 tables in the study that indicate what these ratios are
25 after you control for income. And we broke the

1 applicants up essentially into four bands, those who
2 made less than \$40,000 a year, those who made between
3 \$40-100,000 a year, and those who made over \$100,000 a
4 year. And even controlling for the rejection rate
5 disparities within those income bands, we found that
6 these odd ratios remained basically the same. They
7 went down a little bit, but not very much.

8 So that the ranking that you see here -- and
9 there'll be another chart in the study that will show
10 that -- did not materially change, if at all. So it
11 stayed essentially the same.

12 And then, finally, as John pointed out, there
13 were four lenders that really stood out as having very
14 high disparities on credit and debt:

15 Nation's Bank Mortgage Company, Citibank,
16 Great Western Mortgage Company and Ahmenson Mortgage
17 Company.

18 MR. WEINTRAUB: Would you repeat those,
19 again?

20 Where is Ahmenson?

21 MS. KRUVANT: California.

22 MR. RITTER: Nation's Bank Mortgage
23 Corporation, Citibank, Federal Savings Bank, Great
24 Western Mortgage Corporation and Ahmenson Mortgage
25 Corporation.

1 Now that, in a nutshell, is how we identified
2 these lenders using the HMDA data that's available, and
3 using the best statistical techniques that we thought
4 we could bring to bear to analyze that data to identify
5 these lenders in this order.

6 Okay. Now we're going to get into the
7 marketing side of the study. And we did what we did at
8 the Department of Justice when I was there working on
9 the lending cases. We developed what are called done
10 density amounts.

11 And this is the Washington metropolitan area
12 with the racial populations shown by the census
13 indicated in the colors with census tracts that are, if
14 it's a white area, that means that the racial
15 populations are less than 25 percent black in those
16 areas.

17 If it's yellow, then the racial population is
18 between 25-50 percent black.

19 If it's red, the racial population is between
20 50-75 percent black.

21 And if it's green, the racial population is
22 between 75-100 percent black.

23 And each dot that you see represented on the
24 map reflects one loan origination by the institution.
25 and this is Atlantic Coast Mortgage Company, which is

1 the subsidiary of First Tennessee Bank, which is a
2 depository institution covered by CRA.

3 And as you can see from the dot density
4 distribution, you have this tremendous pattern of loans
5 here in the white areas of Fairfax going into
6 Montgomery County with some marginal lending in Prince
7 George's County, but you'll notice that it's on the
8 periphery in the white areas.

9 When you look in the District of Columbia,
10 you'll see also a few loans. But, where --

11 MR. RELMAN: I just might point out this is
12 the river running through here. So you're looking at
13 Northwest D.C. here.

14 MR. RITTER: That's Arlington running across
15 on the other side.

16 MR. RELMAN: Yes. And you'll notice they'll
17 come into the District, into the Upper Northwest. But,
18 where the racial dividing line begins, it falls off
19 dramatically. I mean, there's essentially no lending
20 going on.

21 MR. WEINTRAUB: How many locations do they
22 have in the City?

23 MR. RITTER: Atlantic Coast has three. Let's
24 see. I have all of that here.

25 MR. SMITH: Versus out in the suburban areas.

1 MR. RITTER: It's Atlantic Coast. They have
2 two offices, one in Fairfax and the other in Bethesda.
3 They have a Bethesda office, and one in Fairfax.

4 MR. SMITH: Perhaps I missed it. Why was
5 Atlantic Coast Mortgage, why was the analysis of their
6 loan originations examined versus, say, Nation's Bank
7 or Citibank?

8 MR. RITTER: Right. These institutions
9 ranked the highest in terms of the disparity between
10 their market shares in white areas, and their market
11 shares in black areas.

12 To give you an example of how we computed the
13 market shares, we controlled for both the type of loan
14 that these institutions originate -- and by type of
15 loan, I mean jumbo versus non-jumbo loans -- and then
16 among non-jumbo loans, we also controlled for the loan
17 amounts.

18 So that if, let's say, Atlantic Coast
19 Mortgage Company was specializing in jumbo loans or
20 upper income loans, larger loans, then that was
21 factored into the disparity.

22 But, even controlling for that, we found that
23 Atlantic Coast Mortgage Company had the highest
24 disparity, using this disparity index, of all of the
25 lenders in the Washington MSA that made at least 3,000

1 loans over that four-year period.

2 So we wanted to look at large lenders.
3 That's the purpose of the study.

4 MR. SMITH: Do you also rank them, though?

5 MR. RITTER: We ranked them.

6 MR. SMITH: Okay.

7 MR. RITTER: And this was ranked number one.

8 MR. DARDEN: Just one other question.

9 Was Prudential Home Mortgage in that ranking?

10 MR. RITTER: It was initially. And,
11 interestingly enough, there were two lenders that were
12 in the original group of about 16 or 17 that ranked the
13 highest who fell off once we imposed the income
14 controls. And Prudential was one of those. The other
15 was Franklin Mortgage Capital.

16 And it may well be that those two
17 institutions really do specialize or target the jumbo
18 loan market and the up-scale market. And that's
19 perhaps-- I'm guessing or responding from the data why
20 they fell off.

21 We wanted to show you this, which is a map
22 from 1992 of Chevy Chase. And this will give you some
23 idea. I mean, this was really the focus of the Justice
24 Department's lawsuit and you can begin to see why, when
25 you look at the marketing pattern, I think it looks a

1 lot like when you watch the 11 o'clock news and you see
2 the cloud formation, the weather reports, the cloud
3 formation swirling in.

4 And as you can see, the dot density coming
5 around, but creating almost a doughnut around the
6 predominantly and majority black census tracts in D.C.

7 And if you look over here in the inside, you
8 can see the heavy, the intense activity here, and then
9 the very limited activity over here.

10 We'll go through a few more of these maps to
11 show you how very similar they are. Again, you could
12 probably cover over the name of the institution and the
13 pattern is basically the same. And it's remarkably
14 similar to the pattern that John just showed you from
15 Chevy Chase B.F. Saul that triggered the Justice
16 Department's lawsuit.

17 This is CTX Mortgage. And, again, you'll see
18 this pattern of coming into the Upper Northwest part of
19 the District with very little lending in either the
20 predominantly black or majority black areas of either
21 the District or Prince George's County, and again this
22 kind of curve through Montgomery County into the white
23 areas of Prince George's County.

24 Is that fairly -- can you see the dots going
25 up to get that little hook there? It's like a bird's

1 beak.

2 And here's another one, Developers' Mortgage
3 Corporation. And, again, you'll see the very similar
4 pattern.

5 MRS. HEUER: Isn't that one particularly for
6 new homes that they're building? Developers' Mortgage?
7 I don't believe --

8 MR. RITTER: Well, we -- that's --

9 MRS. HEUER: I mean, I've never heard of it,
10 even. And I sell real estate.

11 MR. RITTER: Well, they're a very large
12 nationwide --

13 MRS. HEUER: They don't come into the City,
14 period.

15 MR. RITTER: Yes. Well, they're a very large
16 nationwide mortgage corporation.

17 MRS. HEUER: But they're much more with new
18 housing. In Washington, we don't have new housing.

19 MR. RITTER: Well, that's located some place.

20 MS. KRUVANT: -- there's no housing now.

21 MR. RITTER: Plainly, they're in the --

22 MRS. HEUER: No, they're not. They don't
23 aggressively seek mortgages in this City.

24 [Simultaneous voices.]

25 MR. RELMAN: In Prince George's County,

1 there's new housing out there.

2 MRS. HEUER: Well, but this study is really
3 for Washington metropolitan, not D.C.?

4 MR. RITTER: Well, yes. And in looking at in
5 D.C. and in Prince George's County and the areas that
6 are--

7 MRS. HEUER: Okay.

8 MS. KRUVANT: We do find it in D.C.

9 What's the difference? That's an interesting
10 point. Is the story for the greater Washington --

11 MRS. HEUER: I thought we were doing it
12 specifically for D.C.

13 MS. KRUVANT: Well, what would be the
14 difference in the way you'd conduct a study? That's
15 what I'm trying to get at. It's an interesting point.
16 I just wanted to clarify it.

17 MRS. HEUER: I think it's different.

18 MR. RITTER: Well, certainly, you can see the
19 pattern in D.C. I mean, I think that --

20 MRS. HEUER: Oh, I can. But, what I'm saying
21 is that, I mean, like I can think of Mellon Bank. I
22 don't know that it actually has an office in D.C.,
23 although it does in Maryland.

24 And, there, again, we come back to citizen
25 education. You're not even going to get anybody to go

1 to Mellon when they don't even know it exists. And
2 this is --

3 MR. RITTER: Well, this goes to the heart of
4 the question about where you market --

5 MRS. HEUER: Yes. But I --

6 R. RITTER: That was very much part of the
7 issue in --

8 MRS. HEUER: Those areas. I mean, they
9 really don't market in D.C.

10 MS. KRUVANT: That's part of the problem.

11 MRS. HEUER: -- because I --

12 MR. RITTER: Or at least not in a portion of
13 D.C.

14 MR. RELMAN: The location of branches
15 obviously was a big issue in Chevy Chase and in the
16 relief that was sought in Chevy Chase.

17 MS. KRUVANT: So I just want to establish
18 clarity here. So, to the extent that a branch would
19 not be in the District of Columbia, what you're
20 suggesting is that it would not be a valid study?

21 MRS. HEUER: That's right.

22 MS. KRUVANT: Okay. So we -- I just wanted
23 to establish that. That's her point of view, though.

24 [Simultaneous voices.]

25 MS. KRUVANT: How about your rejection study.

1 MRS. HEUER: You've got to compare them to
2 the ones that are really active.

3 MS. KRUVANT: Shall we allow for the
4 presentation to end?

5 [Laughter.]

6 MR. RITTER: We're just about through these
7 maps. I put this up. It's of American Home Funding,
8 and it illustrates another phenomena that we found in
9 our study. And that is some mortgage companies will
10 make some loans in majority black census tracts. But,
11 when the tracts become predominantly black, you find a
12 more significant fall-off in both the actual numbers of
13 loans and market share in those predominantly black
14 tracts.

15 And that's the case with American Home
16 Funding, where you see -- which is a very large
17 originator of loans in the area -- you see clearly a
18 heavy concentration of loans all the way around this
19 curve that we saw from the other mortgage companies
20 going into the white areas of Prince George's County,
21 winding all the way around into Southern Prince
22 George's County.

23 And there are quite a few dots in the red
24 areas. There still are significant market share
25 disparities even in the red areas, statistically. But,

1 when you see the graphic demonstration of the loan
2 distribution, you find a significant number in the red
3 areas.

4 But, when the area becomes green, which is
5 the predominantly black tracts, both in the District
6 and in Prince George's County, then the loan
7 originations fall off dramatically.

8 So it seems to us this is a lender that
9 really begins to turn away significantly when the areas
10 become predominantly black.

11 And the final map we'd like to show you-- I
12 want to show Margaretten --

13 [Pause.]

14 This is Ryland Mortgage Corporation. And,
15 again, it's a pattern a little similar to American Home
16 Funding. But. they still don't do very much in either
17 the red zone or the green areas.

18 And particularly in the District of Columbia
19 and over into Prince George's County you see this very
20 heavy lending. It's like a heavy snowfall in the
21 winter of dots. And then, as the areas become heavily
22 black, then the lending falls off dramatically.

23 This is Margaretten. The interesting thing
24 about Margaretten is that Margaretten proves the point
25 that you can make loans throughout the area.

1 As you can see, the dots really move all
2 across the area. And there's a heavy concentration
3 even in the green and red areas. So, for those lenders
4 who say we cannot find qualified loan applicants in
5 these areas, Margaretten is, I think, a graphic
6 illustration of what the map could or should look like.

7 But, then, again, we see Margaretten with a
8 high rejection rate disparity.

9 And did you want to address that?

10 It's the second highest next to Nation's Bank
11 Mortgage Company. And we weren't able to look at
12 Margaretten's rejection disparities on credit and debt
13 because they did not report that information under
14 HMDA.

15 So, it's speculation I guess as to what that
16 would show. But there's a number of questions that are
17 raised by the rejection rate disparities of
18 Margaretten.

19 One would be are they truly treating white
20 and minority applicants fairly, even with these high
21 rejection rate disparities?

22 And, are they facing the same level of
23 competition that they face in white areas, such that
24 they may feel less inclined to aggressively try to
25 underwrite applications for minority areas because they

1 know they've got more than enough applicants to keep up
2 a profitable business because they're not getting
3 competition from the other lenders that we talked
4 about.

5 These are all possibilities. We have no
6 proof that this is occurring at Margaretten, or any of
7 the other lenders we're talking about. But, they raise
8 questions that we think warrant investigation.

9 MR. RELMAN: The other issue, of course, that
10 has to be-- that's at work when you see something like
11 Margaretten, a phenomenon like Margaretten, which we
12 don't know the answer to because it really requires
13 further investigation, is the pricing also, the prices
14 at which these loans are made.

15 Are these prices exorbitantly high? Might
16 that explain some of the disparity that we see,
17 rejection rate disparity that we see, or not?

18 But there are all types of other phenomena
19 that could be at work whenever you see a company like
20 this marketing in this way, or working in this way.

21 But this is I think a good example we like to
22 use and you see how intense the dots can be in these
23 areas. And, yet, we repeatedly see it very differently
24 with the other lenders.

25 I appreciate your letting us take this much

1 time to discuss in advance these results. The report
2 will be out tomorrow. We will be holding a press
3 conference tomorrow morning at 10:30 to make to release
4 the report and to discuss the findings further.

5 But, that I think is in a nutshell what we
6 have found. And I think, again, it's worth restating
7 for the record at the conclusion we are not -- we
8 cannot from this report -- draw the conclusion that any
9 particular bank has discriminated.

10 All we can really say from this is that we
11 have a better idea now of which lenders in the D.C.
12 area raise very serious concerns. And these are
13 lenders that need to be investigated further, whether
14 it's done by the federal government, or whether it's
15 done by private groups or private individuals through
16 legal action. It clearly needs to be done. And it
17 needs to be done soon.

18 MS. KRUVANT: Thank you very much for your
19 presentation.

20 We would appreciate two things. One, if you
21 can make available your remarks. I understand that
22 that is forthcoming.

23 The other one is if we can have copies of the
24 charts. And, if possible, if they're available, to
25 have them colorized as you have provided.

1 MR. RELMAN: We will send you tomorrow copies
2 of the report and attached to the appendix of the
3 report are all of the maps, many more than this, which
4 are all in color. They're in 8-1/2 by 11. But, they
5 will all be there. You'll see exactly what you see
6 here.

7 MS. KRUVANT: Thank you.

8 We are going to allow for three questions.
9 Any questions?

10 MR. SMITH: I just want to know what policy
11 recommendations you're willing to recommend -- on
12 tomorrow, perhaps. And it certainly doesn't steal your
13 thunder if you're willing to share those with us today.

14 And again with particular emphasis with
15 regards to the D.C. Office of Banking Supervision.
16 They have the responsibility in certain areas to
17 monitor these activities.

18 MR. RELMAN: Well, again, from the standpoint
19 of the Lawyers Committee, I think the most important
20 policy imperative for us is to figure out a way to
21 expand the investigation of the banks that we think
22 raise questions.

23 And when I say expand the investigation, I
24 mean impose a greater scrutiny calling the banks. That
25 can come in a couple of ways. It can come through

1 voluntary compliance by the banks to open up their
2 files and allow for investigation.

3 It can come through litigation. But, that,
4 obviously, to the extent that litigation, whether it's
5 by the federal government or whether it's by a private
6 group, is a policy answer, that is one policy answer.

7 The other step that could be taken short of
8 litigation would be, seems to me speaking now off the
9 cuff, would be that the regulatory agency here in D.C.
10 could take steps to demand the type of compliance that
11 would permit private groups or the federal government
12 to review those records.

13 To the extent that there is power to open the
14 files and to find out what's going on and to allow for
15 the type of multiple regression analysis and individual
16 file by file review, the D.C. Banking Authorities
17 should attempt to place pressure on the banks that have
18 been identified by this study to comply in that way.

19 MS. KRUVANT: Nora.

20 MS. CHIN: Do you have any data that breaks
21 down into Hispanic and Asians? Because this is black
22 and white, which I understand. But, is there anything
23 that breaks it down a little further?

24 Are they competing? Are minorities competing
25 against one another for the loans?

1 MR. RELMAN: I neglected to point out in
2 going through the chart that we looked at the rejection
3 disparities of Hispanic applicants, and we computed the
4 odds ratio.

5 And we did find at a number of the
6 institutions, not all of them, that the odds ratio
7 analysis after controlling for income still identified
8 Hispanics as a group that was being rejected at a
9 significantly higher rate such that the kind of
10 statistical study that the Justice Department did in
11 Decatur and some of its more recent investigations
12 could be done of both blacks and Hispanics.

