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UNITED STATES COMMISSION ON CIVIL RIGHTS
MINNESOTA ADVISORY COMMITTEE

IN THE MATTER OF:

RESOURCES DEVOTED TO LOCAL
AND FEDERAL CIVIL RIGHTS
ENFORCEMENT IN MINNESOTA

REPORT OF PROCEEDINGS, taken in the
above entitled cause, taken before MS. KARON
ROGERS, Chairperson of the Minnesota Advisory
Committee to the U.S. Commission on Civil Rights,
taken at the Crown Sterling Suites downtown,
Minneapolis, Minnesota, on the 31st day of August,
A.D., 1994 at the hour of 9:00 o'clock a.m..

APPEARANCES:

- | | |
|--------------------|-------------------------|
| CHAIRPERSON: | MS. KARON ROGERS |
| COMMITTEE MEMBERS: | MS. GERALDINE KOZLOWSKI |
| | MR. THOMAS HAYES |
| | MR. ALAN WEINBLATT |
| | MS. MARY RYLAND |
| | MR. LEE RUIZ |
| | MS. CAROLINE BYE |
| | MR. ALBERT DE LEON |
| | MS. LUPE LOPEZ |
| STAFF: | MR. PETER MINARIK |
| | MS. CAROLYN WHITFIELD |

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1 (The meeting was convened at 9:25 a.m..)

2 CHAIRPERSON ROGERS: This meeting of the
3 Minnesota Advisory Committee to the U.S.
4 Commission on Civil Rights shall come to order.

5 For the benefit of those in the audience,
6 I shall introduce myself and my colleagues. My
7 name is Karon Rogers and I am the Chairperson of
8 the Advisory Committee. To the right is Thomas
9 Hayes. Next to him, Geraldine Kozlowski. To my
10 immediate right, Alan Weinblatt. To my left, Mary
11 Ryland, past Chair. Then we have Lee Ruiz,
12 Carolyn Bye, and Albert DeLeon.

13 We are here to conduct a fact finding
14 meeting for the purpose of gathering information
15 on the resources devoted to local and federal
16 civil rights enforcement in Minnesota.

17 The jurisdiction of the Commission
18 includes discrimination for denial of equal
19 protection of the laws because of race, color,
20 religion, sex, age, disability, or national origin
21 in the administration of justice.

22 Information which relates to the
23 topic of the forum will be especially helpful to

1 the Advisory Committee.

2 The proceedings of this meeting,
3 which are being recorded by a public stenographer,
4 will be sent to the Commission for its advice and
5 consideration. Information provided may also be
6 used by the Advisory Committee to plan future
7 activities.

8 At the outset I want to remind
9 everyone present of the ground rules. This is a
10 public meeting, open to the media and the general
11 public, but we have a very full schedule of people
12 who will be making presentations within the
13 limited time we have available. The time allotted
14 for each presentation by each participant,
15 followed by questions from committee members will
16 be allowed.

17 To accommodate persons who have not
18 been invited but wish to make statements, we have
19 scheduled an open session today at 6:00 o'clock
20 p.m.. Anyone wishing to make a statement during
21 that period should contact Peter Minarik for
22 scheduling. Written statements may be submitted
23 to committee members or staff here today or by

1 mail to the U.S. Commission on Civil Rights, 55
2 West Monroe, Suite 410, Chicago, Illinois, 60603.
3 The record of this meeting will close on October
4 1, 1994.

5 Though some of the statements made
6 today may be controversial, we want to ensure that
7 all invited guests do not defame or degrade any
8 person or organization. In order to ensure that
9 all aspects of the issues are represented,
10 knowledgeable persons with a wide variety of
11 experience and viewpoints have been invited to
12 share information with us. Any person or any
13 organization that feels defamed or degraded by
14 statements made in these proceedings should
15 contact our staff during the meeting so that we
16 can provide a chance for public response.

17 Staff represented are Peter Minarik.
18 We'll identify Carolyn when she returns.

19 MR. MINARIK: She's outside.

20 CHAIRPERSON ROGERS: Alternately, such
21 persons or organizations can file written
22 statements for inclusion in the proceedings. I
23 urge all persons making presentations to be

1 judicious in their statements.

2 Finally, there has been a change in
3 the agenda. Mayor Belton will be making her
4 remarks to the committee at 3:00 o'clock p.m. this
5 afternoon instead of 10:00 o'clock this morning.
6 Afternoon times on the agenda have been adjusted
7 accordingly.

8 The advisory committee appreciates
9 the willingness of all participants to share their
10 views and experiences with the committee.

11 During the last year we have lost a
12 dear committee member, Thomas Bartell, another
13 committee member, Carol Nielson, and also within
14 the last couple of weeks a very, very beloved
15 civil rights activist in the Minneapolis community
16 of Gleason Glover, and then two devoted policemen
17 in the City of St. Paul. I want to pause now for
18 a quiet moment in honor of these individuals.

19 (Pause)

20 CHAIRPERSON ROGERS: Before we start with
21 today's agenda, I want to give anyone an
22 opportunity that would like to make any comments
23 about our fellow committee persons, Thomas Bartell

2

1 or Carol Nielson at this time.

2 MR. WEINBLATT: Madam Chair, members of
3 the committee, most of us knew Thomas Bartell
4 primarily through his work on this committee. I
5 for one, and I think share views with most of you,
6 found him to be a man of elegance, a man of gentle
7 but firm and dedicated strength.

8 Thomas knew and continued to
9 remember his roots. He shared his personhood, his
10 time, his treasure in support of human rights for
11 all persons both in our state and beyond its
12 borders. Thomas used his skills as a lawyer, but
13 also a very, very special, special skill that he
14 had as concensus builder. It passes among us far
15 too rarely the spirit of human brotherhood. Thank
16 you brother Thomas for sharing yourself with this
17 community and this committee for far too short a
18 time.

19 CHAIRPERSON ROGERS: Lee Ruiz?

20 MR. RUIZ: Yes. The colleague Tom was a
21 man of substance and he had a rare quality about
22 him, a fighter, rebellion in his heart among civil
23 and human rights. He was essentially a mentor to

1 me when I met him a couple of years ago, but he
2 will be sorely missed.

3 CHAIRPERSON ROGERS: Mary Ryland.

4 MS. RYLAND: I would like to say a word
5 about both of the members of this committee. As
6 past Chair I felt I was a close associate of both
7 Carol Nielson and Thomas Bartell. Both of them
8 were so generous with their time and attention,
9 willing to put the meetings of this committee
10 ahead of other appointments that they may have
11 had. Carol Nielson, I learned in the vicinity of
12 Milaka where she lives was well thought of and
13 very helpful in the community and spoke out very
14 well on behalf of civil rights and she told me
15 that she was so appreciative of the opportunity of
16 being on this committee and learning more herself,
17 touching base more closely with civil rights.

18 Thomas Bartell was just such an unusual
19 gentleman. He put civil rights and going to
20 meetings on behalf of the committee first on his
21 list many times and represented us very well out
22 in Washington, D.C. or in Chicago, and he surely
23 met an untimely death. He could have accomplished

1 so much more that we are all the losers in losing
2 both of these people to our cause.

3 CHAIRPERSON ROGERS: I would just close
4 our memories of Thomas by saying that Thomas
5 recruited me to this committee. He didn't know
6 how to find me, but went through a number of steps
7 to locate me, which I think is very indicative of
8 Thomas' style. And so he served as my mentor and
9 my role model and it just seems awesome to be
10 sitting in this position now and talking about him
11 as, you know, we know he's no longer here. But I
12 do honor him and I'm thinking of him today as we
13 conduct this meeting.

14 We will start with Michael Bloyer.
15 Mr. Bloyer is the Director of the Equal Employment
16 Opportunity Commission.

17 MR. BLOYER: And Mr. Bailey.

18 MR. BAILEY: I'm substituting for
19 Michael Bloyer. He's here, but I'm going to speak
20 on behalf of the Commission.

21 CHESTER BAILEY

22 DISTRICT DIRECTOR, EEOC

23 My name is Chester Bailey and I am

1 the District Director for the Milwaukee District
2 Office, and as the District Director I have
3 oversight for the Minneapolis area office. It is
4 now an area office as of May 1st which means that
5 it's a larger service type office at this point.

6 Just a little bit about me. I've
7 been employed by the federal government in the
8 field of civil rights since 1970. I worked for
9 the Department of Commerce, Maritime
10 Administration as a contract compliance person. I
11 worked for the Office of Federal Contract
12 Compliance from 1978 to 1980 as a supervisor for
13 contract compliance, and I began working for the
14 EEOC in 1980 as a supervisor and I became the
15 District Director for the Equal Employment
16 Opportunity Commission for the Milwaukee District
17 Office in 1989.

18 Our geographical jurisdiction
19 includes Iowa, Minnesota, and Wisconsin. The
20 statutes we enforce are Title 7, the Americans
21 with Disabilities Act, the Age Discrimination
22 Employment Act, the Equal Pay Act, and of course
23 the 1991 Civil Rights Act.

1 Michael was here last year and gave
2 a presentation, so I thought I would update you
3 from last year and sort of give you some
4 statistics and then just open it up for any type
5 of questions you may have. And we do our
6 comparisons by quarter. Our third quarter ended
7 in July and that's how we keep our statistics. So
8 I'm going to start with the third quarter ending
9 June. We use fiscal years. Our fiscal year ends
10 September 30th, so I'm going to talk about fiscal
11 year 1993 which is when Mike was here last year
12 and I'll talk about fiscal year 1994, and I'm only
13 going to talk about the Minneapolis office. I'm
14 sure that's what you're concerned about.