13 So I think that's important to point out.

14 MS. CHIN: Asians?

15 MR. RELMAN: We didn't find disparities. No,
16 we looked. We didn't find the kind of significant
17 disparities that -- and the numbers, you have a numbers
18 problem in terms of the numbers of minorities, Asians
19 who were rejected for loans, such that you could do a
20 statistical study, even were the disparities
21 significant.

22 And, again, we're only looking at large
23 lenders that rejected 100 or more minority group
24 members over that four-year period.

25 MS. KRUVANT: Is there another question?

1 MR. MCKETHAN: I have a question.

2 I'm particularly interested in the
3 Margaretten. That seems to show sort of a
4 contradiction. It seems to me they're doing business
5 all over the City, according to your charts there.
6 But, still has the second highest rejection ratio.

7 After that, it seems to me that the facts
8 dictate that you must find a way to find out why. I
9 think that's what you said, isn't it?

10 MR. RELMAN: Right. I mean, that's right.
11 You need more information in order to find out why.
12 That's exactly right.

13 I mean, as Dick, has said, we didn't have the
14 credit reasons for Margaretten, so we couldn't get into
15 specifically the area where we think that most lenders'
16 discrimination is most likely to occur. That was one
17 problem.

18 But, there is, I mean, I think we have to all
19 recognize the fact that there can be -- shall I call it
20 a disconnect between the marketing side of a business
21 and the underwriting side.

22 I mean, there are some large lenders for whom
23 you will not find as great a marketing disparity.
24 Let's put it this way. Their P.R. is pretty good in
25 getting the word out. They try and solicit a lot of

1 loans in a particular area, or originate loans in the
2 area.

3 But, the underwriting that is done still
4 shows a disparity because when it comes time to make
5 the decisions about who is going to get loans, the same
6 types of stereotyping may be at work.

7 In Margaretten, it could be a function of the
8 huge numbers of loan applications that they, you know,
9 bring forward, or solicit with an aggressive marketing
10 campaign.

11 So there are all sorts of possibilities that
12 we just don't know the answer to. All we can do is
13 take the available data, apply the same controls and
14 compare it in the same way, doing the same statistical
15 runs and see what we get.

16 MS. KRUVANT: Thank you very much for your
17 presentation. It's most useful.

18 And this portion of the morning has allowed
19 us to get the expert advice that we needed. And as
20 part of the process I would like to do it.

21 Are there any questions that you would like
22 to ask each other that might enlighten us? Because,
23 sometimes, not knowing how to ask the right questions
24 shows our lack of experience and knowledge on the
25 issues.

1 Are there some issues that each one of you
2 would like to address to each other?

3 MR. RELMAN: I'm sure Mr. Galster will have
4 many questions once he sees the study, expert that he
5 is.

6 [Laughter.]

7 MR. RELMAN: I'm sure that there will be lots
8 of questions. But we've done a totally unfair thing to
9 him, which is we've tantalized him with some red meat
10 of a new statistical study --

11 [Laughter.]

12 -- and haven't given him the study to
13 actually critique. So I'm sure we'll be hearing from
14 him shortly.

15 MR. GALSTER: And the Urban League.

16 MS. BENNETT: Well, I've been talking with
17 Dick Ritter, but we missed each other recently.

18 I do have a quick thing. They're not
19 questions to the other panelists. One is a
20 recommendation for this panel. And that is that if
21 there is an impact that I see that you could make with
22 regard to federal regulators on this -- it may seem
23 like a small issue but, to me, it's an important one --
24 it's that when a bank is evaluated, one of the
25 barometers on their CRA lending is the percentage of

1 their loans that are made to -- you know, the low to
2 moderate income. And various degrees or -- what is the
3 word I wanted? I'm missing something.

4 But, anyway, looking at who they made their
5 loans to. And they used the metropolitan area on
6 demographics to determine what is moderate income and
7 low income.

8 I'm sure the District's median household
9 income is \$30,700 and \$27,000 as opposed to 50
10 something I think for the MSA.

11 So, using that barometer, just about almost
12 every loan in the District makes the bank look good
13 because it's a low to moderate income loan.

14 And also they don't distinguish the racial
15 demographics of the District, or any urban setting as
16 opposed to the metropolitan areas. They're looked at
17 as a whole.

18 And I would venture to say that the lending
19 patterns differ greatly as do the demographics. So, on
20 the positive side of this, my recommendation would be
21 that if there is any way you can impress evaluators, or
22 the evaluations process to distinguish large urban
23 centers, the demographics of those centers, both racial
24 and income, from the metropolitan area in which they're
25 housed.

1 And look at the bank's lending patterns in
2 that urban center.

3 And my last comment was I believe it was you,
4 Madam Chairwoman who asked me if we could take the
5 demographics of Ward III and turn them around, what did
6 I think would happen.

7 And I don't even remember how I answered that
8 now, but I know what I'd like to say. And that is that
9 what I would prefer to do is take the bank's services
10 that are in Ward III and take them to Ward IV, which
11 has a higher percentage, 20 percent of single-family --
12 the highest percentage of single-family, owner-occupied
13 homes in the District, or take them to Ward V, which
14 has the same percentage of single-family, owner-
15 occupied homes as Ward III, and that is 17 percent, and
16 see what happens.

17 MS. KRUVANT: Thank you.

18 Any other comments?

19 [No response.]

20 MS. KRUVANT: We do appreciate for your
21 coming and it is particularly important that you're
22 providing us this information.

23 As we go through this process, we're probably
24 going to have a draft. And if you don't mind, we would
25 like to rely on your expertise again.

1 Thank you, again.

2 Some extraordinary information. Thank you.

3 In the essence of the process of time, if you
4 don't mind, if we could just have a five-minute break?

5 And we'll try to return.

6 [Recess.]

7 MS. KRUVANT: We are now going to start our
8 second panel for the morning, which is Estimating
9 Discriminatory Practices, Consumer and Industry
10 Perspectives.

11 And we do appreciate our panel member to be
12 here on time. However, we do have some new
13 information.

14 MR. DARDEN: Karen -- the chief compliance
15 officer for Chevy Chase Bank, sent a message in this
16 morning by telephone that says she's too sick to attend
17 today.

18 So we will follow up with her after the
19 meeting as we go through the rest in writing. As we
20 will also be following up with representatives of
21 Nation's Bank.

22 Just a note. As you probably can tell, our
23 agenda, as we said, was small but we tried to bring
24 before the Committee some good representation of people
25 who were knowledgeable and had information to bring.

1 And with respect to the industry, we've
2 already heard a lot about Nation's Bank and we thought
3 that would be a good example, as well as Chevy Chase
4 Bank.

5 We'll be following up with them, and perhaps
6 other institutions as well after the meeting. So that
7 leaves us with Mr. Fishbein.

8 MS. KRUVANT: All right, Mr. Fishbein. Thank
9 you for coming.

10 ESTIMATING DISCRIMINATORY PRACTICES:

11 CONSUMER AND INDUSTRY PERSPECTIVES

12 ALLEN FISHBEIN, GENERAL COUNSEL

13 CENTER FOR COMMUNITY CHANGE

14 WASHINGTON, D.C.

15 MR. FISHBEIN: Thank you. It's a pleasure to
16 be here before this body.

17 My name is Allen Fishbein and I'm with the
18 Center for Community Change, General Counsel for that
19 organization. They are a national not-for-profit
20 organization that assists grassroots community groups
21 in the area of community development, fair lending and
22 community reinvestment.

23 The Center has a long history in this area
24 dating back to the seventies and the publication of
25 some major studies on the mortgage banking industry and

1 how the process of racially changing neighborhoods
2 accelerate disinvestment and neighborhood declines.

3 And I've got to say speaking before this body
4 in a special advisory role I have some personal history
5 with the District. I go back to the D.C. Residential
6 Mortgage Commission back in the mid-seventies that
7 published really one of the first major studies of
8 mortgage lending patterns in an urban area, and kind of
9 documented the disinvestment that existed essentially
10 east of the Park, a pattern that you see continuing 20
11 years later without much change.

12 Also, my organization co-sponsored a study
13 back about 10 years ago with the Metropolitan Planning
14 and Housing Association and Woodstock Institute called
15 Where the Money Flows, which at the time was the first
16 study to use regression statistical techniques with the
17 Home Mortgage Disclosure Data, which found that race
18 appeared to affect the flow of credit in Washington,
19 D.C.

20 In other words, the predominantly African-
21 American communities invariably received fewer mortgage
22 loans than the whiter parts of the City, which was a
23 pattern which did not extend out into the suburbs,
24 where some of the more likely predictors of the flow of
25 mortgage credit, such as home ownership rates, age of

1 housing stock and the like predicted more the flow of
2 credit than you would see in the District.

3 So this is a study that's over 10 years old
4 that was presented to the D.C. City Council and
5 received some attention at the time.

6 And I'm glad to see having sat through and
7 listened to the earlier panel that the research is
8 continuing and it's becoming more sophisticated. And
9 as we move into the computer era and the mapping
10 abilities, we're able to very visually present
11 discrepancies in lending patterns.

12 But, one way or another, the conclusions that
13 this study was reaching in the study by Ms. Bennett and
14 the Urban League show is that the same patterns that
15 are existing in the District 20 years after the first
16 research that they were occurring.

17 And that really is the lead-in to what I'd
18 like to talk about today, which is to focus on
19 enforcement and what could be done to try to curb some
20 of the patterns of discrimination.

21 It's our belief that the question really
22 isn't whether discrimination exists. I think the
23 research, not just in D.C. but research that's been
24 done in other parts of the country has documented,
25 well-documented the pattern that differential treatment

1 exists. And at least some of it appears to be
2 attributable to illegal practices on the part of
3 lending institutions.

4 And I don't think the question of to what
5 extent it exists is really the most relevant question
6 for enforcement agencies or inquiries to be asking.

7 I think the question that really is before us
8 is:

9 Do we have the adequate tools to curb
10 whatever discrimination is existing?

11 Because, of course, as we know, under the
12 Federal Civil Rights laws, generally under the local
13 Civil Rights laws as well, the question is not the
14 extent. But, if there is one instance of illegal
15 treatment, do we have a capable mechanism to identify
16 that illegal treatment and take the corrective steps to
17 try to make sure it doesn't happen in the future.

18 If we go back to 1989, the then chair of the
19 subcommittee of the Senate Banking Committee, Senator
20 Alan Dixon, probably put it best, that:

21 "It's not the lack of laws, but it's
22 lackluster enforcement that we're dealing with."

23 And I think that's been the history of the
24 lending discrimination area for many years now. That
25 as we go into 25 or 26 years after the enactment of the

1 Fair Housing Act, there has not been the proper will
2 and commitment at the federal level to curb
3 discrimination in this area. And I think we're playing
4 catch-up to a large extent as a result.

5 While efforts have been made in sales and
6 rental to curb discrimination, the problem of
7 discrimination in lending wasn't even acknowledged as
8 being a problem until about two and a half years ago.

9 So that's why we're really playing catch-up
10 in this area. I think the Boston study, the Boston
11 Federal Reserve Bank study, was monumental and created
12 a sea change, not because it pioneered completely new
13 ground, because it did to some extent because of the
14 access to data that that study provided. But, I'm
15 convinced largely because it represented a federal
16 agency, an enforcement agency, the Federal Reserve
17 Board at this time, taking responsibility for the
18 findings of its own study which showed that race
19 appeared to be a factor.

20 When private studies were done, or even other
21 agencies of local government did comparable studies,
22 the Fed often was in the role of saying, well, but they
23 didn't take into account this factor, or they didn't
24 have access to this information. And, therefore, we
25 cannot conclude discrimination exists.

1 The interesting thing is one of the Federal
2 Reserve Banks undertook a study, had access really to
3 all relative information for the purposes of accessing
4 whether differential treatment existed, came up with a
5 conclusion that it was very difficult for the Federal
6 Reserve Board as a body to disassociate itself from a
7 study of one of its own Federal Reserve Banks.

8 And, of course, in 1992, a significant
9 breakthrough was made when the Justice Department filed
10 its first pattern of practice suit for lending
11 discrimination under the Fair Housing Act, which was
12 against Decatur Federal Savings and Loan in Atlanta.

13 And I think those really kind of blew the
14 doors off of this whole subject that many folks in the
15 banking regulatory agencies just did not prepare to
16 address in adequate form.

17 I think the current Administration deserves a
18 lot of credit for embarking on a very ambitious program
19 to try to rectify some of the problems of the past.

20 They have revised examination procedures. A
21 rather remarkable admission I thought occurred early in
22 1993, when the then acting Comptroller of the Currency,
23 the regulator of the nationally-chartered banks in this
24 country, confessed publicly that the examination
25 procedures they had been using up until that time were

1 not adequate to curb discrimination.

2 So that the lead supervisory agency in
3 determining whether discrimination exists with regard
4 to federally-chartered banks said the procedures we had
5 in place for almost 15 years were not adequate to
6 determine whether discrimination is existing.

7 And that gets back to my essential point that
8 I really want to stay with you on, which is the
9 question that has to be before this body, before the
10 Civil Rights Commission and anyone else seriously
11 looking at this issue is do we have adequate tools to
12 curb the discrimination that exists.

13 I think there's been progress with the Joint
14 Policy Statement that the regulators issued earlier
15 this year. For the first time, all the federal
16 agencies-- and there is a crazy-quilt system in this
17 area, would accept responsibility for enforcing the
18 Fair Housing, Equal Credit Opportunity Acts as they
19 relate to lending discrimination-- actually agreed on a
20 joint statement of how they were going to go about
21 enforcing the law.

22 And that may not seem like breaking terribly
23 new ground, but I think it's an example of how far we
24 need to go that that represented the first time that
25 the agencies have ever been able to come to agreement

1 and even agree on something such as disparate impact
2 being something that was illegal and needed to be
3 seriously dealt with as part of federal enforcement.
4 That up until that time, there was not a joint
5 statement of policy on that matter.

6 Now there were deficiencies in that inter-
7 agency statement, to be sure, and I won't go into a lot
8 of detail about them. But, again, I think probably the
9 most significant fact of that statement was the fact
10 that they were all able to put their names on the
11 document that was signed by federal agencies.

12 And, of course, the Justice Department has
13 continued prosecutions that were begun under the
14 previous Administration, and instituted some new ones
15 with respect to expanding its pattern and practice
16 authority, and has brought four or five additional
17 lawsuits against lending institutions on Civil Rights
18 ground in the last two years.

19 But I think one of the key gaps in progress
20 and enforcement has been in regard to the Mortgage
21 Banking industry. Now we know in D.C. and the
22 surrounding metropolitan area, mortgage companies are
23 responsible for three-fourths of all the mortgage
24 lending that is undertaken in this area.

25 But there is not direct federal supervision

1 and oversight over the practices of the mortgage
2 banking industry.

3 HUD has some responsibility as where the FHA
4 Insurance Program is housed to make sure mortgage
5 bankers are not involved in discrimination. But they
6 are not subjected to anywhere near the scrutiny that
7 banks and savings institutions and, in fact, even
8 credit institutions are subjected to in their mortgage
9 lending practices.

10 Essentially, with mortgage bankers, we are in
11 a complaint-driven procedure. Unless complaints are
12 raised by either individual customers or HUD Secretary,
13 for example, can initiate a complaint on his own. It's
14 unlikely discrimination by mortgage bankers will be
15 uncovered.

16 There is not the on site examination review
17 process for mortgage bankers that there is for
18 commercial banks and savings institutions.

19 So, in the mortgage banking industry, and as
20 you saw in the research that was presented by the
21 lawyers committee in the earlier panel, you know, just
22 listening to the conversation, it sounded like at least
23 half of the worst case lenders that they were citing in
24 their study were mortgage bankers.

25 And I think that's something that the federal

1 government has really not come to grips with. And
2 Justice Department, in fact, has yet to take specific
3 action against an independent mortgage banking company.

4 They have of course as part of the Chevy
5 Chase prosecution also sued an affiliate of Chevy
6 Chase, which was B.F. Saul. But, they have yet to take
7 independent action against a mortgage banker that was
8 not owned by a chartered commercial bank or thrift
9 institution.

10 I think probably one of the new breakthroughs
11 that is likely to help this whole field is if and when
12 HUD publishes for the first time regulations that will
13 outline in specific terms what constitutes
14 discrimination under the Fair Housing Act, will present
15 standards that I think will help government agencies,
16 also private litigators and the institutions themselves
17 review their practices and better understand how they
18 may wittingly, or unwittingly be contributing to
19 discrimination in mortgage lending.

20 These regulations are due out sometime early
21 into the next year, and we've been waiting for them for
22 a long time. Regulations have yet to be published in
23 the 25 years since the Fair Housing Act was enacted.
24 So I think this could be an important breakthrough.

25 But, again, we are a very early stage of

1 determining whether federal action is sufficient to
2 detect the degree to which problems are occurring, and
3 whether it's making any difference in the overall
4 practices of the industry or not.

5 I think you could cite, and I know people
6 have-- I heard some of the testimony of the first panel
7 cite positive actions that at least some of the
8 industry is undertaking right now to be circumspect
9 about its own practices and try to squeeze out
10 discrimination that may exist.

11 But until we know that we have an adequate
12 enforcement apparatus at the national level, it's going
13 to be very difficult to tell whether that's starting to
14 have an impact at the local level.

15 Now I just wanted to say two other things in
16 my initial comments. One is to state very clearly that
17 I think the District of Columbia is seriously
18 disadvantaged in this area in large part. Although it
19 has a separate jurisdiction and it has a D.C. Banking
20 Superintendent, it does not supervise most of the banks
21 and savings institutions that operate in the District
22 of Columbia.

23 That's because they are nationally-chartered
24 institutions and the District does not have an ability
25 to supervise them directly.

1 Now where most of their jurisdiction in the
2 banking and thrift area is as a result of the Regional
3 Interstate Banking Act in which the Department has some
4 authority to monitor the practices of out of state
5 regional banks that are operating within the District.

6 However, changes in federal law, the
7 Interstate Banking Act that was signed into law this
8 past September, will wash most of that away, so the
9 District will not even have the ability to play a
10 serious role in monitoring the practices of out of
11 state institutions in the future.

12 Probably, where the District has potentially
13 the greatest role to play is with respect to the
14 mortgage banking industry. And I must confess I'm not
15 most current on the extent to which that is done right
16 now.

17 I assume there is a licensing procedure for
18 mortgage companies to operate in the District, and I
19 think the regulator could play a very constructive role
20 with regard to that particular type of mortgage lender
21 in a way that it could not for commercial banks and for
22 thrift institutions.

23 The last point I want to leave you with is
24 regarding an area of discrimination that I don't think
25 is even on the screen of federal regulatory enforcement

1 much less local regulatory enforcement.

2 And that's the area of possible
3 discrimination in the commercial lending area.
4 Virtually all of the discussion you hear about is
5 discrimination in housing, mortgage lending
6 discrimination.

7 Well, in large part, that's because of
8 several factors. One is that we have a great deal of
9 more information available in the public domain from
10 mortgage lending than we do for commercial lending.

11 The Home Mortgage Disclosure Act requires
12 banks and thrifts and credit unions to present quite
13 detailed information so that studies similar to that
14 lawyers committee study, or the Urban League Study can
15 be conducted.

16 There is no comparable disclosure requirement
17 for commercial credit or small business lending.

18 Secondly, under federal law, generally, banks
19 and other commercial lenders cannot even collect
20 racial-related information, or risk actually being
21 libel under federal law.

22 While they are able to do that in the housing
23 area as a result of Federal Reserve Board regulation,
24 it has been interpreted they cannot do that in
25 commercial lending.

1 So this has created essentially a complaint-
2 driven system, that unless some individual, let's say
3 minority-owned firm, complained about the treatment
4 they had received, the regulators would not know that
5 minority-owned firms were being treated differently
6 than white-owned firms. That when an examiner from a
7 banking agency goes in and reviews the loan files in
8 the commercial lending area, they will not know whether
9 that was a minority or white-owned firm.

10 Therefore, it is impossible for them to
11 detect whether minority-owned firms were being treated
12 differently than white-owned firms.

13 And research suggests that, in fact, there's
14 some notable research by Professor Tim Bates with the
15 New School for Social Science in New York studying
16 census data that he's obtained, that minority-owned
17 firms or African-American-owned businesses, I should
18 say, generally require higher collateral requirements
19 and are denied more frequently for small business
20 credit than comparable white-sized businesses.

21 But, again, there is a lack of information in
22 this area because the data is not maintained from the
23 bank level, and it's certainly not published.

24 And, of course, one of the potential areas
25 for discrimination, if we want to apply what we've

1 learned from the Boston Fed study in mortgage lending
2 to commercial lending, is the subjective judgments that
3 loan officers use.

4 Mortgage lending is a relatively straight-
5 forward field at this point and relies on various
6 ratios to determine credit-worthiness.

7 And, even there, the Boston Fed study found
8 that there were subjective judgments. That whites were
9 presumed to be credit-worthy, even when they had some
10 problems in their credit histories, while African-
11 Americans were not.

12 The commercial lending area involves a lot
13 more subjectivity. Ultimately, in small business
14 lending, the loan officer makes a judgment about the
15 viability of the business, and the character of the
16 entrepreneurs who are applying for credit.

17 So it would be reasonable to infer in an area
18 of subjectivity like that, and we know bias exists in
19 mortgage lending, that a comparable amount -- and I
20 would say a much larger amount -- is likely to exist.

21 But, we're not likely to get at that until
22 better information is collected by the agencies and
23 published so the public has a chance to study and
24 review it.

25 There is a proposal that is being considered

1 by the federal agencies as part of the Community
2 Reinvestment Act regulation which for the first time
3 would require large banks, banks defined as over \$250
4 million in assets, which would be most of the banks
5 that operate in the District, large banks to collect
6 information on the lending they do to minorities as a
7 group, and to women-owned businesses, and to report
8 that information in a publicly-available format.

9 Whether that openly is adopted and
10 implemented is something that remains to be seen.

11 So I want to leave you with those points to
12 consider. And, you know, just to kind of sum up to
13 what I'm saying, it is that a severely deficient area
14 of enforcement in the federal government has been
15 lending discrimination.

16 Progress has been made, but we shouldn't
17 assume that that necessarily is translating into
18 meaningful changes in the way the market is operating.

19 And there is a lot more work to be done in
20 the areas of commercial lending in trying to get the
21 District to have the best regulatory clout that it
22 possibly can have in trying to enforce the Civil Rights
23 laws from its own perspective. That's not necessarily
24 the same as the federal government's perspective on
25 these things.

1 Thank you.

2 MS. KRUVANT: Thank you.

3 Are there questions?

4 MR. WEINTRAUB: Can you give us some examples
5 of, first of all, what specifically some of the lending
6 institutions, themselves, could do to turn around some
7 of the patterns that we've been seeing.

8 And, number two, any examples of, or even
9 studies that show that these kinds of changes that they
10 make have yielded very positive results.

11 I mean, is it -- has there been a lot of
12 success in this area when the institutions have gone
13 out of their way to try and correct their past patterns
14 and the results turn out to be much better than they
15 were, or not?

16 What does the research show? And what are
17 those specific steps that they can take?

18 MR. FISHBEIN: Well, I think there's been a
19 lot of progress in the last two or three years. Once
20 there was some public recognition that there was a
21 problem, you know, whether an eight or 12-step
22 treatment program, the initial step is to acknowledge
23 there's a problem.

24 And this was the fight we were fighting for
25 most of this time, that there was a problem. So it

1 wasn't likely things were going to improve when no one
2 was acknowledging there was a problem in the first
3 place.

4 So I think we're starting to see some in the
5 industry take very positive steps. And I heard George
6 Galster in the earlier panel outline some of those. I
7 think they're a good idea for lending institutions to
8 review their own practices and policies to determine
9 ways in which bias can creep into the system; to bring
10 in people of color into the loan officer force and the
11 account executive force; to market credit to undeserved
12 parts of their community; and also steps like second
13 reviews to look to see whether equal treatment is being
14 afforded all mortgage applicants, or all applicants
15 regardless of whether they're mortgage credit or
16 commercial credit.

17 Those are all positive steps. But, one
18 cautionary note. I have found that there are some in
19 the industry who have been very quick to answer the
20 question before they even know what it is. When the
21 Boston study came out, everyone said, "That's the
22 problem." You know, that no one is intentionally
23 discriminating out there.

24 It's just that subconsciously loan officers
25 are tending to treat whites differently than African-

1 Americans and other minorities.

2 Well, I'm willing to acknowledge that that is
3 part of the problem, but I think it was a mistake for
4 each institution, regardless of what part of the
5 country, to assume that as the totality of the problem.

6 I think it's quite reasonable to assume that
7 discrimination might be coming from a number of
8 different directions, some of it very intentional -- if
9 not on the part of the institution, then at least on
10 the part of certain loan officers, or people who
11 operate within that institution.

12 We know that discrimination exists in
13 virtually all forms of our society. Why do we assume
14 that people kind of check it at the door when they come
15 to work in the morning.

16 So I think institutions have to assume that
17 that may be part of the problem. I think, looking at
18 their policies -- and they may be very traditional
19 policies that have been in place for many, many years,
20 but which may have discriminatory effects on
21 minorities-- is something that is beginning to be
22 acknowledged within the industry, but is very difficult
23 for the industry to really look at it until I believe
24 HUD publishes these regulations which will set out a
25 methodology for looking at loan policies and

1 determining not only whether they have disparate
2 impacts on minorities, but is there a lesser approach,
3 a less drastic approach they could take to make sure
4 those disparities cease to exist.

5 And then of course there's the question that
6 was posed by the Chevy Chase lawsuit and again referred
7 to by Mr. Ritter and John Relman, the question of
8 marketing, which I think is not -- I don't think the
9 Chevy Chase case, for example, was an exceptional case.

10 I think it's very typical of many
11 institutions out there that as a result of kind of
12 evolution and history have kind of moved away from
13 certain areas which might be areas where there are
14 large groupings of minorities to predominantly white
15 areas.

16 And so the question is not whether they're
17 treating loan applicants differently when they come in
18 the door based on the color of their skin, it's whether
19 they're getting any loan applicants to begin with.

20 And I suspect that's going to be more and
21 more of a problem because we're seeing a lot of
22 institutions going to niche banking.

23 This is a term you hear in the banking
24 industry now. Not general service of the community but
25 trying to carve out selective markets within a

1 community which they view as the most lucrative. And
2 we can kind of guess the way that's going to work.

3 But it will mean that minorities,
4 particularly minorities at the low end of the economic
5 ladder, might have less access to these institutions
6 than ever before.

7 So that's a long-winded answer to your
8 question, but I just want to be clear. I think you'll
9 see some literature in the field, and the regulators
10 have put out literature, you know, five steps and seven
11 steps, or how to improve your practice.

12 What we always advise institutions who come
13 to us -- some of them actually do. They do it quietly,
14 you know, confidentially, but they come to us and say,
15 "What can we do to improve our practice?" is to first
16 do very serious, rigorous self-examination of your
17 existing practices and look for the ways that
18 discrimination can creep into the system. And then
19 figure out an approach, a solution to trying to deal
20 with it.

21 Don't assume you're going to be able to take
22 some product off the shelf and that's immediately going
23 to improve the way you operate.

24 MR. WEINTRAUB: And those institutions that
25 have done that, have they been able to show some

1 positive results?

2 MR. FISHBEIN: Well, I think an example might
3 be a number of mortgage lenders got together in New
4 York City to create a mortgage loan consortium with a
5 new kind of product that these institutions were not
6 offering individually.

7 And they found that the rejection rate
8 disparities disappeared overnight, that they are now
9 rejecting applicants roughly the same, regardless of
10 racial characteristics.

11 And these were from institutions, some of
12 whom had two or three or four or five times -- were
13 more likely to deny minority applicants than white
14 discrepancies that you heard mentioned before.

15 So I think it can be done. But, again, it
16 should be part of a targeted approach to deal with the
17 actual problems that exist in particular local market
18 and not just kind of the quickest, simplest, easiest
19 no-brainer way for them to respond to what they view as
20 a public relations problem, which would be the wrong
21 way to go about doing it.

22 MR. SIMS: I just wanted to first signal to
23 you that your comments about commercial loans were
24 heard. I don't have the expertise in the housing area
25 as some other colleagues here, but I do work in

1 minority business.

2 And, in fact, I chaired a panel, or moderated
3 a panel that Tim Bates participated in with GAO last
4 week. And he's now at Wayne State. He's moving on.

5 And so I agree with you. It's a critical
6 concern in that other area. But, for the purpose of
7 today, it seems that we seem to be overwhelmed by the
8 depth and breadth of the problem.

9 And I go back to the question you raised to
10 start your presentation. What I've heard this morning,
11 your question was:

12 Do the tools exist to curb continued
13 discrimination?

14 From what I've heard today, I get the
15 impression we don't have enough information to know, or
16 to be able to assess the tools we're using versus the
17 behavior we want to change.

18 Do you agree with that, or concur with the
19 other presentations this morning on your own, that we
20 don't know enough? Or, do you believe that, to some
21 extent, we can use some of the tools in an effective
22 way that may not be being enforced, or regulated and
23 being enforced, et cetera, right now?

24 MR. FISHBEIN: Well, I think there are two
25 parts to that question. I think, first and foremost,

1 the federal government, or any agency involved in
2 enforcement, has to set out a very strong message that
3 discrimination in any form will not be tolerated.

4 And once they've set out that message, they
5 have to undertake concrete steps to show that they're
6 going to follow it up.

7 And I think the federal government in recent
8 years, you can point to them having at least begun to
9 do that.

10 But, this is not a problem that's going to be
11 solved overnight. It didn't happen overnight, and it's
12 not going to be solved overnight.

13 And it's going to take more than a batch of
14 prosecutions, or some new initiatives being announced
15 by the federal government. It's going to have to be a
16 sustained effort through popular and unpopular times if
17 the problem is going to be corrected.

18 So that's part of an answer to what you're
19 saying, is I think there is some progress being made,
20 but a lot more needs to be done.

21 Now, regarding whether we've learned what the
22 tools are and how to go about challenging the
23 discrimination emphasis, I think we're learning all the
24 time, whether it be private agencies and private
25 lawyers, or the federal government, or public agencies

1 of any kind.

2 We're learning about the methodologies and
3 the ways in which discrimination exists. And I think
4 the field is growing and becoming more sophisticated.

5 The kind of study that you see in this room
6 incorporating factors that people doing studies even
7 five years ago wouldn't even think about incorporating
8 shows the kind of growth in that learning process.

9 And I think we've got to be open to
10 understand that mortgage lending can operate
11 differently and discriminate in different ways than
12 maybe our preconceived hypotheses will be.

13 And I'll give you an example of that. We
14 have found in some of the research we've done in the
15 past that the so-called tipping points of when an area
16 is starting to be viewed as a minority area will vary
17 in different parts of the country.

18 So that some parts of the country, an area
19 that is 20 percent African-American is going to be
20 viewed as -- if not predominantly -- than a sizable
21 minority population. In another area, it might be 50
22 percent, or higher than that.

23 And that's a very key point because we've
24 also learned that the mortgage markets start to often
25 get distorted in direct relationship to the degree of

1 color that resides in those particular areas.

2 But we have to learn about that. And we have
3 to be open to understand that there isn't a set formula
4 or model to use in every place that's going to work,
5 but our research, the people who are doing this work,
6 have to be open-minded and look at the actual facts of
7 a particular market.

8 And from that, you know, try to construct
9 findings and interpret findings which then can be used
10 to combat the discrimination.

11 I think a lot of people are doing very good
12 work in that area, I'm happy to say. But, we have to
13 keep an open mind about this and not assume that we
14 have all the answers for the nature of the problem.

15 MR. SIMS: My only concern, just a quick
16 follow-up, is it's a shame that we can't -- because you
17 said 20 years ago, some of these same issues were in
18 front of us. It's a shame we can't go back and do an
19 assessment, or a survey of those families that were
20 denied an opportunity to move up and what the impact of
21 that had on them in terms of ownership, in terms of
22 feeling a part of the community, in terms of what that
23 might have meant, in terms of moving, schooling, et
24 cetera.

25 So, I mean, we have results that impact that

1 are things that happen as a result of our actions. And
2 while we're talking about, yes, now we have more
3 sophistication, we can move forward, it's just a shame
4 we can't go back and look at the impact on individuals,
5 on human beings, of not putting the pedal to the metal
6 now, or 20 years ago, and doing the things that were
7 necessary and what that's mean in terms of impact on
8 human beings.

9 MR. SMITH: Mr. Fishbein, thank you for your
10 comments. You've referenced growth and the
11 sophistication of methods to detect some of the
12 instances of discrimination.

13 What do you relate to the lack of any kind of
14 appropriate enforcement mechanisms coming into place
15 vis-a-vis the mortgage banks when wherein they
16 constitute I think we've heard three-quarters of the
17 lending activities with regard to housing?

18 Why haven't we been as aggressive and perhaps
19 proactive with regards to addressing some of the
20 problems that we now know exist with regards to
21 mortgage?

22 MR. FISHBEIN: Well, I guess the simplest
23 answer to that question -- and it is a complicated
24 question -- is the lack of a regulatory scheme that
25 scrutinized the mortgage bankers the way that the banks

1 and thrifts are scrutinized.