15 The charge receipts as of the fiscal
16 year 1993 were 1,214, this time as of the end of
17 June last year. To date FY 94, as of June of this
18 year there are 897. So there's been a decrease in
19 the charge receipts that we've received. Of the
20 charges that we received in FY '93, 364 were ADA,
21 American with Disabilities charges, and that
22 represented about 30 percent of the receipts that
23 we took in. As of June of this year, the end of

1 June of this year, 466 charges or 52 percent of
2 all the charges that we took in were ADA charges.
3 Nationally ADA charges represent 20.7 percent of
4 our work load. So as you can see, there's a
5 larger percentage representation in the
6 Minneapolis local office than nationally. We
7 think that that may have something to do with the
8 Karst decision which is a Minnesota Supreme Court
9 decision that simply gives people an option that
10 says you can't file both Workers Compensation and
11 a civil rights complaint. You have to choose, and
12 so what most people do when they go to the state,
13 they file the Worker's Compensation claim and then
14 they come to us for the ADA because I think, state
15 you can correct me if I'm wrong, the state will
16 not investigate those cases if they have filed the
17 Workers Compensation claim. So we think that may
18 be the cause of this increase or this high
19 percentage locally versus the national.

20 The Milwaukee area office ranks 12th
21 in the nation in EEOC offices for ADA charge
22 receipts, 12th. Back impairment represents 35
23 percent of all the ADA charges filed in the area

1 office. The issues are generally the largest
2 issues are discharge. Discharge represented about
3 42 percent and accommodation represented about
4 36.9 percent. The staffing in FY 93 we had 6
5 investigators, today we have 8 investigators and
6 we're adding an additional investigator to the
7 staff which will probably be filled sometime in
8 the next 30 days or so. Returning inventory was
9 504 at that time in June. It's 1,018 today, as of
10 June of this year. The average charge per
11 investigator in '93 was 84, to date it's 127. The
12 average months of inventory, which is what we
13 figure productivity versus the number of
14 investigators over the months was 12.9 in '93.
15 It's 19.5 as of June of this year.

16 What we have done in the past to
17 balance work load is that we have transferred
18 cases from the Minneapolis Area Office to the
19 Milwaukee District Office. Last year we
20 transferred, in '93 we transferred approximately
21 417. We try to keep the work load balanced. If
22 we can't, we don't have the resources here, we
23 move the cases, and that's sort of -- that's the

1 way we do it nationally in various offices, so we
2 do it for our own internal purposes, we moved 417.
3 To date we've moved 118 and are anticipating
4 moving even more, probably another 200 or so to
5 balance the work load.

6 In '93 we at that time in June we
7 had done 434 closures for an average of 72 per
8 investigator. We actually ended up at the end of
9 fiscal year 1993 with averaging about 98 cases per
10 investigator. The national average was about 92.
11 As of June of this year, this fiscal year, we've
12 closed 419 and we are averaging about 85.8. We
13 anticipate that projecting that out that that will
14 be approximately 114 cases per investigator.

15 In FY 93 we had obtained, as of
16 June, \$1,604,548. The number of people
17 benefitting were 255, which averages to about
18 \$6,300. As of June of this year we collected
19 \$2,123,089, 212 people benefitted at an average of
20 about \$10,457 per person. Our cause ratio in the
21 Minneapolis Area Office is somewhere around 5
22 percent. In other words, 5 percent of all the
23 cases we close end up -- that we investigate --

1 end up with a cause finding. Our merit factor
2 resolution is much higher, it's higher than the
3 national, it's 42 percent. Merit factor
4 resolution includes settlements, failed
5 concilliation, successful concilliation,
6 withdrawal with benefits. That's our merit factor
7 resolution.

8 Okay. I'm open for any questions.

9 CHAIRPERSON ROGERS: Thank you. Will you
10 be able to submit those numbers to us for our
11 report?

12 MR. BAILEY: Certainly.

13 MR. WEINBLATT: About more statistics.
14 Can you also tell us the size, the amount of the
15 budget that's been available for the Minneapolis
16 office for fiscal '93 versus fiscal '94?

17 MR. BAILEY: I can, but I don't have
18 that with me. I can give you that information, I
19 think.

20 MR. WEINBLATT: Can you, please?

21 MR. BAILEY: I'm certain it is not
22 proprietary.

23 MR. WEINBLATT: And if I can have one

1 last statement. Mr. Bailey, to what do you
2 attribute the increase in pending case load and
3 the increase in time under consideration, given
4 the reduction of the number of complaints?

5 MR. BAILEY: The increase in the work
6 load and the amount of time it takes to
7 investigate the work load, is that what you're
8 asking?

9 MR. WEINBLATT: Yes. Your statistics
10 indicated there are fewer cases being filed in
11 fiscal '94 than in '93, but the amount of time
12 necessary to conclude the case is increasing and
13 the case load per investigator is increasing.

14 MR. BAILEY: The months of inventory
15 does not necessarily equate to the amount of time
16 it takes to investigate a case. It simply says
17 that based on a production standard that if we
18 were to follow that, we are exceeding that by the
19 way. The production standard is 76 per
20 investigator and I'm projecting that we will do
21 114 per investigator here.

22 What probably is a more accurate
23 indicator is the amount of time it takes to

1 investigate a case on average, and that's been
2 reduced here, and I think that's around 240,
3 somewhere around 240 days per case. So that's
4 been reduced. The reduction in inventory is not
5 explainable. It goes in cycles. In the next
6 month we can take -- we can have 2 or 3 hundred
7 people coming in filing and I really can't explain
8 why we have a reduction in inventory. We're not
9 doing anything differently that would contribute
10 to that reduction in inventory.

11 Sometimes it depends upon publicity.
12 What just happened, a case that got a lot of
13 notariety will generate charges. It's sort of
14 unpredictable I think at point.

15 MR. WEINBLATT: I'd appreciate the
16 budgetary information that you can give us.

17 MR. BAILEY: Sure.

18 CHAIRPERSON ROGERS: Lee Ruiz?

19 MR. RUIZ: Madam Chair, you referenced a
20 significant proportion of discharges--

21 MR. BAILEY: In ADA type cases as a
22 base, yes.

23 MR. RUIZ: What's driving that, in your

5
1 opinion? Is it the downsizing of a company? I'm
2 hearing that downsizing is the realization of
3 older people and minorities are being sacrificed.
4 Do you find any evidence of that?

5 MR. BAILEY: No, sir, we don't. What
6 we're doing is we're taking the receipts that come
7 in and we look at the rationale that they used to
8 file, whether it's back problems or it's some
9 other disability that impacts their life. Back
10 problems seems to be the major basis that people
11 file on under the disability, and that was true
12 before we got the ADA. I think you'll find that
13 experience with the Fair Employment Practices
14 agencies as well, that the back problems and
15 probably it's the most illusive type of disability
16 to prove or disprove.

17 MR. RUIZ: Thank you.

18 CHAIRPERSON ROGERS: Thomas Hayes.

19 MR. HAYES: Madam Chair. Mr. Bailey,
20 it's curious the large amount of back claims
21 involved with backs under the ADA. Were these
22 people disabled before they were employed or did
23 they become disabled because of the back injury

1 and then use that avenue to file their complaint?

2 MR. BAILEY: I really couldn't answer
3 that because I don't have each one individually,
4 whether they had these back impairments before or
5 after. Maybe I can clarify this a little bit. We
6 have some statistics from July 26, 1992 through
7 July 31st, and the disability types, there were
8 967 disability charges filed during that period of
9 time. Of that 340 or 35.2 percent were back
10 impairment, then there were 232 which were other
11 type impairment which was 24 percent, and we have
12 retaliation. There were 116 charges filed for
13 that period. Other psychological, 79 percent, 8.2
14 percent, extremities 53 at 5.5 percent, heart
15 impairment, and it goes on, hearing, diabetes,
16 alcoholism, depression, HIV. For HIV we had 10,
17 1.1 percent. So we saw the type of breakdown of
18 the charges that came in, but not when the
19 impairment occurred. That would be, you'd have to
20 do that individually for each one. We do screen
21 these charges to see if the people are qualified
22 individuals with disabilities. So if it's of a
23 temporary nature, then we would say this is

1 generally not an individual with a disability at
2 this point. It can be say if it's going to be
3 better or it's not going to exist in six months
4 from now, we wouldn't consider that a qualified
5 individual with a disability. It has to be long
6 term.

7 MR. HAYES: Madam Chair, one more back
8 up. I've read a little bit about this situation
9 where a person gets hurt on the job and rather
10 than sue under the Workmen's Comp or make a claim
11 in Workmen's Comp, they go to the ADA. And just
12 as a comment, ADA was supposed to protect people
13 that are disabled from employment and that sort of
14 thing and I guess it's, everything gets distorted
15 sometimes, but I'm surprised that -- I might
16 suggest that maybe you might consider taking some
17 statistics on those who are disabled prior to
18 their making the complaint. Obviously they're in
19 preparing their complaints, but I mean have a
20 disability long term before their reason for
21 complaining.

22 MR. BAILEY: Okay. We certainly will.

23 MR. DE LEON: Madam chair? Mr. Bailey,

1 what is the impact or have you made an assessment
2 of the Supreme Court decision of English only in
3 the workplace?