2 And part of that just because of the
3 rationale not just in the Civil Rights area but in
4 general about the rationale for why banks which are
5 depository institutions whose funds are backed up by
6 the full faith and credit of the federal government are
7 treated to a more diligent level of scrutiny than the
8 mortgage banking is, for example, which are basically
9 intermediaries without deposit insurance who sell their
10 loans to secondary mortgage market investors.

11 MR. SMITH: But are there some other reasons
12 though as to why perhaps we have not -- they have not
13 been scrutinized as closely? In fact, the problems are
14 now known and are known to be disproportionate to a
15 great many of the other lending institutions.

16 MR. FISHBEIN: Well, I think Secretary
17 Cisneros and Assistant Secretary Actenberg deserve a
18 lot of credit for trying to focus HUD, which probably
19 is the lead agency, to the extent there is one in the
20 federal apparatus, to mortgage bankers.

21 There is a new unit that's been created
22 within the Fair Housing, Equal Opportunities Office to
23 look at the areas of lending discrimination. And they
24 are focusing in on the mortgage banking industry.

25 They are working with the Justice Department

1 to learn about the Justice Department methodologies,
2 and apply them to mortgage bankers.

3 You know, but these are steps that you want
4 to commend and you want to say good things about. But,
5 at some point, the rubber hits the road.

6 And until we see that translated into
7 specific enforcement actions by HUD, by other agencies,
8 it's impossible for anyone to really say that it is
9 really representing progress of any sort.

10 MR. SMITH: Could you provide us with written
11 testimony of your --

12 MR. FISHBEIN: Yes. I can do that.

13 MS. KRUVANT: Mrs. Galiber.

14 MRS. GALIBER: Well, initially, I heard you
15 say, as I've said many times as relates to services for
16 persons with disabilities, is that we have the laws,
17 but we're not breathing any life into them.

18 And it seems to me that the real problem is
19 that people are not empowered. That it's hard for
20 people to understand their rights or how to proceed
21 because they're not provided the information that would
22 allow them to know that they're being discriminated
23 against.

24 And I think that's where we ought to be
25 moving, to give people the information that lets them

1 know what's happening when they're striving to get
2 loans and other things in this society, because as long
3 as a few of us have this information it doesn't get
4 down to the people, we can't identify the problems.

5 We've said that we can't really specifically
6 pull people together because they don't even know most
7 times that they're being discriminated against.

8 So I think these agencies, you know, I think
9 about these programs that come on now, these talk
10 programs that say nothing or help no one, that time
11 could be used in educating people in so many different
12 areas so that they would know what to do.

13 I don't think we'll ever get any rights
14 unless we can empower the community.

15 MR. FISHBEIN: I think that's a very, very
16 important point, and I would want to underscore that.
17 I think it's important to understand, particularly the
18 banking regulatory agencies at the federal level, that
19 they largely operate with career staff that is the same
20 regardless of who happens to be in charge of the
21 administration.

22 And, traditionally, at least, that career
23 staff has been very indifferent -- and that's probably
24 a charitable term -- to enforcement in this area, and
25 unwilling to really use their full supervisory

1 authority.

2 And it wasn't until the heads of the agencies
3 directed the career staff to make changes in exam
4 procedures, to make changes in increasing the referrals
5 of suspicions of discrimination to Justice Department
6 and to HUD that we started to see any change at all.

7 And the reason that came about is as a result
8 of public information.

9 MRS. GALIBER: Absolutely.

10 MR. FISHBEIN: The regulators had all the
11 data that the Home Mortgage Disclosure was providing to
12 the public for years. I didn't spend time talking
13 about it today.

14 But, we can go back to 1972, when the
15 Comptroller of the Currency did its own survey of
16 lending patterns for mortgage lending and found almost
17 precisely the same results that we're talking about
18 today -- 1972.

19 What changed all this was that, as a result
20 of the change of the Home Mortgage Disclosure Act in
21 1989 as part of the S&L Cleanup Bill, for the first
22 time, banks had to report on the characteristics of who
23 they were making mortgage loans to.

24 And that public dissemination of information
25 led first to the Boston study, led to many newspapers

1 and other media sources publishing information about
2 this, put pressure on the federal government to be a
3 lot more diligent. But, it came about as a result of
4 the Public Disclosure of Information.

5 And we feel it would work the same way in the
6 commercial lending area if rules like that were put
7 into effect.

8 But, at the same time, these are very
9 difficult things to do and there are forces that do not
10 want to see this information published because they
11 recognize the possible consequences of the information
12 coming out in public life.

13 MS. KRUVANT: We do thank you for your
14 information.

15 One point of closure?

16 MR. SMITH: One point.

17 You reference it then it was because of
18 changes in federal law, the District of Columbia Office
19 of Banking Thrift Supervision will no longer have the
20 same kind of influence, or perhaps jurisdiction over
21 some of those institutions they now influence.

22 What was that legislation, again?

23 MR. FISHBEIN: It's the Riegle-Neal
24 Interstate Banking Act of 1994, which was signed into
25 law in September. And that will essentially override

1 any particular state/community reinvestment
2 requirements that have been imposed on out of state
3 banking institutions operating in another jurisdiction.

4 And so the District which, for the purposes
5 of interstate activity, was treated as a state really
6 is going to limit -- it's going to limit most of its
7 authority in this area, I would suspect.

8 MS. KRUVANT: Once more, thank you for the
9 information.

10 MR. FISHBEIN: Thank you.

11 MS. KRUVANT: Particularly for your long-term
12 commitment to --

13 MR. FISHBEIN: It's a pleasure talking to
14 you.

15 MS. KRUVANT: Thank you, again.

16 We're going to suspend now. Now we're
17 finishing this panel, we're going to start again the
18 next panel at 1:30. We do have three presenters that
19 have committed themselves to be here in the afternoon.
20 And we hope they'll be here on time because we,
21 hopefully, will be here on time.

22 Thank you, again.

23 [Whereupon, a luncheon recess was taken, the
24 meeting to continue at 1:30 p.m., this same day.]

25

1 AFTERNOON SESSION

2 [1:30 p.m.]

3 MS. KRUVANT: Good afternoon, everybody.
4 Thank you for being here. We're trying to keep up our
5 activities on time. We're going to start our panel
6 number three for the day. And even though Ms. Jarvis
7 is expected to join us, with the permission from her
8 staff, we're going to finish the activities. And when
9 Ms. Jarvis joins us, we'll just ask her to join the
10 panel.

11 Just as a matter of information, my name is
12 Charito Druvant, and I'm the chairperson of the
13 advisory committee. And in my regular work, day to
14 day life, I am the president of Creative Associates
15 International.

16 And joining me for this afternoon as part of
17 my -- would you like to?

18 MR. WEINTRAUB: Jeff Weintraub.

19 MRS. GALIBER: Yetta Galiber.

20 MR. MCKETHAN: Donnie McKethan.

21 MRS. HEUER: Ann Heuer.

22 MS. KRUVANT: And Mr. Clifton Smith will be
23 joining us any minute now.

24 This afternoon's panel. The Factfinding
25 Committee is trying to look at Issues of Civil Rights

1 Enforcement Efforts, Federal and Local Government
2 Committees.

3 And we do appreciate you are here today.
4 This morning, we had a very fruitful and very
5 informative morning from experts. And, in many, many
6 ways, we do appreciate that this is a factfinding
7 effort because it's allowing us to look at the breadth
8 of the information, particularly the new information
9 and the progress that has been occurring in this
10 subject matter.

11 But, this afternoon for us is of great
12 importance because it's not only just looking at the
13 information, but looking at what's really happening.

14 So we do thank you that you are taking the
15 time and coming and informing us. As Mr. Darden
16 mentioned to all of you in the preparations of today's
17 effort, this process would lead to a report.

18 And we hope that in the next three to five
19 months we would be able to present a report. And so we
20 really appreciate you coming today.

21 Mr. Darrell Sheets, would you like to start?

22 MR. SHEETS: Sure, if you want me to.

23 MS. KRUVANT: Yes.

24 /

25 /

1 PANEL III, CIVIL RIGHTS ENFORCEMENT EFFORT:
2 FEDERAL AND LOCAL GOVERNMENT COMMITMENTS
3 DARRELL SHEETS, FIELD MANAGER/NATIONAL BANK EXAMINER
4 COMPLIANCE MANAGEMENT, U.S. COMPTROLLER OF THE CURRENCY

5 MR. SHEETS: What I thought I'd do to begin
6 with is kind of explain who I am and how I fit in with
7 the OCC. Steve Cross was initially supposed to be
8 here. He's the deputy comptroller for Compliance for
9 the OCC. But, they currently have a meeting of all the
10 compliance group, so I was elected to come in his
11 place.

12 I'm one of three field managers in the
13 Washington, D.C. duty station. We have specific
14 responsibility for the supervision of the banks,
15 supervised out of the Washington, D.C. duty station.

16 We have about 45 community banks that we
17 supervise out of that office, some of which are in the
18 District, some of which are in Northern Virginia, and
19 some are in the State of Maryland. So we have a wide
20 range of banks that we deal with.

21 What I thought I'd start out initially is
22 talking a little bit about the OCC's compliance program
23 to kind of give you a historical perspective, I guess,
24 of our commitment to compliance and what we're trying
25 to do to ensure that the banks that we supervise do

1 have the controls in place to ensure compliance.

2 In late 1993, the OCC established the
3 compliance program, which is calendar-driven.
4 Basically, that means that we have a set schedule for
5 compliance examination for all the banks that we
6 supervise.

7 We currently are operating within a three-
8 year window, meaning that within the next three years,
9 every bank that we supervise will receive a full
10 consumer compliance CRA examination.

11 And starting January 1, 1997 every bank will
12 receive a compliance examination every other year.

13 Currently, the large banks that we supervise,
14 the multi-national regional banks, are already examined
15 every other year. These examinations evaluate the
16 bank's performance under all consumer laws, Community
17 Reinvestment Act, Fair Lending, Consumer Regulations
18 and BSA.

19 We also have a strategy for each bank that we
20 supervise, being that if we identify there's an issue
21 or concern that we need to address, we can go on site
22 for a visit. We can request information from a bank.

23 We basically supervise our banks on a
24 continuous basis.

25 The program also established compliance

1 managers for each district. These are basically
2 individuals that have responsibility for the compliance
3 program.

4 Specifically, in the Northeastern District we
5 have two compliance, CRA examiners. One is located in
6 the Washington, D.C. duty station.

7 The program also established a cadre of
8 Commission examiners with skilled expertise in
9 evaluating compliance with consumer laws and
10 regulations.

11 We also required each one of our
12 noncommissioned examiners to select a specialty, one of
13 which is Consumer CRA. And we've set up a program to
14 train those individuals in consumer laws and
15 regulations and evaluation of banks' compliance with
16 that.

17 In addition to the calendar year examination
18 process, we did do a review of the banks we supervise.
19 And we looked at the '91 HMDA rejection rate
20 disparities, discrimination complaints filed against
21 each institution, information obtained from the
22 community and efficacy organizations, and information
23 supplied by our field offices.

24 And we came up with 20 organizations
25 nationwide that we did a specific fair-lending review

1 of, and I'll get to the results of that in a minute.

2 Okay. One of the questions that was asked in
3 the letter was:

4 How does the OCC identify discrimination?

5 As I indicated, we have a specific exam cycle
6 for every bank that we supervise. And starting in
7 1997, every bank will be examined every other year.

8 In 1993, we issued Examining Bulletin 99-3,
9 which is the interim procedures for residential lending
10 discrimination. These procedures provide detailed
11 guidance on how to examine for residential rural state
12 lending discrimination. It was based on the principle
13 of comparative file analysis.

14 What we do is we look at the bank's portfolio
15 of loans, specifically real estate lending. And we
16 look at the denied minority applications and the bank's
17 treatment of those applications, and compare to
18 applications that were approved for members of a
19 controlled or majority group. Basically, to see if
20 there was any difference in the treatment of the
21 individuals -- either in requesting information,
22 discussing with a customer whatever we can determine by
23 looking at the file, discussing with loan officers--
24 any information that may be available to us.

25 And examiners, as part of this process, reach

1 a preliminary conclusion regarding whether they found
2 an apparent difference in the treatment on a
3 prohibitive basis. It's based on an assessment of the
4 institution's policies.

5 A bank could have a policy that basically
6 discriminates by the very nature in which it's written.

7 Comparison of the loan applicants. In other
8 words, the information they're asking from each one of
9 the individuals, is it consistent?

10 And we also look at the lending practices
11 throughout the institution.

12 One of the things that we do as part of our
13 process is we discuss what we're finding with the
14 institution as the examination unfolds. What we like
15 to do is at least get their feedback on what we're
16 finding. We don't keep secrets from the bank.

17 What we want to do is ensure that we have
18 open communication so we give them every opportunity to
19 provide information they may have which may have an
20 impact on our findings.

21 Whenever there is a reason to believe that
22 there has been a pattern or practice of denying
23 applications for credit on a prohibitive basis, we're
24 required by the Equal Credit Opportunity Act to refer
25 the matter to the Department of Justice.

1 In most cases, referral and notification is
2 made by our Washington Supervision Review Committee.
3 They basically consider all the referrals that come in
4 from the examiners to ensure that it's consistent, to
5 ensure the information is valid and we have all the
6 information we need to make a firm determination that
7 there was discrimination.

8 In cases where the Equal Credit Opportunity
9 Act requires the OCC to notify HUD, we notify all known
10 affected customers in writing of the referral
11 notification at the time the referral notification is
12 made.

13 This is done to alert them of the respective
14 rights under Equal Credit Opportunity, and under the
15 Fair Housing Act.

16 Okay. One of the questions that was asked
17 is:

18 How much discrimination have we identified?

19 To date, we have referred 12 cases to
20 Department of Justice for apparent violations of the
21 Equal Credit Opportunity Act. Two of these cases had
22 apparent violations of more than one prohibitive basis.

23 Specific referrals were four cases based on
24 race, one based on gender, six based on marital status,
25 three based on age and one based on national origin.

1 And we're required by Executive Order 12-892
2 to notify HUD of all instances of discrimination on a
3 prohibitive basis that violated the Fair Housing Act,
4 but did not violate Equal Credit Opportunity, such as
5 discrimination on the basis of family status, or
6 handicapped in acquired residential lending.

7 Since 1989, we have cited 637 violations of
8 the Fair Housing Act during examinations. But, these
9 include both those that required HUD notification and
10 those that did not.

11 Since 1989, we have notified HUD of five
12 apparent violations of the Fair Housing laws which the
13 OCC believed resulted in discrimination on a
14 prohibitive basis. All five notifications were for
15 apparent violations on the basis of race or national
16 origin.

17 For the 20 banks that received the special
18 Fair Lending examinations I mentioned earlier, we found
19 three apparent violations of Fair Lending laws which
20 resulted in two referrals to Department of Justice, and
21 one notification to HUD.

22 One of the questions that was asked in the
23 letter was:

24 What is your enforcement record?

25 As I indicated before, whenever there's a

1 reason to believe that a national bank has engaged in a
2 pattern or practice of denying applications for credit
3 on a prohibitive basis, we refer the matter to
4 Department of Justice.

5 After the OCC refers the case to Department
6 of Justice, they determine whether they will file a
7 civil action against the bank or allow the OCC to
8 correct the violation through our administrative
9 process.

10 We have one formal enforcement action that we
11 have done against a national bank that we believe --
12 where we believe the bank discriminated on the basis of
13 race.

14 MR. SMITH: Nation's Bank?

15 MR. SHEETS: I'm not sure which bank it was.
16 I don't have the specific information. It would be
17 public information though if it was a formal --

18 In this case, the OCC entered in the consent
19 order with the bank which required the payment of
20 compensatory damages to those individuals against whom
21 the legal discrimination occurred.

22 Where we have not imposed any civil money
23 penalties against the national banks for Fair Lending
24 violations, Department of Justice has taken a number of
25 actions, including the issuance of cease and desist

1 orders, and they are imposing civil money penalties
2 against institutions that the OCC referred.

3 Those that we have administratively resolved,
4 which are the ones that the Department of Justice
5 elected not to pursue, we have on a case by case basis
6 required banks to appropriately compensate those
7 individuals who were denied credit on a prohibitive
8 basis.

9 One of the questions was what do we plan to
10 do in the future?

11 As I indicated, we have every bank, or will
12 have every bank on a two-year examination cycle. We
13 have specific procedures in place which our examiners
14 use to evaluate a bank's individual credit.

15 We're also in the process of revising our
16 Fair Lending examination procedures which will address
17 in more detail examining for discrimination of non-
18 residential lending.

19 And we will continue to refer cases to
20 Department of Justice and HUD as necessary or
21 warranted. And in those cases where they elect not to
22 pursue, we will continue to pursue for ourselves as
23 warranted to ensure that the banks appropriately
24 compensate those individuals who were denied credit on
25 a prohibitive basis.

1 MS. KRUVANT: Thank you, Mr. Sheets.

2 I'm going to request from my colleagues to
3 withhold the questions to Mr. Sheets.

4 And we really thank you for coming Ms.
5 Jarvis. And, with your forgiveness, we started the
6 activities before you arrived, even though you had
7 notified us that you were on your way.

8 So, if the panel at least -- would you like
9 to make your remarks?

10 MS. JARVIS: Thank you very much, Madam
11 Chairman. I appreciate your willingness to let me go
12 ahead. I would, however, find it useful to hear the
13 Commission's questions to the Office of the Comptroller
14 of the Currency, and so would defer to the Commission's
15 questions, because their answers are useful to us, as
16 well.

17 MS. KRUVANT: Okay. We shall start the
18 questions.

19 Mr. Smith.

20 MR. SMITH: Two questions here. Perhaps you
21 could just deal with those very quickly.

22 You talk about the 12 cases that you looked
23 at cited by OCC. What were the time frames in which
24 these 12 cases were evaluated?

25 MR. SHEETS: Do you mean the 20?

1 MR. SMITH: You mentioned 12 though that I
2 think--

3 MR. SHEETS: I should have said 20. The 20
4 banks that we specifically targeted for Fair Lending?

5 MR. SMITH: Then you mentioned 12 cases.

6 MR. SHEETS: The 12 cases that were referred
7 to-- oh, okay. In total, those were the cases that
8 were referred.

9 MR. SMITH: Over what period of time were
10 these 12 cases?

11 MR. SHEETS: I'm not real sure. I would
12 guess over the last two years.

13 MR. SMITH: Twelve cases in two years?

14 MR. SHEETS: Yes. I would have to -- I'm not
15 sure of the specific time frame.

16 MR. SMITH: Okay. Second, the personal
17 compensation, how is that determined? You said in some
18 instances you have allowed personal compensation.

19 MR. SHEETS: Basically, what we'd look at is
20 try to determine the inconvenience to the customer and
21 what the customer basically lost because they were
22 denied credit.

23 And it's really unique to each individual in
24 each case that you're looking at. You can't provide a
25 standard because it varies depending on what the

1 transaction would have been.

2 But we try to look at each one of those
3 specifically and determine for that.

4 MR. SMITH: The monetary loss? That is,
5 filing for --

6 MR. SHEETS: Yes.

7 MR. SMITH: And how do you differentiate your
8 exam? One is a non-- you mentioned a category at
9 least, non-commissioned examiner?

10 MR. SHEETS: Right. For the OCC, we
11 basically have two types of examiners in a broad range.
12 A Commissioner examiner is an examiner who has taken
13 the Commission test, normally given after five or six
14 years with the organization.

15 It's a five-part test, takes the better part
16 of a week. And that's kind of a threshold which a
17 person has to pass in order to be able to sign the
18 reports and take a group and examine a bank.

19 A non-commissioned examiner is any examiner
20 working for us who hasn't passed their test. And
21 there's different levels of expertise for those
22 individuals.

23 MR. SMITH: Is there ha disparity in the
24 findings or the recommendations by one versus the
25 other?

1 MR. SHEETS: No. What you end up doing is
2 every examination that's done is under the supervision
3 of a Commission examiner.

4 MR. SMITH: A Commission examiner.

5 MR. SHEETS: And then that's subject to the
6 review by a higher-level individual. In the case of
7 rights of Washington, D.C. for the 13 banks that I
8 supervise, if it's a regional bank, it's our district
9 office. If it's a multi-national bank, it's the multi-
10 national group in Washington.

11 So everything that's basically done is
12 subject to review by a higher-level individual before
13 it's sent back to the bank.

14

15 MR. SMITH: I'm concerned about the role and
16 the relationships of the OCC relative to the Office
17 of -- D.C. Office of Banking Supervision.

18 But I think we'll have a chance to speak to
19 that at some forum later.

20 MS. KRUVANT: Any other questions?

21 MRS. HEUER: Yes. Could you define for me
22 when you say overlook, oversee 45 community banks, how
23 do you define a "community bank"?

24 MR. SHEETS: A community bank is basically
25 any bank under a billion dollars in assets.

1 MRS. HEUER: Since that would eliminate
2 Nation's Bank --

3 MR. SHEETS: For what I do, the Nation's
4 Bank, Citibank, all those are part of the multi-
5 national program. See, we have a tiering examination
6 process.

7 In our national headquarters in Washington,
8 which happens to be in the -- see, I'm part of the
9 Northeastern District, and we happen to have our office
10 in Washington but our national headquarters is here
11 also.

12 But, they have responsibilities -- the whole
13 department has responsibility for supervision of the
14 multi-national banks. The regional banks, which are
15 anything over a billion dollars up to the multi-
16 national are supervised out of our New York office.

17 And, depending on the size of the
18 organization, we are permitting the examiners in some
19 of those banks all the time. In the case of Nation's
20 Bank, we have 20 and 30 examiners that work in that
21 bank all the time evaluating various parts of their
22 examination process.

23 MRS. HEUER: Do you think that perhaps we can
24 be provided with lists? I have never really stopped to
25 think --

1 MR. SHEETS: Sure.

2 MRS. HEUER: Sometimes, in our
3 discrimination, we might be comparing apples and
4 oranges when we're talking about different kinds.

5 MR. SHEETS: Right.

6 MRS. HEUER: My other question, when you said
7 you found 12 cases of discrimination, you don't know.
8 These were all in what you would call community banks?

9 MR. SHEETS: No, I can't say that. The
10 information I was provided was 12 cases. I could --

11 MRS. HEUER: So you don't know, in fact,
12 whether they were in D.C., or whether they were in
13 Maryland, or Northern Virginia? You really don't even
14 know where they were?

15 MR. SHEETS: It could have been anywhere in
16 the country, actually.

17 MRS. HEUER: Oh, I see.

18 MR. SHEETS: Yes. Basically, all the
19 information I have is on a national perspective.

20 I could try to get for you if you'd like to
21 get a specific breakdown for the D.C. area more
22 specifically?

23 MRS. HEUER: Yes, we would like that. And if
24 you could also give us, provide us a list with this.

25 MR. SHEETS: What we'll do is give you a

1 breakdown like the supervision responsibility, and then
2 also see if I can get a specific listing of those
3 specific cases related to D.C.

4 There is an issue of confidentiality
5 depending on --

6 MRS. HEUER: We don't need to know which
7 banks.

8 MR. SHEETS: Right.

9 MRS. HEUER: Just the area.

10 MS. KRUVANT: Any other questions?

11 Ms. Galiber?

12 MRS. GALIBER: No. I'm just thinking about
13 earlier testimony where it was clearly indicated that
14 oftentimes, when minorities applied for loans,
15 information is not provided them that would allow them
16 to meet the requirements as opposed to the majority.

17 And I just wondered is there any way you can
18 tickle that kind of information out?

19 MR. SHEETS: Hopefully, that's part of what
20 we do when we look at denied minority applicants, and
21 also evaluate approved majority applicants.

22 Through that process, in the cases that we
23 have determined discrimination, we have identified what
24 you're talking about, where there was like an
25 additional phone call to the individual that was in the

1 file that basically requested additional information,
2 or providing some additional information that maybe
3 hasn't been requested of the other candidates.

4 One of the other things that we've asked some
5 of our banks to do, and we're in the process of taking
6 a look at, is mystery shopping, where somebody comes in
7 and basically goes through that process -- a white
8 applicant, and then a minority applicant -- to see if
9 they are treated differently.

10 Some of our larger banks have already set up
11 programs to do that.

12 MR. SMITH: That's a form of testing.

13 MR. SHEETS: Testing where, basically, you
14 send very similar candidates in just to see how they're
15 treated through that process.

16 MR. WEINTRAUB: Your office doesn't actually
17 conduct those.

18 MR. SHEETS: We are currently not doing it,
19 but we're in the process of trying to develop a
20 program.

21 There's some issue about how far you can go
22 in the process, because you can't give a false
23 application because that's a violation of law.

24 But there is a certain level that you can go
25 to. We're trying to set up a program for that. But,

1 some of the banks -- I know some of the banks
2 specifically in the District are doing that.

3 MS. KRUVANT: This morning's presentations
4 addressed the issue that when it comes to lending, a
5 large portion of the lending, or at least applications,
6 go to mortgage institutions.

7 To what extent are you involved or committed
8 to also regulate that?

9 MR. SHEETS: We do some of that depending on
10 how it's tied in with the holding company or the bank.
11 In a case when it's specifically within the holding
12 company, normally, the Federal Reserve has the
13 responsibility for that.

14 If it's specifically tied in with the bank,
15 we would evaluate that as part of our examination
16 process.

17 MS. KRUVANT: But, isn't it in some
18 instances, or at least it appeared to me this morning,
19 that in some instances we are honing on the banking
20 practices and we're letting the partner, or the
21 colleague, without any regulations or at least no
22 motivation to self-direct themselves in a different
23 way.

24 Are you addressing that issue? Is it
25 something that you're concerned and, hence, you're

1 looking at ways of addressing that issue more formally?

2 MR. SHEETS: Specifically as it relates to
3 the subsidiary or the banks, we do that as part of our
4 examination.

5 If it's part of a holding company, that's
6 really the responsibility of the Federal Reserve. And
7 I would assume they're looking at that as part of their
8 examination process.

9 MS. KRUVANT: But, do you know of -- you are
10 now kind of comparing issues. And when you do your
11 studies, you're not looking at the body of the
12 applications as a unit. You're pretty much looking
13 within your domain.

14 MR. SHEETS: Right.

15 MS. KRUVANT: That --

16 MR. SHEETS: There's a limit to what we can
17 do. Our organization, specifically.

18 MR. SMITH: Would you provide then in
19 whatever written responses you'll give us a breakdown
20 with regards to how you treat the mortgage
21 institutions, lending institutions?

22 MR. SHEETS: Yes.

23 MS. KRUVANT: Another issue that came quite
24 clearly this morning is the importance of consumer
25 education. And, in some ways, the importance of

1 transparency of information to the public. Even though
2 you seem to be addressing this -- are you looking at
3 ways? I mean, which ways do you look to educate the
4 public?

5 MR. SHEETS: One of the things that we do
6 evaluate in protocol examination is the information
7 that the banks are providing to the public. That's a
8 specific thing that we do evaluate.

9 And one of the things we specifically do is
10 ensure their compliance with the law specifically as it
11 relates to disclosure and information that needs to be
12 provided to the customer.

13 MS. KRUVANT: The regulations you provided
14 us, the breadth of that information, to what extent do
15 you share that information with the public?

16 Or is that something that you don't consider
17 part of your key responsibilities?

18 MR. SHEETS: Yes, we don't specifically share
19 that with the public.

20 MS. KRUVANT: Are there any other questions?
21 Yes?

22 MR. DARDEN: I have a question. It may have
23 been asked already; I was out of the room.

24 Are you familiar with the Riegle-Neal --
25 what's the whole title of the legislation?

1 MR. SHEETS: Actually, I'm not.

2 MR. DARDEN: If you are --

3 MRS. HEUER: Investment Banking, Riegle-Neal.

4 MR. DARDEN: The Riegle-Neal Investment

5 Banking bill. You're not familiar with that?

6 MR. SHEETS: Sorry.

7 MR. DARDEN: All right. That was my

8 question.

9 MS. KRUVANT: Part of the reason why we're
10 asking that question is because, this morning, there
11 was information to us that some of the regulations have
12 been lifted because of the Riegle-Neal.

13 And so it seems to me that some new sets of
14 regulations need to come.

15 MR. SMITH: Need to be in place.

16 MS. KRUVANT: Need to be in place, because
17 many of the reasons why we were being supportive of
18 looking at these issues was because of the Riegle-Neal.

19 MR. DARDEN: Well, may I rephrase my

20 question?

21 Mr. Sheets, would you find out whether--
22 well, first of all, would you get hold of the Riegle-
23 Neal -- what's the whole name?

24 MR. SMITH: Riegle-Neal Investment Interstate
25 Banking Act of 1994.

1 MR. DARDEN: The Riegle-Neal Interstate
2 Investment --

3 MR. SMITH: Banking.

4 MR. DARDEN: -- Banking Act of 1984.

5 MR. SMITH: Ninety-four.

6 MR. DARDEN: 1994. Sorry. Would you please
7 look at that piece of legislation and give us some
8 response with regard to its implications for the
9 District of Columbia?

10 MR. SHEETS: If I can point out something.
11 From what I understood, that had to do with the
12 authority that individual states -- state governments
13 had over out of state institutions.

14 So, since he's a federal authority, it might
15 not necessarily, you know, apply to you. But I don't
16 want to presuppose. But, I mean, that's why you might
17 not be aware of it.

18 [Simultaneous voices.]

19 MR. SMITH: Clearly, there is import, and
20 we'll get to it a little later for the District of
21 Columbia and the Office of Banking.

22 MR. SHEETS: Yes. Definitely.

23 Okay. I'm trying to summarize what I need to
24 provide to you. A breakdown of banking supervision,
25 specifically, the multi-national regional community

1 bank; how mortgage institutions are treated as part of
2 our examination process; the Riegle-Neal law and what
3 the impact may be. And there was another piece that I
4 was requested to get, and I was trying to pay
5 attention.

6 MR. SMITH: You just mentioned it.

7 MR. SHEETS: There was another piece somebody
8 had.

9 MRS. HEUER: Oh, of those 12 cases.

10 MR. SHEETS: Okay. Thank you. The breakdown
11 of where the cases were?

12 MR. SMITH: And over what time frames. I
13 think I see it in two years.

14 MR. SHEETS: Thank you.

15 MR. DARDEN: Yes, this question is a little
16 more general. One of our earlier panelists thought
17 that the current procedures for bank examination were
18 improved in '93, but still don't go far enough. And
19 that there's a fundamental disconnect between the
20 approach that's used here and what really is needed in
21 the market.

22 The approach that's used here as he described
23 it seems to be fairly accurately stated, that the
24 intent of the examination is to compare equal treatment
25 of equally-situated individuals when, in fact, within

1 the market, you very seldom find equally-situated
2 individuals.

3 And that permits a gray area that allows the
4 disparate treatment to continue, and even to continue
5 without being really exposed through the examination
6 process as it's currently structured.

7 So his suggestion, his thought, was that
8 there should be a restructuring, at least a different
9 approach with respect to examinations, and suggest that
10 a model that would follow the kind of computerized
11 approach that credit card lenders currently use with
12 respect to examining potential -- deciding on
13 applications and even identify perspective customers.

14 I don't know. His name is Mr. George
15 Galster. He has agreed to provide us with an expansion
16 of his model, which I'll be happy to provide to you.

17 MR. SHEETS: Sure.

18 MR. DARDEN: My question would be, again, if
19 you would look at and give us your reactions with
20 regard to its implications for -- well, implications
21 generally, but that we're looking at in Washington.

22 MR. SHEETS: Specifically, something like
23 that I would provide to Steve Cross, the individual who
24 should have been here. He should get back to you, but
25 I will make sure he gets it.

1 MR. DARDEN: Very good. Thank you.

2 MS. KRUVANT: Any other questions?

3 [No response.]

4 MS. KRUVANT: Thank you again, Mr. Sheets.

5 Ms. Jarvis.

6 STATEMENT OF THE HONORABLE CHARLENE DREW JARVIS,

7 D.C. COUNCIL MEMBER AND CHAIR

8 COMMITTEE ON ECONOMIC DEVELOPMENT OF THE COUNCIL OF THE

9 DISTRICT OF COLUMBIA

10 MS. JARVIS: Madam Chairman, thank you very
11 much. I appreciate your kindness in letting me listen
12 to the questioning of the Commission. And I certainly
13 am, I must say, delighted to see that you are chair of
14 this Commission and that there are so many very
15 knowledgeable people who are members of it.

16 Let me just set the stage, if I will, before
17 I give my prepared remarks to say that I chair the
18 Committee on Economic Development in Washington that
19 has oversight responsibility for banking matters. That
20 all of the banks, with the exception of the Industrial
21 Bank of Washington, are federally-chartered banks.

22 And we recently established a law that opened
23 the Office of Banking Supervision in the District,
24 which would permit the District to charter its own
25 banks and to enforce any local laws.

1 In the absence of that, when the Congress
2 gave jurisdictions, they gave states the right to
3 determine whether or not banks could merge across state
4 lines, or be acquired across state lines. They
5 regarded the District as a state for that purpose, and
6 we were given the opportunity to decide whether or not
7 those federally-chartered banks should be permitted to
8 merge across state lines.

9 We then saw that as an opportunity to get
10 some degree of targeting of the resources of banks that
11 had heretofore not had any direction from local
12 officials in the District.

13 And, thus, in our Banking Act that permitted
14 the interstate mergers and acquisitions, we established
15 a set of community reinvestment guidelines somewhat
16 similar to the guidelines established by the federal
17 government.