4 MR. BAILEY: The Commission is looking
5 at that on a national basis. We have a
6 headquarters in Washington, D.C. and we have a
7 group, a legal counsel group and they look at
8 those decisions and they recommend policy to the
9 five commissioners. We currently have 3 and we're
10 anticipating that 3 more will come on board and
11 one will leave, so we don't have a full body, but
12 they make those recommendations and the policy,
13 and I'm not privy to what the Commission's
14 position is at this time on that. Normally what
15 happens is that once the Commission passes that
16 policy or prior to that they will send it out for
17 comment to the district offices and we will make
18 our comments and have our input, and then they'll
19 make a decision and then we'll distribute that
20 knowledge to us and distribute that to not only
21 us, but to the public as well. I'm unable to
22 answer your question on that.

23 MR. DE LEON: Just a follow up. Do you

6

1 feel there will be a need for legislation to be
2 able to accomplish what the Commission might want
3 to do?

4 MR. BAILEY: I'm not certain at this
5 time. Again, I'm community-based, but I don't
6 know what the Commission's position is going to
7 be. We know what it's been in the past. We have
8 our own guidelines about an English only rule, but
9 I don't know in light of that decision what the
10 Commission's position is going to be, but I think
11 what happens is that if there's a public outcry
12 such as some of the cases we've seen in the past
13 and Congress does change the law to accommodate
14 the public in that instance.

15 MR. DE LEON: Thank you.

16 CHAIRPERSON ROGERS: Mr. Bailey, thank
17 you for the numbers that you've shared with us
18 today. I don't think that all of us know that
19 numbers can be used to tell many different
20 stories, depending on how you use those numbers,
21 and I'm wondering is you said that you've been in
22 your position for 17--

23 MR. BAILEY: I've been District Director

1 since 1989 of the Milwaukee District Office. I've
2 been employed civil rights since 1970, so over 23
3 years.

4 CHAIRPERSON ROGERS: So you've been
5 taking a look at civil rights cases in Minneapolis
6 for roughly five years?

7 MR. BAILEY: Yes.

8 CHAIRPERSON ROGERS: Do you detect any
9 trends therein? I mean I'm talking about what you
10 feel in your gut as opposed to the numbers that
11 you've presented today?

12 MR. BAILEY: Minneapolis is a very good
13 office. In fact, they generate most of the
14 litigation that we do as a district. They have in
15 the past. That's changing because we have very
16 dedicated employees and I think that will
17 continue. As to a pattern, the reason I say we
18 have dedicated employees is that wherever they
19 find discrimination, even given if it's a
20 borderline case, for example, we look towards
21 litigating that case, if possible. We give the
22 benefit of the doubt, you know, the benefit of the
23 doubt. When it's 50/50, we try to see the benefit

1 of the doubt, we'll say that discrimination
2 existed in that sense. I think it's a very
3 dedicated staff and they treat all of the cases
4 equally, I think. I think there's a perception
5 about EEOC here that we're dealing with that it
6 takes too long to investigate cases, for example.
7 We're dealing with that. That's a reality.
8 Limited resources and increasing inventory.

9 MR. WEINBLATT: Could you follow up on
10 that a little bit, Mr. Bailey, with respect to the
11 limited resources particularly? Do you believe
12 that both the Milwaukee District Office and
13 therefore Minneapolis and EEO field staff in
14 general is receiving the financial support from
15 the Congress that you in your professional
16 capacity believe it ought to receive?

17 MR. BAILEY: Well, I think it's in
18 general that we have been given additional
19 responsibilities, additional laws without the
20 concurrent resources, and I think that's an
21 acknowledged fact. We got the ADA Act in '91, we
22 didn't get any additional resources. The Civil
23 Rights Act caused the increase in charges because

1 of the compensatory and punitive damages, no
2 additional resources. So I think that's a fact.
3 It's not something that's unknown to the people
4 who are involved in the civil rights field.
5 There's an organization, 9 to 5, that's
6 headquartered in Cleveland who has looked at EEOC
7 and have been somewhat critical of us, but who is
8 also indicated that staffing is a priority and
9 that they are going to support us in receiving
10 more staffing, getting more staffing from the
11 Congress. There is a bill that Senator Kennedy is
12 proposing that deals with sexual preference and we
13 are concerned whether or not we're going to get
14 that bill and additional staffing as the Federal
15 Employees Fairness Act which requires that, which
16 indicated that we will take over the investigation
17 of federal cases. We are concerned if we get that
18 act and not get additional staffing. So that is a
19 concern that we've had for years in terms of acts
20 that that they've given us to enforce.

21 Congress is the one who decides,
22 based on our budget, what kind of staffing we get.
23 We're driven by salary. About 70 percent of our

1 budget is salary based so. We have very little
2 lean or very little fat to do some things besides
3 just to set salary. Even increases come out of
4 our account budget. So if federal employees get
5 an increase this year, it comes out of our budget
6 directly.

7 MR. WEINBLATT: You mentioned about the
8 investigators who laws you're taking on to
9 enforce. Are your investigators interchangeable;
10 that is, someone who is skilled as a civil rights
11 investigator, does that person possess the
12 necessary transferable skills to investigate the
13 ADA complaints?

14 MR. BAILEY: Yes, we cross train. We
15 train our investigators in all aspects of laws we
16 enforce. We take an approach, a generalist
17 approach. We don't specialize. We don't say
18 you're going to investigation ADA, you're going to
19 investigate equal pay. You investigate any of
20 these type cases and we provide the training to
21 put them in a posture to be able to investigate
22 those cases.

23 MR. DE LEON: Madam Chairman, Mr. Bailey

1 you said earlier you have eight staff
2 investigators?

3 MR. BAILEY: Eight investigators here in
4 Minneapolis.

5 MR. DE LEON: In Minneapolis. My
6 assumption of the eight is that given the
7 demographics that you have, you have an ethnic
8 representation of Asians, Hispanic, Afro American,
9 Indians of the eight investigators?

10 MR. BAILEY: I'm not sure. Do you have
11 Native American?

12 MR. BLOYER: Not that I'm aware of.

13 MR. BAILEY: Would you give a breakdown?

14 MR. BLOYER: Basically of the eight
15 investigators we have one black investigator and I
16 think five female investigators.

17 MR. DE LEON: I'm asking about the
18 ethnicity. Do you have Asian Americans, Hispanic?

19 MR. BLOYER: Investigators?

20 MR. DE LEON: Yes.

21 MR. BLOYER: No, we do not.

22 MR. BAILEY: We had two other black
23 investigators who have subsequently been promoted.

1 One has been promoted as we changed to an area
2 office, one has been promoted to an intake
3 supervisor, the other has been promoted to an
4 investigator supervisor.

5 MR. DE LEON: Given the demographics,
6 the Afro American is the largest, the Asians the
7 second largest, why is it that you don't have an
8 Asian Pacific investigator?

9 MR. BAILEY: As I know -- have we had
10 any applicants? It's a civil service process. If
11 you apply for these jobs from the outside, you
12 have to qualify, you have to meet certain
13 qualification. Not that Asians aren't qualified
14 in that sense, but we have not, that I know of,
15 had any qualified. I'll make what we call the
16 cert, c-e-r-t, and I'm very conscious of
17 diversity. We look at that and I constantly
18 remind Mike about that. But in some instances the
19 search just doesn't provide the diversity that we
20 need to be able to hire the various ethnic groups.

21 CHAIRPERSON ROGERS: Before you ask a
22 question Thomas, I want to make note that we've
23 been joined by Lupe Lopez, committee member who is

1 also the Vice Chair of our committee. Lupe?

2 MS. LOPEZ: I'm very happy to see all of
3 you here today and Madam Chair, I think this is a
4 very important issue that we're looking at this
5 morning.

6 One of the things that I, Madam
7 Chair, if I may, I wanted to know and I know we
8 have a number of cases, but you have the ethnic
9 breakdown of the complaints that have been made to
10 your office.

11 MR. BAILEY: By who they're being made?

12 MS. LOPEZ: Percentage, you know, so
13 many percentage by different ethnic--

14 MR. BAILEY: We have access to that
15 information and I'm not sure that I have it in any
16 of the packets that I brought today, but if you're
17 interested in that, we can certainly get it for
18 you and submit it for you.

19 MS. LOPEZ: Please.

20 MR. BAILEY: You want it by race?

21 MS. LOPEZ: Yes because I think it's
22 going to have a bearing on whether people are
23 filing complaints and it may have a bearing

8

1 whether we have the appropriate staffing to
2 respond to them.

3 MR. BAILEY: I would say that to each
4 member here that if you have ethnic and sexual
5 candidates, if you would submit them to Mike, we
6 would certainly notify them when we have
7 vacancies. For instance, we have a vacancy now.
8 We would certainly appreciate if you would give us
9 names of Asians or Hispanics or women and we would
10 notify them and try to help them through the
11 process. The federal government is a bureaucracy
12 in some degree in getting through the process can
13 be difficult sometimes. But we'd be very glad to
14 do that. You can either submit them to Mike or
15 myself.

16 CHAIRPERSON ROGERS: Tom, last question.

17 MR. HAYES: Just an additional comment
18 here. With the substantial number of ADA
19 complaints, I hope you'd look for someone who is
20 disabled.