18 But, in those guidelines required, for
19 example, that banks that came into the District, merged
20 or acquired District banks, establish branches in
21 under-served areas of the community, have more women
22 and minorities on the boards of those banks, hire
23 District residents, that they target a certain
24 percentage of their assets to under-served areas of our
25 community.

1 And we used a rule of thumb that was
2 different for regional versus non-regional banks
3 because the non-regional banks were the very largest of
4 the banks.

5 And when I say regional versus non-regional I
6 forgot that what we established was an 11-state region
7 in which these interstate mergers could occur, so we
8 did not open the District to formation-wide banking.

9 We gave the superintendent the right to
10 enforce the community reinvestment requirements of the
11 act, knowing of course that the superintendent's
12 ability to enforce would be somewhat limited since
13 these are federally-chartered banks, since they are
14 examined by the feds with respect to safety and
15 soundness and since we were actually sharing a
16 responsibility that principally belonged at the level
17 of the federal government.

18 And so I think it's fair to say that we were
19 pushing the envelop here with respect to our ability to
20 enforce local laws for federally-chartered banks, but
21 we pushed it, nonetheless, and got some good results.

22 In our CRA requirements we did not
23 distinguish between mortgage lending and business
24 lending and other consumer lending.

25 So we said to our bank holding company, "You

1 must invest in under-served areas of the City in any of
2 those areas consumer loans, banking, small business
3 loans and home mortgage loans, knowing of course that
4 [a] it would be the mortgage subs that were more often
5 than likely to do the mortgages, and having a real
6 emphasis on access to capital for small businesses, we
7 were focusing a great deal on that.

8 I think that what you've heard from the
9 Comptroller of the Currency this morning clearly
10 indicates the disparate agencies that are responsible
11 for looking at the question of discrimination.

12 And so those institutions are dealt with
13 differently according to their size and according to
14 their mission.

15 And so the Office of the Comptroller of
16 Currency has certain responsibilities. The Federal
17 Reserve Board has certain responsibilities. Certainly,
18 the Office of the Thrift Supervision has certain
19 responsibilities, the Justice Department and the
20 Department of Housing and Urban Development.

21 So it's spread across a number of agencies of
22 government. And that makes enforcement a bit of a
23 problem since all of the information about absence of
24 lending is not going to the same place.

25 And one of the things that is most necessary

1 is a central place where all of those kinds of
2 complaints can go.

3 The OCC has the same information that the
4 Federal Reserve has, that the Justice Department has,
5 that the Department of Housing and Urban Development
6 had because otherwise you don't get a real sense of who
7 is creating the problem.

8 One of the things that the speaker from the
9 Office of the Comptroller and the Currency didn't
10 mention, at least while I was here, is that the Office
11 of the Comptroller of the Currency has 11 suggested
12 Fair Lending activities that it published in the
13 Federal Register a few years ago, probably now about
14 three or four years ago.

15 And that we have sent to the banks that have
16 mergers in the District those 11 activities that could
17 be used to detect the presence of or avoid
18 discrimination.

19 And we've asked the local banks how they have
20 responded to those 11 requirements for the Comptroller
21 of the Currency, which we would be glad to share with
22 you.

23 Things like Second Look -- if there's a
24 mortgage turned down.

25 So I wanted to preface my remarks with that

1 and then go to my prepared statement.

2 Despite the ever-increasing amount of
3 interest on the subject of mortgage lending inequities,
4 the latest District of Columbia study on the issue
5 illustrates that between 1990-1992, ethnically-based
6 disparities in mortgage lending widened in the District
7 of Columbia.

8 And I might say that the Urban League, that
9 did a recent study, was commissioned by the Department
10 of Housing and Community Development to do that study.
11 And that Department was required by the Council to
12 carry out that study.

13 So we in fact think -- I, in fact, think that
14 that study has produced more interesting and important
15 outcomes than has the Office of Banking Supervision on
16 that matter, for whatever reason.

17 MS. KRUVANT: For your information, we did
18 have this morning's presentation from that group.

19 MS. JARVIS: Okay. Very good. That man was
20 here. Okay.

21 Okay. It should be remembered that
22 discrimination in the mortgage area does not begin at
23 the rejection of a citizen's loan application. The
24 study recently released by the Greater Washington Urban
25 League, last month, illustrated that the process is

1 much more insidious.

2 Previous studies and court cases have found
3 evidence of bias in each of five stages among
4 processing.

5 One, the defining of the bank's service area.
6 That is something that is done internally within the
7 banks. So how they define their service area
8 determines whether or not they had made a decision to
9 service people in under-served areas, or in minority
10 areas of the community.

11 Two, a bank or mortgage company's marketing
12 in minority media and minority neighborhoods. If there
13 is media contact in minority neighborhoods that says we
14 have money available and you can come, you can apply,
15 this is the criteria -- that is a bank that seriously
16 wants to make loans in that area.

17 If there is an absence of that and you cannot
18 go to the bank's public relations department or any
19 other part of it and demonstrate that there's an actual
20 outreach, that there is where part of the problem
21 begins, as well.

22 Number three is prescreening of the applicant
23 prior to any application after being filed with the
24 bank-- address, zip code. Both of these are things
25 that help to define where an applicant lives and,

1 therefore, whether that is likely to be a minority
2 applicant in a minority neighborhood.

3 That is a process that excludes majority
4 applicants as well because it uses the address or the
5 zip code as the criterion by which to make the
6 judgment.

7 And before is the credit process itself. And
8 one of the things that we have pushed for is a more
9 flexible credit process that looks not at just the
10 traditional sources of credit evaluation, but looks at
11 other things -- paying the utility bills on time, for
12 example; paying the kids' tuition on time. Other
13 things that are considered other than traditional kinds
14 of credit evaluation thresholds.

15 The fifth is the inappropriate steering of
16 the applicant to federally-insured mortgage products
17 when, in fact, the bank makes mortgages in other
18 neighborhoods using the same products that are in the
19 banks.

20 In addition, of course, we've seen
21 discrimination aided and abetted by real estate agents
22 who steer buyers to certain areas, and by appraisers--
23 and this is another very important thing-- who lack the
24 knowledge about areas which they survey.

25 I held a hearing in the Ward VIII community a

1 year or so ago. And there was a person who worked for
2 the Federal Reserve Board who came as a witness to our
3 hearing, who indicated that she and her husband went to
4 look for a bank loan.

5 They live in a minority neighborhood. They
6 happen to be an integrated couple. And they were told
7 that the bank did not have appraisers who appraised
8 pieces of real estate in the area in which they wanted
9 to live.

10 That, itself, was just a steering mechanism
11 and an exclusionary mechanism that kept them from being
12 able to apply. So it's not a question of being
13 rejected. Unable to apply for a loan at that bank.

14 We do take the question of mortgage
15 discrimination very seriously and we've taken a number
16 of steps in the District to try to address the problem.

17 We are awaiting and I must say have been
18 waiting -- we may have to just draft it ourselves --
19 for legislation that gives the District exclusive
20 powers to regulate mortgage companies as financial
21 institutions, not just as business entities.

22 We rely on the Office of Banking to continue
23 and monitor and report our mortgage lending trends and
24 utilize enforcement provisions granted to them under
25 the Regional Interstate Banking Act of 1985.

1 And I must say that the enforcement powers
2 are rather gross powers in the sense of being able to
3 withdraw a charter of a bank that did a merger, which
4 is not the kind of discrete power that we need in order
5 to get to address the problem of mortgage banking
6 problems.

7 We have now introduced legislation that
8 assures residential mortgage appraisers who spend
9 sufficient time understanding the nuances of the
10 Washington, D.C. residential market.

11 And there is in federal or -- yes. There is
12 in federal law a provision that says that banks must
13 hire appraisers who have a certain bank of knowledge.

14 The problem is that this is not being done.
15 And that what we've got to, therefore, do is push,
16 cajole to have banks actually hire those people who
17 have specific knowledge in all neighborhoods.

18 The impact of having appraisers who do not
19 understand the neighborhoods is that very often the
20 value of the property in those neighborhoods is under-
21 valued so as to make the property less valuable in
22 resale, even if a person can get a loan in that
23 neighborhood.

24 And the other thing that I've just mentioned
25 is having a process whereby consumer banking complaints

1 are uniformly received, tracked and resolved. And that
2 needs to happen at the local level. It needs to happen
3 at the national level, as well.

4 You mentioned the new Interstate Branching
5 Act. The new Interstate Branching Act is really a way
6 of allowing nationwide banking. Nationwide banking is
7 not, as a matter of course, been done by the Congress
8 yet, but this legislation, because it permits
9 interstate branching of banks, is really a way of
10 opening up the whole marketplace.

11 And our concern about it was that it permits
12 a circumvention of what local governments may have done
13 in imposing some community reinvestment standards. And
14 for that reason, we have a concern about it.

15 Now there is, however, in the law an opt-in
16 provision it is called -- which will help states, and
17 we're working with Maryland and Virginia -- to
18 determine the rights and responsibility of the branches
19 and a reciprocal branching that may occur, any consumer
20 rights which are to be reserved to the states, and any
21 interface with federal regulators.

22 And so we are now working on trying to
23 address the question of how we can get some control
24 that is targeting of resources in under-served areas,
25 including mortgages, with the passage of this piece of

1 legislation.

2 In the District of Columbia, we have recently
3 been working with financial institutions to establish
4 what is called the Capital Area Mortgage Partnership
5 Camp. That is being finalized for operation this
6 month.

7 Many banks have already signed on to this.
8 They are providing funding for the partnerships that
9 seeks to provide rejected loan applicants with a second
10 review of their application, as well as providing loan
11 counseling to individuals with credit problems.

12 That is the second look. And that is how the
13 District of Columbia has decided to try with its
14 financial institutions to provide the second look for
15 applicants who have been turned down.

16 We have tried to get the banks to more
17 aggressively market their mortgage loan products in a
18 variety of neighborhoods, assuring that there are
19 people in those communities who know about the
20 availability of such loan products.

21 And we have tried, as you have indicated, I
22 think, to get consumers more active and interested in
23 this whole question of where the dollars flow.

24 There was nothing more successful that I
25 remember in the case of one of the large non-regional

1 banks which wanted to leave the Southeast area of the
2 City than of getting the churches that are large
3 contributors to the bank's portfolio to put some
4 pressure on the leadership of the bank, and to remind
5 them that the deposit base that they did enjoy as a
6 deposit base that had been supported by a large number
7 of churches.

8 So I think consumer advocacy is very
9 important in this area. And I am glad that this is an
10 issue that is coming before the U.S. Commission on
11 Civil Rights, because it is truly a Civil Rights issue.
12 It is a question of access to capital for places to
13 live for people who are minorities who live in this
14 country.

15 And it is an appropriate subject for you to
16 take up. And I'm really delighted that you are
17 pursuing it.

18 MS. KRUVANT: Thank you so much for being
19 here.

20 Are there any questions to Ms. Jarvis?

21 MRS. GALIBER: Well, I just wanted to
22 reinforce. I had raised earlier the whole issue of
23 empowerment of this community, and that information is
24 just not disseminated in a way that people understand
25 the trickery actually that goes on in attempting to get

1 loans.

2 Will you move to have more community
3 involvement in, you know, or get the banks to
4 disseminate the information? Because I happen to chair
5 the advisory board for the Industrial Bank and we feel
6 a responsibility to go into the community and educate
7 people about the whole process.

8 I just think that people have no power to
9 understand what's being done to them to prevent them
10 from getting these loans.

11 MS. JARVIS: Well, we do encourage the banks
12 to go into the communities. A number of them, in fact,
13 have. And there is an enormous bubble of interest in
14 acquiring homes in the community.

15 And there is a process through which people
16 are taken to get to the end stream of being bankable,
17 essentially. And that's really part of the challenge,
18 is to -- mortgage discrimination exists in many subtle
19 ways. And that can occur because the lender and the
20 applicant are people of different races.

21 And those kind of subtleties are things that
22 the banks are being asked to review. In fact, some of
23 the banks have said to us that they have videotaped
24 interactions between bankers and applicants, and they
25 have shown those video tapes to their lending officers.

1 And they have pointed out the subtle ways in
2 which discrimination occurs. That is, a greater
3 willingness to explain to applicants of the same race
4 what the hurdles are that have to be overcome.

5 Some presumptions about people who are
6 different race, about what they can and cannot
7 overcome, and so those are things that have to go on
8 internally in the bank's operations.

9 And we encourage it. And we would love to
10 have the Office of the Comptroller of the Currency
11 press for that as well, because we really are in a
12 partnership.

13 Most states have a dual banking system. We
14 really don't. We have a federal banking system here.
15 And though I've tried to adopt -- I mean, though we
16 have tried to adopt the pressures that are effective
17 when you have a state-operated banking system, we
18 really are pressing, you know, the button here that
19 gets the federal government involved as well because
20 they truly are the enforcers, bottom line enforcers.

21 And so there is a citizen education process
22 that must go on as well. There's a bank education
23 process internally. There are actions that have to be
24 taken with lending officers, and that's where it is.

25 The actions with the lending officers.

1 Even some banks are talking about bonuses
2 that go to lending officers who figure out how to get
3 more money into the minority communities, more mortgage
4 money into minority communities, and that, you know, it
5 may be an effective way of doing that.

6 Consumers need to be also somewhat helped to
7 understand the credit evaluation process, the mortgage
8 evaluation process, what is required to become
9 bankable, what is it you have to have in the way of
10 resources to make a lending officer think this is
11 legitimate.

12 And the other thing is the potential
13 computerization of the whole process so that what
14 you're doing is plugging in numbers, so that the racial
15 component doesn't enter.

16 I really, frankly, think that it is better to
17 have the relational interaction developed because
18 banking is a relationship matter. Right?

19 It establishes relationships with people who
20 are going to make dollars available to you, getting
21 them to understand that you are a responsible payer.

22 And, therefore, I think we're going to have
23 to figure out how to improve those relational matters.
24 I wouldn't like to see banking just be a matter of
25 putting the numbers in and getting the outcome, because

1 I think under those circumstances we'll still find the
2 problem -- because of credit concerns and just
3 different ways of hopefully thinking about dollar flow.

4 MS. KRUVANT: Mr. Smith, you had some
5 questions.

6 MR. SMITH: Yes. Thank you very much, Mrs.
7 Jarvis, for your testimony in front of this committee.

8 Mrs. Jarvis happens to be my Ward
9 representative. You seem to have also anticipated some
10 of the kinds of issues that we wanted to get into.

11 Let me just ask. Has your office undertaken
12 an analysis that you can provide to us in writing of
13 the impacts of Riegle-Neal, and an earlier presenter
14 did indicate that -- at least the implication of what
15 he was saying is that it substantially weakens the role
16 of the District of Columbia and that it's overriding of
17 your authority with regards to CRS policy as you've
18 indicated.

19 But are there some specific areas that you
20 all could recite and refer to us?

21 MS. JARVIS: Yes. I think that what I will
22 do is get -- first of all, I agree with you. You know,
23 the act has really circumvented the ability that we had
24 to sort of get some control over CRA lending in the
25 community.

1 We can certainly tell you what we think ought
2 to occur now at the local level in this two-year opt-in
3 period that the local jurisdictions have been given to
4 sort of define what is important to us locally.

5 And I'll transmit that to you. We'll get
6 together with Maryland and Virginia jurisdictions who
7 have been meeting on this matter, and come and send you
8 a statement that says where we're going and what we
9 hope to achieve before the end of that two-year op-in
10 period.

11 MR. SMITH: Okay. Conclusionary statement.
12 Have you been able to ascertain a different level of
13 performance by the institutions that you have
14 jurisdiction over, those that you have encouraged to do
15 certain things in the community vis-a-vis others, those
16 with the federal charter?

17 MS. JARVIS: Those that are --

18 MR. SMITH: In terms of their performance
19 relative to lending and discrimination in the mortgage
20 lending?

21 MS. JARVIS: Yes. Again, I can't answer you
22 specifically on mortgage lending because we didn't have
23 a threshold of responsibility for mortgages. We just
24 said mortgages, consumer lending and access to capital
25 for small businesses.

1 I can tell you that some banks have a better
2 record overall than others, even if they -- even if we
3 can't look at the specific mortgage lending, and even
4 if the Urban League has said that they are deficient.

5 Our overall, for example, for Crestar, you
6 know, has done an outstanding job. Overall, Nation's
7 Bank, before its various iterations, had done a good
8 job in mortgage lending.

9 And, of course, the banks have not
10 historically been in mortgage lending is the other, you
11 know -- their subs have and mortgage companies have.

12 But, banks, themselves, have not generally
13 done 30-year mortgages.

14 But, I will say that what's changing now is
15 extraordinary competition among the banks to get
16 dollars out. And that that seems to be having the
17 greater impact on getting the dollars out to the
18 community than perhaps even the laws and the
19 enforcement.

20 That is, they all have money they're trying
21 to get out in the community, and they're all trying to
22 figure out how to get customers in their banks.