21 MR. BAILEY: Yes, we do.

22 MR. HAYES: I think you would find a
23 number who are educated in this Americans with

1 Disabilities Act, but also I don't think you would
2 find them being pushovers in terms of it, to my
3 knowledge.

4 MR. BAILEY: And we do go look for those
5 kinds of candidates. All candidates were open.
6 It's the general problem of having them available
7 through the certification process and again I do
8 have my personnel people help people through that
9 process if they need help.

10 CHAIRPERSON ROGERS: Alan?

11 MR. WEINBLATT: You mentioned that you
12 now have eight investigators. If this were the
13 applicable appropriations committee of the House
14 of Representatives what, in your opinion, Mr.
15 Bailey or Mr. Bloyer, ought to be the appropriate
16 staffing level for the Minneapolis office, and I'm
17 going to ask you the same thing for Milwaukee as a
18 whole?

19 MR. BAILEY: Well, right now I think we
20 decide or make decisions based on a productivity
21 standard. If we had X number of cases, we would
22 divide that by 76 and say that's the number of
23 investigators that we should have. That's in a

1 perfect environment. What really happens in
2 reality is that we have 23, 24 offices or 50
3 offices all told, we have area and home offices
4 vying for limited positions and what happens is
5 that the one who has the most need is the one who
6 normally gets that.

7 Right now Milwaukee, I mean
8 Minneapolis has some attention being paid to it
9 because of the months of inventory that we talked
10 about earlier. But its really, we're in a
11 position where every office in the nation is vying
12 for these vacant positions. Sometimes we may only
13 have eight vacant positions to go around 50 field
14 offices, and that makes a big difference. But in
15 a perfect world it would be based on the
16 processing assumptions of say 76 cases, 78 cases
17 per investigator per year, and that would be the
18 number of investigators that you should have. I
19 should say to you that the Chairman designate who
20 is Gilbert Kasahas has said that he's going to
21 look at the way we do things now and look towards
22 maybe doing them differently in the future. And
23 the reason I say that is that that will probably

1 impact the number of investigators we need.'

2 We sort of plan right now based on
3 the fact that we're not going to get any
4 additional resources. When we plan for the year
5 nationally and locally, we plan as if we're not
6 going to get additional resources in. And I'm
7 sure that you're probably familiar with the fact
8 that Congress just recently cut our budget. The
9 President recommended \$245 million, the Senate
10 recommended \$240 million, the Congress recommended
11 \$238 million to the House and they cut it to \$233
12 million, and that's I think it's about \$3 million
13 more than what we had last year. So that's why we
14 plan, when we plan in the planning process, we all
15 plan with additional resources in mind, but again
16 a new Chairman is coming in and he's said we're
17 going to look at how we do business and we may be
18 doing things differently. We may not be doing a
19 lot of things we do now. We may not need
20 additional staff.

21 CHAIRPERSON ROGERS: Any other questions?
22 Albert?

23 MR. DE LEON: Mr. Bailey, can you help

1 me out in terms of the jurisdiction of EEOC?
2 Would that be agencies receiving federal monies?

3 MR. BAILEY: Do we have jurisdiction
4 over an agency receiving federal money?

5 MR. DE LEON: Right.

6 MR. BAILEY: Yes. Our jurisdiction has
7 to do with an employer who has under the Title 7,
8 15 or more employees and under ADA, just recently
9 went down to 15 or more employees as of July. It
10 doesn't matter whether there's federal contractors
11 or not, it's simply that they have the requisite
12 number of employees and they're dealing commerce
13 and they have that requisite number of employees
14 for X number of weeks per year, it's 20 weeks. So
15 it's -- but we have a memorandum of understanding
16 with the Office of Federal Contract Compliance
17 that basically works this way. If it's an
18 individual that's filing a charge that is
19 concurrent under our statutes Title 7, and there,
20 they will refer the charge to us to investigate.
21 If they have a group of individuals that are
22 filing under the statute that we enforce and it's
23 a class, they will keep that charge and

1 investigate it for federal contractors, okay.

2 MR. DE LEON: Can a person then elect to
3 file a complaint either with the State Department
4 of Human Rights or just go directly to EEOC. I'm
5 trying to figure out what is the channel for a
6 person to elect and what would be the best route?

7 MR. BAILEY: They can walk into our
8 door, they can walk into the state's door. We
9 have work sharing agreements in the State of
10 Minnesota with the State Human Rights Commission
11 and we also have it with the City of Minneapolis
12 Human Rights Commission. And what the agreements
13 basically say is whoever's door they walk into
14 first, they take their charge with certain
15 conditions. If it was a charge where the statute
16 for the 300 day filing statute was very close for
17 the federal rights, they would defer that charge
18 to us, rather they would take charge, but they
19 would defer it to us and there are other -- we
20 have what we call a work sharing agreement. We
21 write in certain terms and say if you get a
22 charge, let's say somebody filed a retaliation
23 charge with us -- they go file the original charge

1 with us and they go to the state to file the
2 retaliation charge, we would say since we are
3 investigating the base charge, we should
4 investigate that charge as well. So you would
5 defer that charge to us. But generally, whoever
6 door they walk in first is the one who
7 investigates that charge. That's generally. But
8 they can elect, even in the process they can say I
9 don't want you to finish my investigation, I want
10 to transfer it to EEOC and I want to transfer it
11 to the Minneapolis Human Rights Commission. They
12 can make that election.

13 MR. DE LEON: Or they can go directly to
14 the courts if they want.

15 MR. BAILEY: They have to -- in some
16 cases they have to come to us. The only one is
17 equal pay, it's act, but for administrative
18 purposes, they can file with us, but they can opt
19 out of the process by simply saying I'd like you
20 to issue me a Federal Right to Sue so I can go
21 into federal court.

22 MR. DE LEON: The statute of
23 limitations, is it from the time the incident

1 occurred or from the time it has become -- what
2 I'm trying to say is the knowledge of the
3 complainant. I know you're trying to figure out
4 whether this occurred and then maybe six months
5 later on he or she felt that that was really --
6 where do you start in this statute of limitations?

7 MR. BAILEY: Right. The filing statute
8 is what you're talking the 300 days.

9 MR. DE LEON: Right.

10 MR. BAILEY: It can be a situation when
11 both exists. Normally it's where a reasonable
12 person should have known. Sometimes you don't
13 know. For example, if you work for a company and
14 you're 52 and you got laid off and you didn't
15 suspect it was age, but a year later you ran into
16 the personnel person who has also been fired and
17 they said by the way, they laid you off because of
18 your age, and this is why. And then the statute
19 is told because now you know. You had no
20 knowledge, you reasonably could not have expected
21 that that happened to you earlier, but now you've
22 been told, so that's when the statute starts to
23 run for filing. It's when you know or should have

10

1 reasonably known.

2 MR. DE LEON: There is no mandatory age
3 retirement any more. Do you have cases of age
4 discrimination?

5 MR. BAILEY: Not very much, not any
6 more. We did. Most companies have become very
7 sophisticated about that. No. What we run into
8 mostly those kinds of age charges are waivers
9 where they get them to sign waivers and they have
10 layoffs. That's our biggest issue right now.

11 MR. DE LEON: Thank you.

12 CHAIRPERSON ROGERS: Lupe?

13 MS. LOPEZ: Your intake process.

14 MR. BAILEY: Yes?

15 MS. LOPEZ: For complaints or alleged
16 complaints, could you run us through that process?

17 MR. BAILEY: Sure. People can file
18 charges well three ways. Basically they can write
19 in. Really all they have to do is tell us what
20 the allegation is, what the company's address and
21 name is, and then sign it, and that technically
22 becomes a charge. So they can write us or we can
23 take it from there from that. They can call us

1 and we have investigators who will counsel them
2 and talk to them about their particular charge and
3 they can take the charge over the phone, mail it
4 out and have it signed. Or people can also walk
5 into our office. Because of the intake,
6 increasing intake walking in, we encourage them to
7 make appointments, but they don't really have to.
8 They can walk in, they can sit down, an
9 investigator will talk to them, counsel them, take
10 the information, take an affidavit normally, do
11 the charge there and the person will sign it and
12 the charge is officially filed.

13 MS LOPEZ: Do you have -- I know that
14 you don't have people that can address the needs
15 of limited English speaking persons making
16 charges. Do you have an interpreter available for
17 walk-ins that would be coming through your
18 department?

19 MR. BAILEY: We have access to
20 interpreters. I mean we have money in the
21 contract when we need interpreters that we can
22 hire them for Asian groups, for Hispanic groups,
23 for disabled groups. So we do have monies for

1 them. It takes a little more planning on our part
2 if we know that that the person is coming in. For
3 instance, we know they have difficulty in speaking
4 English, we would try to coordinate -- we have to
5 we coordinate the contracting out with the person
6 coming in.

7 MS. LOPEZ: So in other words, if I were
8 to come to your office like today and you know
9 just come in and I could speak very little English
10 then I would have to come back again or what?

11 MR. BAILEY: Probably --

12 MR. BLOYER: We have two Hispanic
13 speaking individuals on staff.

14 MR. BAILEY: We have it in Milwaukee.
15 We have about four people that are spanish
16 speaking in Milwaukee, so but we have two here,
17 okay? If you were disabled and you couldn't
18 speak, somebody we would have to get an
19 interpreter, a signer. That would take a little
20 coordination. We don't have any signers in our
21 office.