23 And that is pushing the non-regionals, those
24 who have not -- I mean, not non-regionals, but the
25 banks that have not merged to try to do as much as

1 others. Riggs is an example of that.

2 MS. KRUVANT: Have you had an opportunity to
3 look at the summary of the report that's coming
4 tomorrow from the Lawyers Committee? They seem to have
5 been looking at this issue, and including HMDA data
6 through 1993.

7 And much to our surprise -- and there was a
8 certain amount of mapping which allowed us to be more
9 specific or more concrete -- even though the general
10 information that we've been hearing this morning and
11 that we have been reading up to now is that things are
12 improving when they showed us both the data and the
13 specifics of the mapping, it was quite specific in
14 showing that things have not improved in the District,
15 and particularly some of our so-called friendly banks
16 are not so friendly yet to certain areas in the
17 community.

18 MS. JARVIS: Well, consistent with the Urban
19 League's findings?

20 MR. SMITH: Yes.

21 MS. KRUVANT: Yes. Much, much more refined.

22 MR. DARDEN: Let me say that some of the
23 points that -- first of all, the methodology that they
24 used is to look at banks that had denied at least 100
25 minority applicants. So it wasn't all of them.

1 So you're talking about some of the larger
2 institutions. In addition to that, what they did
3 through regression analysis was to show geographically
4 using dots on the map where the specific institutions
5 had placed loans.

6 And they color-coded the map so that you
7 could tell which sections were 30-50 percent black and,
8 you know, 25. There were three areas.

9 In nearly every case, including Nation's
10 Bank, the areas that had the highest minority
11 concentration population had almost no loans placed in
12 them.

13 Within the metropolitan area, most of the
14 lending clustered in areas that had less than 10
15 percent, or less than 30 -- whatever -- the lowest
16 level of minorities, and even in Prince George's County
17 where there were loans, they still concentrated in an
18 area that had low minority population.

19 So their location for the District was in the
20 very high minority areas, at least for this group of
21 lenders we still had virtually no lending going on.

22 And I think that's what we're trying -- I was
23 really struck by that. It is coming out. The report
24 is due to come out to the public tomorrow. They shared
25 the information with us today.

1 But, one has to ask what then is the problem?
2 Why haven't the efforts that you've described already
3 been more successful in breaking down the barriers? We
4 should see a greater representation than we saw.

5 MS. JARVIS: Yes. I want to make my point
6 more clearly. And that is that the way we looked at
7 what the banks did, there was an easy opportunity to
8 obscure the failures of mortgage lending. It just went
9 like that.

10 And so while we might have found that we
11 required a bank to do \$30 million of investment, and
12 they actually did \$200 million in an area, it wasn't
13 necessarily in housing. We didn't really have good
14 enough data to demonstrate what you've said.

15 And, you know, we've thought about this a
16 great deal, the same question that you've asked. And
17 we point to the things that I have mentioned. You
18 know, let discrimination on the part of lenders,
19 appraisers unfamiliar -- lack of familiarity with the
20 particular neighborhoods -- the credit process which,
21 you know, many minority applicants perhaps were not
22 helped through in ways that others might have been.
23 All of those things.

24 And the thing that I really don't know is
25 which institutions are really -- in other words, we

1 look at bank mortgage companies, the sub to banks, you
2 know, where is the lending occurring and are we looking
3 at too few of the institutions that are really doing
4 the lending.

5 And so, see, and I don't know. Is their data
6 looking at all of the S&Ls? And is it looking at all
7 the mortgage companies? Is it looking at all the
8 banking subs? It is looking at the banks, themselves?
9 Or, are we not looking at the institutions that are
10 doing most of the mortgage lending?

11 MS. KRUVANT: Their data is much more
12 comprehensive, I think, than the Urban League.

13 MR. SMITH: Oh, yes.

14 MS. KRUVANT: And from hearing you, which in
15 some ways it describes the progression of improvement
16 because at least now we're looking more universally at
17 the problems of the specific one to one case.

18 But we were struck over the poor advancement.
19 We do know that discrimination occurred. We knew of
20 particular specific cases. We also knew through the
21 Washington Post and through your hearings that the
22 problem was being addressed.

23 And we also assumed to a certain extent that
24 things were improving. It was quite clear information
25 this morning that this problem not only is a consistent

1 problem. But, to a certain extent, it's increasing in
2 some areas. There were some blocks within the mapping
3 that one could see that the old-fashioned red-lining is
4 still quite prevalent.

5 And I would really very much encourage you to
6 look at that. And if you have some comments, or maybe
7 some other way of looking at that information that we
8 should look at, we would really appreciate that.

9 MS. JARVIS: Yes. I would be delighted to do
10 that.

11 MR. DARDEN: Can I clarify just one before
12 you go?

13 MS. KRUVANT: Yes.

14 MR. DARDEN: In one example, they said that a
15 minority person was 12 times more likely to be denied a
16 loan than a non-minority person. And they identified
17 the institution.

18 If you were provided with that sort of data,
19 what would be the next step? Is there something that
20 the District could or should do in response to that
21 kind of information?

22 MS. JARVIS: If we were provided that
23 information from a bank that had been subject to
24 merger-- because that's the kind of--

25 Well, I mean, that suggests that -- and

1 you're saying that banks, bank by bank, differs
2 dramatically.

3 MR. DARDEN: Oh, yes.

4 MR. SMITH: Oh, yes.

5 MS. JARVIS: There's something internal in
6 the operation of the bank. And I will say my own
7 observation is if you have a CEO at a bank that is
8 committed to Community Reinvestment Act requirements
9 and that filters to the members of the team in that
10 bank, the lending officer, et cetera, so I would
11 examine first the attitudes and policy directives that
12 come from the CEO in a bank.

13 And that ought to be the subject of the
14 Comptroller and the Federal Reserve as well.

15 MR. DARDEN: If we provide you with a copy of
16 this report, could we get your responses to it?

17 MS. JARVIS: Sure.

18 MR. DARDEN: All right.

19 MS. KRUVANT: The other concern that I had
20 personally is, indeed, the way I interpret your
21 responsibilities, you have jurisdiction over some of
22 them and not over the others.

23 So that the question that would be useful to
24 hear from you is -- is it you or who else should be
25 within the District of Columbia responsible for the

1 enforcement? Because as it is right now, some of them
2 might come under your scrutiny, but the others you just
3 have to --

4 MS. JARVIS: Well, you know, we ask questions
5 of them all. You know, we get checked in it by the
6 federal government who takes to itself the right to do
7 examinations and et cetera.

8 But we want to be in partnership there. I
9 think our desire is the same as members in the federal
10 sector. And that is that there be a relief for clear
11 evidence of discrimination.

12 And I think that there's some internal
13 operations within the bank, and that is philosophy.
14 That needs to get -- [a] it needs to exist in the CEO;
15 [b] needs to filter to the lending officers. That is
16 where these decisions are being made. They're being
17 made day to day, one to one.

18 And if there's nobody in the bank itself that
19 is going to monitor this and make sure that there is a
20 consistency, then those numbers are going to be-- are
21 going to still be a problem.

22 So it means that they need to feel a greater
23 threat of the Justice Department's intervention. You
24 know, that's the enforcement arm.

25 And my view is that there hasn't been much in

1 the way of --

2 MR. SMITH: Self-analysis.

3 MS. JARVIS: Yes.

4 MR. WEINTRAUB: I want to look at this in a
5 slightly different light. The kinds of patterns that
6 were shown in the Urban League study and are about to
7 be shown in the Lawyers Committee study might very well
8 be the result of factors like discrimination, the kinds
9 of things you just discussed.

10 There's another thing I wonder might be at
11 play here, too. And that is, for many lenders, many
12 financial institutions, they might be either
13 consciously or unconsciously, for whatever reason, be
14 staying away from particular parts of town where they
15 feel that their investment really will not yield such a
16 great return as it would, you know, in another part of
17 town.

18 If we can assume that's at work as well, and
19 I think it's very possible it's part of the whole
20 formula, what can the District government, the federal
21 government do to encourage them to -- not just to
22 market in those areas, but to actually invest in those
23 areas either in housing or commercial development.

24 And given the fact right now you're going
25 through budget discussions in the City Council and

1 you're overseeing economic development committee, what
2 kinds of strategies does the economic -- will the City
3 come up with to stimulate economic development in
4 particularly hard-hit areas or needy areas in town,
5 economically needy areas to hopefully bring along these
6 people who they operate by the theory that you fish
7 where the fish are?

8 And is the City going to be restocking the
9 ponds of some of these areas that are out there right
10 now, and what kinds of recommendations can this
11 committee make that you think would be helpful in this
12 regard.

13 MS. JARVIS: Okay. Let me answer that. But
14 let me first say that I think some of the most
15 compelling results of some of the more recent studies,
16 and that which points us to discrimination as a factor
17 in lending, is that minority applicants who live in the
18 same areas and have the same incomes are turned down to
19 a greater extent than are similarly placed majority
20 applicants.

21 And I think that that is a most telling part
22 of the analysis. So that whatever else we conclude,
23 that part of the analysis says that there is actual
24 discrimination on the basis of ethnic origin or some
25 other personal factors going on in the lending.

1 Now your question was what can local
2 governments do to stimulate communities that will make
3 banks want to invest their dollars in under-served
4 areas of the City?

5 And, you know, it's really a chicken or egg
6 question because if you invest dollars, then you
7 improve the area of the City. It asks the question of
8 who's going to come first in there? The bank with its
9 money to help in building the community up, or do you
10 rely singularly on non-market forces like a government
11 that brings its targeted industries, that brings its
12 targeted economic development into an area.

13 And I guess the answer is both. But you
14 can't-- and the area cannot -- an area cannot survive
15 singularly on the government's targeting of
16 reasonableness. It has got to depend on the private
17 sector to help in the revitalization of those areas and
18 the continued maintenance of those areas.

19 And, you know, in fact, some of the under-
20 served areas have assessments that are moving more
21 quickly than some areas where there are more stable
22 middle-income populations at the moment. Right?

23 And so what's the answer? The answer is to
24 get people in the banking community who understanding
25 something about the value of property and look at

1 assessments and see where they're going and, you know,
2 make judgments also on the basis of where there's
3 likely to be an appreciation in the value of that
4 stock.

5 But a lot of those are under-served areas.

6 MR. WEINTRAUB: But, is anyone in the City
7 government though doing that? Talking to the banking
8 community here and saying, you know, we want to work
9 with you. We want to help you help us essentially
10 bring some of these areas back?

11 I mean, it is a chicken and egg thing. But
12 is there a conversation going on right now that would
13 encourage that?

14 I see some heads nodding, so that's good to
15 see.

16 MS. JARVIS: Well in fact, there was a recent
17 announcement of a Nation's Bank effort in the Southeast
18 area. And when the Nation's Bank came into the
19 District what they said to us was that they wanted to
20 identify an area that was essentially a transitional
21 area, if you will, between very stable neighborhoods
22 and neighborhoods that are quite unstable.

23 And what they wanted to do was help put the
24 resources in that intermediate transition area that
25 would improve the ability to then target the more

1 under-served area.

2 So, not only are there active conversations,
3 there are active projects that are going on.

4 MR. SMITH: I would submit, however, that the
5 issue is what is the behavior of the banks relative to
6 those requests for loans that come before them.

7 And if, in fact, discrimination is found to
8 exist, then we need to marshal whatever resources we
9 need to monitor and address that situation.

10 I think that that's a corollary issue
11 certainly, but to the extent that we are aware that
12 discrimination is alleged or exists, then certainly we
13 need to deal with it over at the federal level, and
14 certainly at the local level.

15 I would submit that perhaps in the backs of
16 their minds, in addition to the fact that the applicant
17 might be of a minority background, another factor that
18 might be in the backs of their minds is, well, I don't
19 want to invest in this part of town because I know I'm
20 not going to get much back from it.

21 MR. SMITH: I understand. But, again, we
22 were also looking at the statistics that showed that
23 with educational levels being the same, income levels
24 being the same, there are disparities in terms of the
25 lending based on where one lives.

1 And even if a black or Hispanic lives in Ward
2 III or perhaps in Ward IV or V, there are disparities.

3 MR. WEINTRAUB: I understand.

4 MS. KRUVANT: Thank you, Ms. Jarvis. We do
5 appreciate that you took the time to share with us.
6 And if you don't mind, we'll follow up both through
7 communication and in terms of what are your reactions
8 from the study of the Lawyers Committee, because it
9 addresses some of the specific areas in the City.

10 And we would very much appreciate that.

11 MS. JARVIS: Yes. And I think the question
12 that was asked by Mr. Darden is really -- by all of you
13 -- is really the dispositive questions.

14 Where next do we go in this step?

15 I will provide for you what Mr. Smith has
16 asked for, which is some comments on the on Interstate
17 branching, you know, and how the District views this.

18 And I will await your answers once you have
19 the other study.

20 Thank you for asking me to be a part of this.

21 MR. WEINTRAUB: Thank you.

22 MS. KRUVANT: Thank you.

23 Following the panel, we will have a
24 presentation from Rochelle Duran, who is from the D.C.
25 Office of Banking and Financial Institutions.

1 Thank you for being here. I know that you're
2 in a reacquisition stage, so we appreciate that you
3 also joined us.

4 MR. DARDEN: May I add, Madam Chairman, that
5 Ms. Duran is actually supposed to be on leave today, so
6 she is really doing yeoman service. We really
7 appreciate that.

8 Thank you.

9 MR. SMITH: Is Mr. --

10 MS. DURAN: She is no longer the acting
11 superintendent, so I'm here in her stage -- not to
12 replace her because her wealth of knowledge exceeds
13 mine. But I can offer some comments, and also piggy-
14 back on what Mrs. Jarvis has said.

15 Basically, she has given you a very full
16 picture.

17 MS. KRUVANT: Thank you.

18 STATEMENT OF ROCHELLE DURAN
19 D.C. OFFICE OF BANKING AND FINANCIAL
20 INSTITUTIONS

21 MS. DURAN: Again, piggy-backing on Mrs.
22 Jarvis' comments, I guess I give more of a legal
23 standpoint with reference to enforcement.

24 The District Code as it currently stands
25 doesn't have sort of an equivalent of Fair Lending Act

1 or the Equal Consumer Credit Opportunity Act.

2 And, basically, the examination process as it
3 stands is for D.C.-chartered banks and all of the banks
4 outside of Industrial are nationally-chartered banks.

5 So, therefore, the primary regulator is the
6 Office of the Comptroller of the Currency. And, again,
7 as Mrs. Jarvis stated, the enforcement powers, so to
8 speak, come into play when there is a merger and a bank
9 is acquired in the District. And we have the community
10 development prerequisites that we enforce.

11 If it comes to our attention, we do take
12 complaints and concerns. We get consumer calls on a
13 daily basis and not necessarily speaking to the issue
14 of mortgage discrimination.

15 But, if they come to our attention, we would
16 then turn them over to the Office of the Comptroller of
17 the Currency, or report them to HUD, or perhaps the
18 D.C. Office of Human Rights, which oversees complaints
19 about discrimination in general.

20 I guess what I wanted to provide most of all
21 was the role that the Office has played with respect to
22 community development. And it's been in conjunction
23 with Mrs. Jarvis' office also.

24 Basically, there's been some proactive
25 conduct on the part of the former superintendent with

1 respect to community development activities and the
2 banks, so to speak.

3 There are a handful of banks which recently
4 merged with banks in the District. And their
5 commitments are monitored by our office. There's also
6 an assistant superintendent for Community Development
7 whose role in that was much more active than mine.

8 Basically, there is a rapport between some of
9 the recent new-to-town banks -- well, you're talking
10 Nation's Bank and 1st Union -- with the
11 Superintendent's Office. And there have been some
12 activities, when you speak of consumer activities,
13 workshops that have been provided to the residents and
14 citizens of low and moderate income areas.

15 For instance, there was a collaboration
16 between the representatives from 1st Union, our office
17 and representatives from the Small Business
18 Administration. We put together a workshop for first-
19 time homeowners and small businesses, basically just to
20 give them information about how to get a loan, what
21 types of loans are out there, first-time home owner
22 loans if there are any specific programs provided by
23 1st Union or other banks, and to take questions and to
24 provide them with information to basically arm them
25 with more knowledge -- the more knowledge that they

1 have about the process of gaining a loan.

2 And programs like that or workshops like that
3 are something that the Office is willing to participate
4 in and they actively seek out.

5 Again, the superintendent had a very good
6 rapport with the folks from 1st Union and some of the
7 other -- Nation's Bank and also Riggs.

8 With respect to mortgage lending, Mrs. Jarvis
9 did mention mortgage companies. And I don't speak of
10 the subsidiaries of the large regional or national
11 banks located here, but mortgage companies which stand
12 alone.

13 Currently, the District law doesn't
14 specifically have the power through the Office of
15 Banking to regulate these entities so they pretty much
16 go unregulated.