22 MS. LOPEZ: Just one more question.
23 What is considered to be a frivolous charge and I

1 know that as I recall sometime thing I read that
2 it was going to be harder -- it was going to be
3 easier for people accepting charges of
4 discrimination or whatever to have such
5 allegations declared frivolous and I'm wondering
6 what would constitute a frivolous charge?

7 MR. BAILEY: I would venture to say that
8 we try to turn down very few charges, if any, in
9 the district on the basis of frivolous. We have,
10 for example, a professional charge filer that's
11 been identified nationally and so if that person
12 were to file in our office, we would probably
13 defer him to headquarters and let them deal with
14 this person. And we found that all of his charges
15 have been frivolous in the case that this guy just
16 makes up stuff and files on people. Frivolous,
17 if, for example, let's say somebody call -- it's
18 very hard because we do it on a case by case
19 basis, but have you turned down any chargers this
20 year?

21 MR. BLOYER: No.

22 MR. BAILEY: We haven't either. I was
23 trying to think of an example. If a woman came

1 in, for example, that said I didn't get hired
2 because of my sex as a secretary for Norwest Bank
3 for example and we had just made a dunner case for
4 Norwest Bank, and we know they had 99 percent
5 secretaries and the person that might be -- but
6 there's a chance that that might be true also
7 because we can't use the bottom line necessarily,
8 okay. But we look at those very carefully and I
9 think that that's a concern you really won't have
10 with us about dismissing frivolous charges. We
11 take almost everything. That's what the employers
12 complain about that we take -- we do this too
13 calmly. They think we should screen more, but
14 part of that is a lot of people don't know, they
15 have a gut feeling that they've been discriminated
16 against and they really don't know, and so it's
17 our job to prove a prima facie case.

18 CHAIRPERSON ROGERS: One follow up
19 question and that's to my original question. Do
20 you feel that Minneapolis has a better civil
21 rights climate today than it did five years ago?
22 Is it better off or is it worse?

23 MR. BAILEY: I'm sorry and I'm not being

1 evasive. I don't live here and I'd probably like
2 to defer that to back, but if you're saying based
3 on the charges, I just think that the nation as a
4 whole is not that much better off in the area of
5 civil rights and unless Minneapolis is an
6 exception, I would probably say that, I don't know
7 I mean I probably say that they probably do have
8 problems here as well as discrimination. In fact
9 there was a study I looked at recently about the
10 unemployment rate of I think it's with the
11 minority or particularly blacks, and the highest
12 unemployment rates in the country were Minneapolis
13 and Milwaukee, which gave me pause. And those are
14 the areas that we operate in. So I view that as
15 some form of an indicator. And it's not just the
16 highest, it was like three or four times higher
17 than whites, for example. So that's sort of an
18 indicator to me that there's at least some
19 problems in the employment area.

20 CHAIRPERSON ROGERS: Mr. Bloyer, would
21 you add comments to that?

22 MR. BLOYER: There are several ways to
23 look at answering your question. Five years ago

1 we probably received in the State of Minnesota in
2 our EEOC office, we probably received somewhere
3 around 500 charges. This year we're going to
4 receive around 1,200 charges. So it's obvious
5 that there are far more charges being filed, there
6 are far more people that come to our office that
7 feel that they have been discriminated against.
8 Five years ago I had about four investigators. At
9 the end of this year I'll have eight
10 investigators. So our resources are increasing.
11 Five years ago I probably -- we probably obtained
12 around \$600,000 in benefits for people who had
13 been discriminated against. This year, as Mr.
14 Bailey has told you, our dollar benefits obtained
15 for people discriminated against already exceed \$2
16 million. So there are some indicators that would
17 show you that the situation certainly is becoming
18 more numerous. All the indicators are up in terms
19 of charges filed, benefits obtained, resources
20 available; however there are also some, in my
21 opinion, at least some indicators that would show
22 that people are probably more knowledgeable about
23 employment discrimination than they were in the

1 past and that companies are either discriminating
2 against specific individuals less or are becoming
3 more sophisticated in their discrimination.

4 The other thing that you have that
5 you have to consider is the impact on EEOC and on
6 the State of Minnesota of the Americans with
7 Disabilities Act which drives our numbers way up.
8 So I suppose you could say that I believe that
9 there has been increased publicity, there's
10 increased awareness. Whether individuals are
11 worse off than they were five years ago, I guess
12 that's up to your own interpretation of the
13 indicators that I've talked to you about.

14 CHAIRPERSON ROGERS: It almost sounds
15 like you're saying that they are though.

16 MR. BAILEY: Well the one thing I'm sure
17 there's some statistics and most of the race cases
18 are filed under Title 7, all of them are filed
19 under Title 7, and as of this quarter, as of the
20 end of June, only about 28 percent were straight
21 Title 7 cases that had been filed, and that's a
22 relatively small percentage. I mean over half the
23 case load is going to be consumed by ADA and ADEA.

1 So we can't extrapolate right now. We'll give you
2 the information, how many are being filed by race,
3 but we can't extrapolate from these stats from
4 Title 7 how many are race cases. But it tells me
5 right away that ADA and ADEA are consuming most of
6 our resources in terms of investigation.

7 CHAIRPERSON ROGERS: Thank you, Mr.
8 Bloyer and Mr. Bailey.

9 CHAIRPERSON ROGERS: We'll have a short
10 recess and start again at 10:15.

11 (A brief recess was taken.)

12 CHAIRPERSON ROGERS: We will resume
13 today's meeting with remarks from Robert Running,
14 District Director of the Office of Federal
15 Contract Compliance Programs, U.S. Department of
16 Labor. Welcome.

17 ROBERT RUNNING, DISTRICT DIRECTOR
18 OFFICE OF FEDERAL CONTRACT COMPLIANCE
19 U.S. DEPARTMENT OF LABOR

20 Thank you. I'd like to spend just a
21 couple of minutes sort of revisiting the comments
22 of last time. Remind you of FCC's structure and
23 that sort of thing.

1 I'm the District Director of the
2 Minneapolis Office. We cover all of the State of
3 Minnesota and that portion of Wisconsin that kind
4 of goes from LaCross where Commissioner Ryland is.
5 That's our jurisdictional boundaries. We have
6 district offices in Minneapolis, Milwaukee,
7 Chicago, Columbus, Indianapolis, Cleveland,
8 Detroit, and Grand Rapids. So that kind of makes
9 up in our whole Region 5 and ourselves pushed
10 together with Kansas City, and they have three or
11 four offices in that region. So they're pushing
12 together Kansas City and our office I think is
13 increase or decrease in the overall resources. I
14 think it's just the district, the regional
15 director and there's just one regional director
16 and one deputy. So they're merging together and I
17 think they'll probably be some of that stuff in
18 the future. So that's the area that we cover.

19 We're responsible for Executive
20 Order 11246 as amended by Number 375 and that
21 original Executive Order goes back to 1965 and it
22 follows a series of executive orders that started
23 probably in the '40s with equal opportunity itself

1 in defense efforts and things of that nature. We
2 have the Veteran's, Viet Nam Veterans 4212,
3 Section 503 of the Rehabilitation Act of 1973, and
4 we have some inspection kinds of things we do for
5 INS and INN programs. We have most recently some
6 sort of compliance review act for 29CFR which has
7 to do with the bureau apprenticeship training and
8 selection for people in those efforts.

9 I'd like to start with a few
10 comments that are sort of a vision statement. We
11 have a new program director and recently in April
12 or May of last year Ms. Wilshire. Previously she
13 was with the Hawkin's Committee. I think she was
14 the representative from California who was a
15 strong civil rights advocate. So she's taken over
16 and so we're in the process of getting some new
17 initiatives in our system and I sort of like to
18 discuss that first and zero in on some questions
19 that you might have.

20 One of the things that she wants to
21 see in the future in realizing our mission as a
22 civil right's agencies is three important goals;
23 hardening and streamlining our procedures to

13 1 achieve greater results, strengthening enforcement
2 posture by enhancing it's regulation, and making
3 greater use of existing procedures and developing
4 a well-prepared professional staff to enhance
5 training opportunities. I think in the near
6 future, and I'll get down into it a little more in
7 an few minutes, we're going to have a revision of
8 our regulations that short 11246 and the other
9 programs that we administer and it would be
10 important for anybody that has some strong
11 feelings where they wanted to see a regulation
12 like that when there is a hearings held that
13 people attend, voice their concern because that's
14 the way the process works. Out in the field we
15 are implementers of policy and policy is like an
16 official so when you get into some questions that
17 in the end towards here, just keep in mind that I
18 am the field person that supervises compliance
19 officers for following a policy that comes down
20 from the top, and if those people don't enact
21 policy that you like you throw them out, it's very
22 simple, and that's how it works for us.

23 Where we're going to go as an agency

1 this is kind of I would guess we would look at
2 monitoring her vision of it is, like IRS where
3 there's a significant amount of voluntary
4 compliance, but it's based on the enforcement of
5 particular codes, and that is kind of things and
6 some of the initiatives that we're looking at the
7 enforcement of agenda for fiscal years '94 and '95
8 consist of the following strategies: We're going
9 to have more focused investigation. This will be
10 targeting worse offender and those with a history
11 of compliance problems. We have a selection
12 system in place that allows us to make selection
13 decisions for our compliance reviews and we will
14 continue to use that and there will be some
15 enhancement, and I'd like to kind of describe that
16 system so you can understand how our compliance
17 effort is driven and it's very different than EEOC
18 by the fact that we are not driven by numbers of
19 complaints for large segments of our efforts, and
20 what I had in my -- get in my hands every year is
21 for my territory and my contractor universe is as
22 a computer program that takes all the EEO 1
23 reports and rolls them together by major zip code

1 bands and I get 12 different groups like that. It
2 also rolls companies together by size up to 99
3 percent, 99 to 250, the size of the company. And
4 there's two measures that come out of that
5 calculation, one it compares a company to it and
6 this is done by rating minorities and women in the
7 management with a higher weight, not weighing than
8 the labor and service jobs. So it goes from 1 to
9 2 and X number of weights that are added to it
10 times the number of minorities and females that
11 they have. So you get an index for three or four
12 years that shows that it's making progress or it's
13 not. Then there is comparison to the particularly
14 industry group that gives me a percentage ranking.
15 So the computer will ampersand that universe and
16 out of that kind of thing I have how I schedule
17 companies. So a company I've never been into
18 before will be the highest priority if it's
19 ampersanded. So that's kind of how we go about
20 scheduling a good share of our activity.

21 The other way would be if a company
22 is bidding on a large federal contract, the
23 federal acquisition regulation specifies that they

1 have to get an EEO clearance. You have to come to
2 this office and we'll dispatch a compliance
3 officer to prepare an affirmative action program.
4 We're in the process of conducting corporate
5 management reviews in order to eliminate glass
6 ceiling barriers for the advancement of minorities
7 and women through middle and upper level corporate
8 decision-making jobs.

9 I have publications, I guess I
10 probably left it in my briefcase, but you'll
11 receive a copy, it's a progress, a second progress
12 report on the glass ceiling reviews. They're
13 special reviews that a regional person comes in
14 and does the entrance conference, participates
15 significantly in the review where our typical
16 reviews is carried out strictly by people in our
17 office where I send out a letter and an
18 investigator will do a desk audit on site and
19 oversight review. So we're going to, I think that
20 we're doing approximately one per quarter per
21 region and now there -- now in this particular
22 fiscal year we have 40 of them that are ongoing.
23 So that this is quite a large increase and this

1 will continue at this level. We're going to be
2 targeting for compliance reviews. This will be a
3 new aspect to it and major employers in growth
4 industries to ensure that affirmative action
5 representation in those industries where job
6 opportunities are expanding are fully realized,
7 and we will be getting materials from PLS that
8 will pinpoint for our geographic area that I cover
9 what those targets are. I try and do that in my
10 scheduling now, but you know its -- this way it
11 will provide a number base and a job growth to do
12 that more accurately. We will be investigating
13 contractors in industries for instance
14 significantly downsizing and just to make sure
15 that people that are going on the layoff roll are,
16 you know, treated as those the principal of
17 affirmative and equal opportunities. We're
18 enforcing -- we will have more enforcement
19 activities like I mentioned before, there's a new
20 activity for us in the last year or so in the
21 areas of, in apprenticeship and training programs.
22 We're going to increase the number of crews of
23 mega construction project. A mega construction

1 project is from our terms are any project that is
2 going to last a couple of years and is around a
3 hundred million dollars. And so in this area we
4 have a new federal building which is, I think it's
5 priced out right now at this particular time at
6 \$91, \$92 million, but it's a mega construction
7 project and instead of looking at the construction
8 company in isolation, I mean individually by it
9 we're reviewing that whole process as a project in
10 looking at the hours, monitoring the hours
11 closely, meeting with the contractors that are
12 having a difficult time in reaching the
13 utilization levels agreed upon.

14 One of the areas where the new
15 regulation is, we're hoping it will have more
16 impact is we're going to move towards limited term
17 environments and withholding of payments as
18 sanctions. Currently the ultimate sanction that
19 we have is to debarment and it has a lot of due
20 process in it and there's debarments happening
21 all the time, just not in great numbers. So
22 they're going to go with 60, 90 day debarments,
23 civil money penalties. So these are some of the

1 things that will be proposed in the new
2 regulations. So they might be very interesting.

3 We, being an enforcement agency,
4 we've always had components of our program has
5 been the certain amount of hours of technical
6 assistance, working with contractors in finding
7 recruitment sources, writing affirmative action
8 plans, getting through statistical portion of
9 that. We're going to move away from technical
10 assistance in any of our ongoing compliance
11 activities. We will have technical assistance,
12 but it will be for people that will call in our
13 office or just or are just now getting around to
14 arriving at a 50 employ ee plateau which kicks in
15 your writing affirmative action programs. We'll
16 spend that time in the review process. We won't
17 be spending on any particular technical assistance
18 time or very little. We're going to use just the
19 media to create a multiplier effect by publicizing
20 things or publicizing it, our sanctions, and we
21 have three of them that I just received the 10th
22 of August. It says First Bank of Ohio signed EEO
23 agreement with a back pay of \$302,000 and probably

15

1 some front pay. Those kinds of things, Board of
2 Public Utilities in Kansas City, lump sum payments
3 of \$45,000, and there's 32 Cannon Business Machine
4 workers to receive up to \$633,000 in back wages.
5 So there will be deputy assistant secretary. We
6 used to have a director so now they changed the
7 name so I had to assume it will be very aggressive
8 in getting the news media those kinds of things to
9 go out to all the papers and other folks. OFCCP
10 will be continuing to look at the shrinking
11 resources to with which to carry out enforcement
12 efforts. What additional workers and what
13 additional resources become available will be
14 directed to the front lines, the field auditors
15 and the agencies will be moving with, more
16 effectively with the resources. It will be
17 targeting for review industries identified by the
18 Bureau of Labor Statistics and growth industry.
19 It will be getting better return on their dollars.
20 Our technology is constantly improving and we
21 better equipped our front line auditors with more
22 laptop computers, software to be able to scrunch
23 employment data and those kinds of things.

1 We're in the process of developing a
2 variety of training modules that do not exist and
3 we have comments in our office, for example, what
4 they want to put in the new training modules for
5 the glass ceiling reviews and as the regulation
6 changes and is updated and is more definitive and
7 hopefully more simple then we will have some
8 additional training in that area. On this -- in
9 the regional areas used to give us some ideas of
10 the kinds of things that are going on. There's
11 going to be Atlanta national review strategies in
12 a way which will look at multiple facilities of
13 major contractors across regional lines and
14 looking for employment patterns and practices of a
15 national scope. Traditionally we do companies by
16 geographical area. In Boston they have a
17 downsizing initiative which is designed to closely
18 review the messages and the resultant impact of
19 minorities and women and those companies that are
20 really scaling back. In New York they're working
21 on some other companies. Now we do compliance
22 reviews that the companies are essentially paper
23 list and they're doing this review of the newer

1 technology that would allow or use to be taken
2 from the company's computer and be put on ours
3 kind of things. So that will be interesting. In
4 Philadelphia they're moving to a -- and we have
5 never done too much of this, and I think EEOC has
6 for sometimes using testers in the areas. In
7 Chicago they have a joint initiative between OFCCP
8 and the Department of Labor through the Department
9 of Education's Office of Civil Rights and so that
10 when they do compliance reviews at the
11 universities and we have the resources of both
12 those agencies together on the compliance review.
13 So with regard to the resources to carry out our
14 mission as I mentioned, we're different than EEOC
15 or state human rights where there's a case load
16 indicators. Our complaint activity probably is
17 pretty stable all the time. I have only three or
18 four complaints among a month at any given
19 inventory up to nine or ten, and those are
20 veterans and handicap complaints. And what we do
21 for work is determined by the program plan that is
22 dealt with at the national level, and I'm sure
23 with some input from the Congress and then they

1 share it out to whatever resources you have in the
2 area.

3 That is my goal and we're about 80
4 percent of my activities in any particular year.
5 So I have basically two or three kinds of reviews.
6 I have compliance service contractor and that
7 would be a contractor that has netted a contract
8 over \$50,000 and has at least 15 or 50 employees
9 and the construction contractor that has a project
10 over \$10,000, and then whatever complaints that
11 are coming in, plus some reviews of some bureau
12 apprenticeship training programs. So that's
13 pretty much my work load indicators.

14 I have a staff of five compliance
15 officers. I have administrative support staff
16 persons which is the persons that left in April,
17 March or April, and hasn't been replaced yet and
18 myself. So that's the resources that we have. My
19 work force is at this particular time one black
20 investigator, one American Indian, and one lady,
21 and the person that came over from the other
22 federal agency that was disabled in our Workmen's
23 Comp program and we picked this person up as an

1 investigator. So that's pretty much the profile.
2 I, as far as my recruiting is, if they give me a
3 chance, I don't have any problems with doing that
4 because I've been to most of the agencies and the
5 last time I had an opening and that's taken my
6 hands, I go to the Urban League, the American
7 Indian Center and all these other places in town
8 that we deal with all the time and give them a
9 copy of the announcement. I think in the areas of
10 hiring new staff that if that comes up, I don't
11 think it would be a problem under reinvention.
12 Some of the OPM kinds of things are fallen by the
13 way side, and there's more recruitment initiatives
14 down at the regional office. The Department of
15 Labor we have like a -- we're strictly field
16 people and and I have to keep track of cars,
17 telephones, you know, all the kinds of things you
18 have to do to run a business, and my personnel
19 support is the office of Assistant Secretary of
20 Labor in Chicago and they have now the ability to
21 allow a recruiting initiative locally. So I, you
22 know, in the future when we get to the point where
23 we're putting more recruits on the front line, I

1 don't see that as a problem at all. In fact the
2 last time we had some excellent, excellent
3 candidates, a couple of investigators from a
4 couple of the ethnic racial groups that have
5 masters and law degrees, but we have met those
6 requirements, too.