17 There is a requirement that they receive from
18 the Department of Consumer and Regulatory Affairs a
19 Certificate of Authority simply to do business in the
20 District.

21 There is some proposed legislation that came
22 out of the Office of Banking that is still currently
23 with the Corporation Council that would clamp down on
24 that gap of regulation which would provide a set of
25 standards for entities that want to do mortgage lending

1 in the District, basically, a registration format where
2 they would be charged a fee. They would register; we
3 would review the application. And, thereupon, we would
4 have regulatory authority over them to monitor them.

5 And we're hopeful that at some point that
6 legislation will go through. That's a large gap that's
7 sort of left unfilled. I don't know how the studies
8 that have been done look at those sort of privately,
9 free-flowing mortgage companies.

10 But I do know that on a daily basis at the
11 office we get a fair amount of questions, or queries,
12 or concerns about the operation of various mortgage
13 companies in the District.

14 It could range from we've gotten issues and
15 concerns about escrow money. How long can they hold
16 the money in escrow? How much of a percentage above
17 what is needed to cover a monthly payment can a
18 mortgage company require?

19 And those types of things are not addressed
20 currently in the District law. And those are the types
21 of things that we would be looking to, to cover under
22 the proposed legislation.

23 Again, a more proactive front from the
24 Office. We're in a precarious position because most of
25 the banks located in the District again are nationally

1 chartered banks.

2 And so, from an offensive standpoint, we're
3 not the first in line to regulate the banks here,
4 although they have a presence here. So we have more of
5 a I guess sword approach in the community development
6 area. And that is probably currently our strongest
7 holding point with the banks that do business here in
8 the District, is through their community development
9 commitments, and fostering them and monitoring them.

10 MS. KRUVANT: Thank you.

11 Any questions to Ms. Duran?

12 MR. SMITH: Let me just ask what is the
13 status then of the proposed legislation? And I know
14 it's going to come through the --

15 MS. DURAN: It has not been introduced to the
16 Council. There is a process by which legislation goes
17 from our office and it gets checked by a certain area
18 of legislative in the Corporation Council.

19 It was submitted, to my knowledge, probably
20 before my coming on board, but February. And we have
21 not gotten comments back. We're rattling chains on it
22 hoping to get something out of there so that it can be
23 presented to Mrs. Roberts.

24 MR. MCKETHAN: I have ha question.

25 MS. KRUVANT: Yes.

1 MR. MCKETHAN: Would I be over-simplifying
2 your role if I were to say then my inference that I've
3 drawn from what you said is that the only institution
4 over which you have enforcement authority then is
5 Industrial Bank.

6 Is that an over-simplification, or incorrect
7 inference, or what?

8 MS. DURAN: Enforcement in the first
9 instance, yes. There are no other than Industrial, no
10 D.C. chartered banks. And, recently, we just finished
11 an application for one trust company in the District.

12 MS. KRUVANT: Mr. Darden.

13 MR. DARDEN: Yes, I have a question.

14 You mentioned that you are an intake agency
15 for complaints from citizens.

16 MS. DURAN: Somewhat by happenstance.
17 Actually, we don't have a real sort of complaint
18 center. And there is some proposed legislation coming
19 from Mrs. Jarvis' office which, hopefully, would set up
20 an actual complaint division of the Office to
21 specifically take complaints, track them and
22 investigate them and act upon them.

23 Currently, we don't have a computer system.
24 We don't track them in that specific a way. We deal
25 with the issues as they come up, and we refer them to

1 the proper entity.

2 Oftentimes, it's the Office of the
3 Comptroller of the Currency because they're nationally-
4 chartered banks. Other times, there are banks that are
5 even located here or there, not chartered in the
6 District or federally. They may be Maryland-chartered
7 banks, Virginia-chartered banks.

8 MR. DARDEN: Actually, I've been looking
9 forward to that complaint-handling system when it's up
10 and running.

11 But, with respect to the number of
12 complaints, we've learned from the regional office of
13 HUD that in the past 12 months they have filed from the
14 District of Columbia three complaints of unfair lending
15 practices.

16 Does that number comport with the number that
17 you have of complaints received? And if it does, can
18 you tell us something about them? Or, if it doesn't,
19 can you tell us how many complaints you have received?

20 MS. DURAN: Three specific complaints about
21 unfair lending?

22 MR. DARDEN: Correct.

23 MS. DURAN: They may not have passed through
24 our office specifically. I don't know of three
25 specific unfair lending cases that have been reported

1 to our office in my history.

2 What may have happened is that, generally,
3 what will happen is that a consumer in the first
4 instance will call the agency and express their
5 concerns or their complaint and thereby we refer them
6 to the proper agency, or give them the information
7 necessary to deal with the banking entity that they're
8 dealing with.

9 But, to my knowledge, I'm not aware of those
10 three instances.

11 MR. DARDEN: How many complaints have come
12 through your office?

13 MS. DURAN: We get approximately 1,100-- I
14 won't call them complaints necessarily -- complaints,
15 concerns, questions that come into the office
16 regarding-- they range. They run the gamut.

17 MR. DARDEN: But you've referred none to HUD.
18 Is that what you're saying?

19 MS. DURAN: No, not me personally.

20 MR. DARDEN: Well, no. Would you be the
21 person to have done --

22 MS. DURAN: There, again, we don't have a
23 specific system designed to handle complaints. They
24 come into the office, and the calls are taken by either
25 myself, the superintendent or the assistant

1 superintendent, depending on the area of information
2 that they need.

3 MR. DARDEN: So, if a person actually said,
4 "I believe I've been discriminated against by an
5 institution," what would happen?

6 MS. DURAN: We would refer them to HUD. We
7 would refer them to the Office of the Comptroller of
8 the Currency. And we would probably refer them to the
9 D.C. Office of Human Rights.

10 MR. DARDEN: Okay. So, in the past 12
11 months, you've referred none to HUD. How many to the
12 Comptroller? Do you have any idea?

13 MS. DURAN: Of specific complaints in which
14 the consumer has stated --

15 MR. DARDEN: Who believe that they have been
16 victimized by discrimination.

17 MR. SMITH: It may not have been raised as a
18 complaint. It could have been an inquiry that perhaps
19 warranted further --

20 MS. DURAN: Right. Nothing has come before
21 me that meets that definition.

22 MR. DARDEN: So, none to either of the
23 federal agencies were referred in the past 12 months?

24 MS. DURAN: That's correct.

25 MR. DARDEN: I just wanted to be clear,

1 that's all.

2 MS. KRUVANT: Thank you, Ms. Duran. I do
3 know that you have spent your free day here with us.
4 So I hope that at least it has been useful to you.
5 But, thank you for coming.

6 Mr. Joe Acevedo is substituting for Mr.
7 Jumper.

8 Thank you for being here.

9 STATEMENT OF ANTONIO ACEVEDO,
10 MINORITY BUSINESS AND DEVELOPMENT
11 D.C. DEPARTMENT OF HOUSING AND
12 COMMUNITY DEVELOPMENT

13 MR. ACEVEDO: Good afternoon, Madam Chairman
14 and distinguished members of the Advisory Committee.

15 My name is Antonio Acevedo and I'm the
16 associate director of the Office of Human Rights,
17 Department of Human Rights and Minority Business
18 Development.

19 The District government has delegated to the
20 Department of Human Rights and Minority Business
21 Development a mandate to ensure Fair Lending practices
22 by mortgage companies, banks and other financial
23 institutions operating within the District of Columbia
24 under the Human Rights Act as it was amended in 1977.

25 It extends our jurisdiction to lending

1 practices to banks and financial institutions under the
2 specific clause of housing, commercial space and public
3 accommodation. Those are sections 1-2502 to 1-2515 of
4 the Human Rights Act.

5 The Human Rights Act makes unlawful
6 discriminatory practice in housing and commercial space
7 to refuse to lend money, guarantee a loan, accept a
8 deed of trust, mortgage or otherwise refuse funds
9 available for the purchase, acquisition, construction,
10 alteration, rehabilitation, repair or maintenance of a
11 real property.

12 Our act basically gives coverage on their 12
13 protected categories which include race, color,
14 national origin, sex, age, marital status, personal
15 appearance, sexual orientation, disability, political
16 affiliation, source of income and place of residence
17 under the Housing clause.

18 How do we identify discrimination?

19 The Department identifies discrimination
20 through its investigative process. We investigate
21 complaints of discrimination that are filed by
22 individuals, organizations or the director on his own
23 initiative based on studies, reports or information, as
24 well as social patterns can initiate a complaint in
25 connection with a discriminatory act.

1 We apply a test to determine whether a
2 lending institution has discriminated or not against an
3 individual. Basically, the person needs to be a member
4 of one of the protected categories. They need to be
5 qualified for the loan.

6 They need to have applied for the loan. They
7 need to have been rejected. And others not in the
8 protected category were either approved the loan or
9 afforded opportunities which otherwise were not
10 available for the minority.

11 And, here, however, we have encountered
12 difficulty because minorities have not been in the
13 process of lending for long enough, so there is an
14 inexperience. And they do not understand that they
15 have been discriminated when a loan has been refused to
16 them.

17 Also, we have found through our process that
18 they do not understand the remedy that is available to
19 them. And that's part of the outreach problems that we
20 have been basically facing.

21 Why the investigation is necessary?

22 Well, the study is not enough because the
23 study will only produce prima facie evidence that
24 something occurred. So we need to basically meet some
25 standards. Some tests have been established by case

1 law.

2 How much discrimination have we identified in
3 the lending institutions?

4 We have not been too successful in this area.
5 During the last five years, we have only filed one
6 charge against a lending institution. We primarily are
7 enforcers in the area of housing and the area of
8 employment.

9 And, basically, all our budget allocation is
10 targeted towards those two areas. That's the reason
11 why we do not have enough cases in the area of lending,
12 we do not do outreach there, and we basically have no
13 contacts out there that would assist us in this
14 endeavor.

15 Right now, we are working with the Fair
16 Housing Council of Greater Washington, and they through
17 a Memorandum of Understanding might be assisting us
18 through their studies in reaching to those areas where
19 we might be able to enforce more effectively our act.

20 MS. KRUVANT: Thank you.

21 Any questions for Mr. Acevedo?

22 MR. DARDEN: Could you go back again to your
23 complaint-handling process? I know you've sort of gone
24 over it. But, could you give me a little idea about
25 how it works, what goes on?

1 MR. ACEVEDO: A complainant comes to the
2 office aggrieved by a discriminatory act. A sworn
3 statement is taken. At that point in time, we make a
4 determination as to whether we have enough here, enough
5 prima facie evidence to proceed.

6 If we do, the respondent is served with a
7 copy of the complaint and investigation is initiated.
8 At that point in time, we send our investigators either
9 to the site, or through written documentation,
10 interrogatories, request for documents, et cetera. And
11 we basically try to put together the facts surrounding
12 the circumstances of the discriminatory action.

13 MR. DARDEN: And your office is the Office of
14 Human Rights?

15 MR. ACEVEDO: The Office of Human Rights. We
16 are part of the Department of Human Rights and Minority
17 Business Development of the District of Columbia.

18 MR. DARDEN: Now, is there ha connection --
19 well, the information that arises from your
20 investigation of a complaint, is that information in
21 some way transmitted to other agencies that have other
22 kinds of responsibilities dealing with lending and
23 financial institutions?

24 MR. ACEVEDO: Well, if we find
25 discrimination, indeed, we do contact either the Office

1 of Banking or the Office of the Corporation Council for
2 Citywide enforcement.

3 MS. KRUVANT: Ms. Galiber.

4 MRS. GALIBER: I guess maybe I didn't hear
5 you correctly. I thought you said that you did not
6 handle these cases because you did not have the staff,
7 or whatever, in order to do that. So I don't
8 understand the question because --

9 MR. ACEVEDO: Well, he asked me about how the
10 process of the investigation --

11 MRS. GALIBER: Of these other things?

12 MR. ACEVEDO: Right.

13 MRS. GALIBER: Well, that's okay. As long as
14 that's clear that you're not doing what we're talking
15 about.

16 MR. DARDEN: The same process would apply to
17 a complaint of lending discrimination.

18 MRS. GALIBER: If they could. If they could.
19 If they had the budget available.

20 MR. DARDEN: But, practically, you don't go
21 into this area because there's no outreach. And as a
22 result, the community doesn't know that you even
23 investigate these kinds of complaints.

24 MR. ACEVEDO: That is correct. We are
25 primarily doing employment and housing.

1 MRS. GALIBER: Employment and housing, yes.

2 MS. KRUVANT: To all the members of the panel
3 we want to really thank you for coming. But, before
4 you leave, is there a question that we should have
5 asked of each other?

6 MS. JARVIS: Is there a question you should
7 have asked?

8 MS. KRUVANT: Of the panel.

9 MR. SMITH: For example, your Office, or the
10 Office of Banking Supervision to OCC or to the Fed
11 while they're here.

12 MS. KRUVANT: Would you be on our side?
13 Would there be some questions you would like to ask.

14 [No response.]

15 MS. KRUVANT: If none come to mind right now,
16 we would really appreciate if you let us have -- we do
17 see you as the people with the expertise. And since
18 this is a factfinding process and we're studying and
19 we're learning, but we're also trying to get the best
20 expertise available, we would very much appreciate if
21 you could help us address some of the questions.

22 You know, to get the answer, we have to ask
23 the right question. And that's at the stage at which
24 we are. It would be most useful to have your
25 information. It's particularly painful to have yours,

1 but -- thank you again.

2 MS. JARVIS: Madam Chair, I would just want
3 to ask the Office of the Comptroller of the Currency to
4 evaluate the extent to which banks are using the 11--
5 there are 11 activities which can counter
6 discriminatory lending.

7 So, if they've put them out there, they've
8 published them, I would hope that they would be
9 following up to make sure that there is enforcement of
10 those activities.

11 And since you have asked, just let me
12 interject this. The question that Mr. Weintraub asked
13 is one that is most troubling to me -- not because it
14 came from him but because it asserts the bankers'
15 answer very often to questions of failure to invest in
16 under-served areas of the community.

17 And I think that, you know, I appreciate him
18 raising it because that is the issue that very often
19 has to be countered. And that is the bank's
20 willingness to invest in under-served areas of the
21 community.

22 And my own view is that we're not talking
23 about the banks' willingness to invest. We're talking
24 about not their money but depositors' money.

25 And if we're talking about institutions that

1 are regulated because they are, in fact, holding
2 depositors' money and we are talking about the banks'
3 failure to invest in areas where the very depositor's
4 money is going out of the area -- so it really should
5 not be an issue of the bank's willingness or
6 unwillingness to invest in areas which for them do not
7 seem good real estate investment, because that's not
8 why they are regulated.

9 MR. MCKETHAN: Their charters are.

10 MS. JARVIS: Thank you for that statement. I
11 hope it's in the record.

12 MR. MCKETHAN: I'll ask the question because
13 that raises a very, very -- that's what I've been
14 carrying around in my mind. And Mrs. Jarvis just put
15 it very succinctly. "Depositors' money."

16 Now that raises a question that I've been
17 wondering about for a long time. But it seems to me
18 there's a glaring lack of ATMs in the minority
19 community which one could infer that that is just a
20 blatant disregard for depositors' money, because
21 depositors' money comes from the minority community in
22 some branch, somewhere where there are no corresponding
23 ATMs.

24 Has that ever been addressed?

25 MS. JARVIS: Yes. Well, we, in fact,

1 required bank branches in under-served areas. And one
2 of the things we said was that an ATM was not an equal
3 for a branch. You know, that a full service bank is
4 not an ATM.

5 A full service bank is a bank that has
6 lenders and people with expertise in all areas. And I
7 don't know -- what am I saying here? Am I saying that
8 our own laws have had the effect of not encouraging
9 ATMs in the minority community?

10 [Laughter.]

11 MRS. GALIBER: But, when you really look at
12 it, ATMs encourage a lot of crime. And I just wondered
13 if that's a good idea anyway. They seem to be
14 disappearing in certain neighborhoods.

15 MR. MCKETHAN: Well, they never appeared in
16 certain neighborhoods.

17 MRS. GALIBER: Yes. And in some that they
18 have there have been some terrible things that have
19 happened.

20 MS. KRUVANT: Once more, we do thank all of
21 you for coming, and we did have a full day today of
22 information.

23 And to the members of the panel and to the
24 members of the advisory committee, thank you for being
25 here.

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MS. JARVIS: Thank you.

[Whereupon, at 4:00 p.m., the meeting was
concluded.]

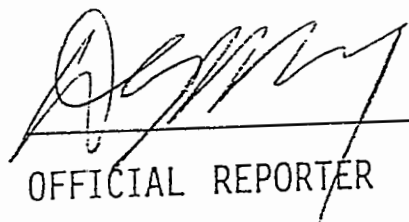
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