7 So with that it's kind of sort of an
8 overall presentation maybe to update you a little
9 bit, focused from the last meeting, sort of give a
10 little different scheme of our types of activities
11 than the EEOCs or State Human Rights.

12 CHAIRPERSON ROGERS: Thank you, Mr.
13 Running. Any questions? Alan?

14 MR. WEINBLATT: Has there been any
15 publicizing of violators in the Minnesota area?

16 MR. RUNNING: No, not in the last year
17 or two.

18 MR. WEINBLATT: And secondly with
19 respect to investigations that your office
20 conducts, what happens to the results of the
21 investigation when it's completed?

22 MR. RUNNING: Typically there is three
23 ways to get out of a company, a closing document

1 or a letter of acceptance finding no probable
2 action, a letter of committment which is a minor
3 technical efficiencies that you can correct quite
4 easily and a concilliation committee which is put
5 upon us by the courts in the fact of not being in
6 the paper promise business and it's sort of like a
7 contract and in that we have write about 60
8 percent, 60, 70 percent concilliation agreements.
9 And in that contract that is a progress report
10 which we would get for a set period of time. If
11 the company is a repeat violator, then they get a
12 four year concilliation agreement and a mandatory
13 review in the middle of that four year period. So
14 when we get progress reports and then when case
15 file stays in my office for three years, goes in
16 the federal archives, five years.

17 MR. WEINBLATT: We're most interested in
18 finding out, and particularly I was interested in
19 looking at your comment about cross regional
20 investigations. How does a federal government
21 agency that is in the business of procuring goods
22 and services from various companies know if that
23 company has been determined to have or had hiring

1 deficiencies in terms of compliance? If I'm
2 purchasing widgets from that company from
3 Minnesota on behalf of the federal government, how
4 do I know what the status of that particular
5 company is with respect to compliance?

6 MR. RUNNING: As the buyer or
7 contracting officer as they're typically called in
8 any executive agency, well I don't know how many
9 volumes, it's not really that big any more I
10 guess, but it's now called Federal Acquisition
11 Regulations and any part of that acquisition there
12 are certain things you have to follow and that
13 means as I was talking a little bit ago about pre
14 award, if the bid is over a million dollars or the
15 modification brings the contract over a million,
16 then they have to come to OFCCP for a pre award
17 clearance.

18 MR. WEINBLATT: The one catch in my
19 mind, you talk about one of those articles about
20 Cannon Copiers.

21 MR. RUNNING: Sure.

22 MR. WEINBLATT: I worked last fall in
23 the White House on federal procurement matters and

1 I had no knowledge that any of the contract
2 purchasers or even anything in the FARS would have
3 enabled the contracting officer to know whether a
4 Cannon copier -- choosing between Cannon and other
5 kinds of copiers was in compliance or not in
6 compliance.

7 MR. RUNNING: When I worked in the
8 procurement side I kept copies of the FAR because
9 you're on the distribution. It's one of those
10 things that when you get out of it, I keep copies
11 of the federal acquisition regulations. I have
12 Hotis in our same building and they're active in
13 procurement. They would have -- I can give
14 anybody a copy of the federal acquisition
15 regulation that talks about pre award
16 requirements.

17 MR. WEINBLATT: I'm talking about the
18 specifics of it.

19 MR. RUNNING: Okay.

20 MR. WEINBLATT: If I've been working for
21 NASA and I want to buy something that is was
22 manufactured by Unysis, how do I know whether the
23 Minneapolis regional office has reached the

1 conclusion that Unysis is not in compliance with
2 the unfair employment practices?

3 MR. RUNNING: It's in the pre award
4 request to the regional office, and it's a
5 specific person in every regional office that
6 handles pre awards and the body of the letter,
7 although the contents is not totally before me,
8 you have to put the point of production in there.
9 So if it's Unysis, you would have plants or at
10 least used to the best of my knowledge, Salt Lake
11 City area, they put that as the point of
12 production. It would show St. Paul or the other
13 plant. I think it's in St. Paul, but the main
14 frame and they put that in there as a point of
15 production that, that goes to the appropriate
16 regional office and then bounces it out to the
17 field office to do a compliance review. If we've
18 done a compliance review within the last two years
19 the regional office has that information and they
20 would just go ahead and clear it out to that
21 particular big demand. So that's kind of how it
22 goes.

23 CHAIRPERSON ROGERS: Lupe?

1 MS. LOPEZ: It sounds to me like it
2 would depend on whoever is doing the purchasing,
3 to check into compliance or non compliance of
4 contractors. So that if that person doesn't
5 choose to pursue, what happens? Should there be
6 something in place that would automatically put
7 those gears in motion other than having say me as
8 a contractor check into it?

9 MR. RUNNING: This gentleman worked in
10 the White House on federal appropriations.

11 MS. LOPEZ: But I'm not talking about
12 general contractors.

13 MR. RUNNING: We'll get into it in a
14 second. We realize what a mammoth system it is.
15 Ten years ago it was very difficult for me to find
16 out jurisdiction. In other words for me to do a
17 compliance review, I have to have a \$50,000
18 contract before that you're performing on, and the
19 Defense Department was always excellent because,
20 you know it's very automated and wherever they're
21 buying it in there. They've got it a whole
22 system, but GSA buys certain products out of
23 certain multiple locations. They buy all the

1 paper products out of maybe Seattle where a lot of
2 the timber is grown and the paper mills and stuff.
3 The office products maybe Denver, and you know it
4 really took a lot of skills of the overall
5 procurement network,, but now it goes into it -- I
6 get it on my proficiency, it's not the niftiest
7 thing to work with but it's kind of an ongoing
8 thing, but I have someone in my buildings where
9 they can pick a microfiche and print it, but they
10 food stamps, but we have a lot of microfiche. But
11 I have another program in my computer where
12 there's responsibility of GSA where somebody
13 procures something, it goes into the system so
14 people can find it and I have it two ways now sort
15 of an E mail system. I dial up and dial in the
16 company's name, whether it's the local company or
17 national company because you get jurisdictional
18 disputes in companies and have a lot of
19 subsidiaries. The government contract might be in
20 this particular subsidiary and you want to use a
21 plant down the street that has three or four
22 hundred people, not very many minorities, and
23 target fits you in there you have to then prove

1 that this company is considered one. So sometimes
2 it depends on how a company is structured whether
3 their government contractor all the way across all
4 of their subsidiaries, divisions are considered
5 one, so. It's, you know, it's a lot better, it's
6 improving, you know, three foods. But in
7 construction contracts there is words in this
8 initial ward that the big office owes me a notice
9 of any procurement on any construction contract
10 over ten thousand dollars, and I get them in by
11 the handful, far more administration and federal
12 highways and these kinds of things. So that is my
13 scheduling tool in construction contracts.

14 CHAIRPERSON ROGERS: Albert?

15 MR. DE LEON: Ms. Chairman, Mr. Running,
16 your work load, does that justify additional
17 staffing and funding support, do you think from
18 Washington D.C., or --

19 MR. RUNNING: It's like I say, we have
20 the particular contractor universe. In other
21 words, in all the zip codes that I'm in there's no
22 amount of government contractors, it's changing
23 you know all the time. But generally speaking,

1 it's around 1,800 people from firms. So it's just
2 the level that somebody decided it would be. Just
3 like IRS. How many specific audits they're going
4 to do, you know, what would bring you an audit
5 kind of thing. And I get my work load then based
6 on what they think they want to cover at the
7 national level, and I just sort of get my share of
8 it. So people want to cover more of the universe.
9 I don't think we're ever set up to cover the whole
10 universe in the week or a day or a month or a
11 year. I think there's always been scheduling
12 based on essentially two things; one where the
13 government contracts were going? What Mr.
14 Weinblatt was talking about, how do we get notice,
15 that's always been very key to going out doing pre
16 awards, and that somebody bidding on the contract.
17 And the other way scheduling, like I talked about
18 with the comparing the company to the kind of
19 industry it is and also to it.

20 MR. DE LEON: Where the U.S. Supreme
21 Court has indicated that it's set aside, does that
22 really apply any more? Where do we go from here
23 in terms of minority contracts? Are we using the

1 term now disadvantaged? It used to be that we
2 have a wide range of women-owned and
3 minority-owned, and now is it just disadvantaged,
4 is that the criteria?

19
5 MR. RUNNING: I would comment on that
6 just briefly in the fact that it would, in my mind
7 it falls under the specific terms of a contract.
8 In other words, they'll put in certain
9 disadvantaged business goals or MBE or WBEs or
10 whatever the current acronym, might be. So that
11 would end up with the buying agency. In other
12 words, there's a different principle between -- I
13 don't work for a contracting officer. There are
14 civil rights people for the government in each
15 executive agency. In other words, the Department
16 of Labor has contracts in this area that wouldn't
17 and I wouldn't do compliance reviews of because
18 it's grant monies and so I don't know in those
19 areas on the -- I would guess the place you can
20 get those kinds of answers is SBA because they
21 would have the best definition. Or if you get
22 with like Federal Highways, I mean they have to do
23 their own certification of a disadvantaged

1 business and that usually means women-owned or
2 minority-owned places.

3 MR. DE LEON: But you do have a
4 monitoring system where you would then know that
5 in an agency they would have utilized by contract
6 Asian, Afro American, Hispanic, American Indian,
7 you would have that power, isn't it, to monitor
8 that agency?

9 MR. RUNNING: No.

10 MR. DE LEON: You don't have--

11 MR. RUNNING: So when I end up in that
12 discussion with others over in the federal
13 building talking about those two things, it's two
14 very separate and distinct claims and they have in
15 that particular contract with liquidated damages,
16 you know, certain small business goals for
17 disadvantaged business and stuff. But then the
18 others goals that come, that's the actual work,
19 construction workers that work on that site for
20 any tier, that's the utilization that I'm
21 interested in. So when we get in those
22 discussions, those two things are kind of always
23 going across and I can understand the confusion,

1 but those goals always go with the contracting
2 officer. In this case, it's GSA in the federal
3 government because it's going to be a building
4 owned and operated by GSA.

5 MR. DE LEON: I guess my final question
6 is where do you find the agency, were you to find
7 the agency out of compliance, would you issue
8 sanctions and penalties on this agency so that
9 they can improve their behavior?

10 MR. RUNNING: I would issue sanctions on
11 any supply and service contractor. Supply and
12 service means something we take title to that has
13 a \$50,000 contract on doing a complaint. I have
14 different thresholds; ten thousand dollars across
15 the board, \$2,500 for under the 503 Rehabilitation
16 Act. But as far as other agencies, we could get
17 into some sanctions if they had a contract and
18 there are some contracts, but mostly the money in
19 other agencies is grant money. The granting
20 agency then has a civil rights responsibility. So
21 I kept in my office, I get a lot of calls in that
22 area. I kept in my office a directory if somebody
23 is talking about being discriminated against out

1 of the school district or something, I say you
2 have to go to the Office of Civil Rights for the
3 Department of Education in Chicago and most of the
4 region office. But if you look at a real good
5 clue to look at the major players in the civil
6 rights, just look at the federal poster -- I
7 forget where we are in it now, the middle or not;
8 EEOC, ourselves, and then it's all the rest of the
9 federal agencies that have money out in the
10 community that have an EEO responsibility. They
11 would do their own enforcement through their
12 investigative people that they have and their
13 attorney.

14 MR. DE LEON: Thank you.

15 CHAIRPERSON ROGERS: Mary Ryland?

16 MS. RYLAND: I think I'm hearing out of
17 all of that you're saying that your office would
18 not have to do this, but I want to ask you about
19 it specifically. A case that I knew was within
20 the last couple -- in our news within the last
21 couple of weeks has been that a business owner
22 with a minority partner was qualifying for a
23 minority loan, but within a year now that there's

20

1 been a separation of those two and the minority
2 person no longer is there. The loan has been
3 secured, so the business is going along without
4 the minority. The terms of the buyout or push out
5 or whatever might have transpired there have not
6 really been made known to the public, but it's
7 under investigation apparently. Does your office
8 come into that kind of--

9 MR. RUNNING: No.

10 MS. RYLAND: Not at all? I thought I
11 heard you say that.

12 MR. RUNNING: So, in other words, when
13 we have in our construction compliance, there are
14 16 specifications that the company has to
15 demonstrate. Each of the specifications has two
16 or three different things to it, and there is one
17 on soliciting for minority and female owned
18 businesses. So the demonstration of good faith
19 there is, you know, getting out the bids,
20 maintaining a minority bid list. Some companies
21 have this, for example, highway construction maybe
22 they have a women-owned business that they've
23 worked a relationship that does all the

1 landscaping when they finish kind of things. So
2 if they've got a list that they've sent out or so
3 that's in that step, that's what -- that's about
4 as close as what we get to what you're talking
5 about.

6 CHAIRPERSON ROGERS: Lee Ruiz?

7 MR. RUIZ: Two questions, Madam Chair,
8 Mr. Running. Did I hear you correctly that you're
9 going to enter the quagmire of the role of the
10 downsizing and so forth?

11 MR. RUNNING: Sure.

12 MR. RUIZ: And I have an interest in
13 that because there's three distinct patterns that
14 I detect. One is the more senior minority
15 employees for some reason or another are let go,
16 okay? The second very fact is that they're being
17 replaced by non minority contractors on a
18 temporary basis and, of course, I'm not sure but I
19 believe the civil rights laws are not applicable
20 to contract employees, is that not correct?

21 MR. RUNNING: Well this is why it would
22 be extremely important for people to go if there's
23 a hearing announced in this area or someplace

1 where they can join and make these kinds of things
2 known because it's one of the things we see out
3 there as we get to certain of the -- and I use
4 this type of company as just an illustration -- we
5 go into a factory say for example a particular
6 company. You might have to work for four years
7 for a temporary agency before you can get a job
8 there. So what we can do then, this temporary
9 company that provides people out there, then if
10 the company selects people from that pool sort of
11 it's a national consort, so they have to -- we
12 make them inform the company that this particular
13 company has an affirmative action plan, has
14 certain goals that they're trying to achieve and
15 these are the goals if it's a particular type of
16 worker if, you know, it might be X number
17 percentage minority and X number of female and
18 then monitor that. And if they don't, if they
19 don't perform at that level then to move on to
20 another business. But as far as our going into a
21 temporary company, we've done some of that, but
22 they have to be the larger ones and then they
23 would have to have, for example like a lot of

1 engineers out at Unysis you can say they're a
2 federal contract and but the sideline here, one of
3 the very interesting things is one of the tests
4 is, you know, if I ask you who is the largest
5 employer in the country today, could you give me
6 an answer?

7 MR. RUIZ: The government.

8 MR. RUNNING: Well, no. I mean like
9 Ford or GM or something like that, it's not, it's
10 Manpower. That tells you what's going on. So I
11 think the new regulations are moving into that
12 area. So if you have, I would say to make
13 comments because we haven't had a shot at changing
14 these regulations since Carter, the twilight of
15 Carter's administration. They ran some regulation
16 out that had a lot of good things in it, but the
17 administration that followed that had some other
18 agenda and they just quashed the whole thing. But
19 it had like two levels of affirmative action
20 programs which really makes sense. We're in
21 there, you know, with 150 size company and
22 spending 150 hours making them get all these jobs
23 grouped together, similiarly situated people in

1 terms of pay opportunities and that and then you
2 go and getting available and 8 factors that go
3 into each one of these availability, you know you
4 need to maybe consider streamlining. Well that's
5 gone, so the regulations have really not been
6 dealt with for a number of years. There's some
7 good things.

8 MR. RUIZ: Just one follow up question.
9 I mentioned three items, number one was the
10 elimination of seasoned minority employees. The
11 second factor was the replacement of those
12 employees with the contract employees and within
13 the entity that's left there's another phenomenon
14 is self managed work, teamwork group, that kind of
15 things, empowerment, if you will. That's the buzz
16 word nowadays and I have found, I have found in
17 observing these lawyers that self managed work
18 teams tend to gravitate towards people of their
19 own ilk. That is if they're predominantly white
20 males, that's who they will recommend be on it.
21 And therefore, the existing past affirmative
22 action plan is not applicable any more, and that's
23 what I'm finding.

1 MR. RUNNING: The first one you were
2 talking about people being gone out of the door.
3 In all of our compliance reviews we get a
4 personnel activity from the previous year and also
5 the work force count is delineated by job. So if
6 they have a population of X number of people in
7 permanent employees, and then we do it for hirees,
8 terminations and promotions, and we do an adverse
9 impact ratio in all this. That's the test that
10 falls outside of the formative test. That's one
11 of our major focuses when you go on site to take
12 in a case, the determinations, you pull out the
13 seniority roster or whatever the decisions were
14 made with.

15 CHAIRPERSON ROGERS: Can you tell me how
16 you get employment goals on federal projects?

17 MR. RUNNING: You're talking construction
18 or non construction?

19 CHAIRPERSON ROGERS: Both.

20 MR. RUNNING: Non construction is driven
21 by mainly at this time now the 90 census, and the
22 90 census has 512 job categories. Their specific
23 job site list, and say if a company has the

1 downsizing of a company, say you have engineers
2 with a medium size company, you have some
3 electrical, mechanical, maybe some industrial. So
4 you'll take those three groups for the
5 geographical area and that will be your exterior
6 available. You put them together and say this is
7 6 whatever.

8 In the construction area the goals
9 are set by the regulation and they have not been
10 changed for a number of years. It will be up to
11 the Secretary of Labor to redo the goals and 41CFR
12 put out a new Appendix B.

13 CHAIRPERSON ROGERS: Alan?

14 MR. WEINBLATT: In the report that you
15 review, tell me about confidentiality or lack
16 thereof of the report.

17 MR. RUNNING: Is it available to the
18 public, yes.

19 MR. WEINBLATT: Which means to the
20 really the topic I want to get to, and that's the
21 subject of subcontracting. Some of the larger
22 companies will not be direct government
23 contractors, either construction or non

1 construction, but will either be major
2 subcontractors to those companies that do do
3 government contracting or do have a particular
4 contract. How does the information or does the
5 information concerning the employment compliance
6 get to the potential prime contractors?

7 MR. RUNNING: Probably by our review.
8 We would call it under the technical requirements
9 and there the contractor has, the prime contractor
10 has to send notification of the EEO clause and
11 then there has to be enough specific information
12 there that the person would understand that they
13 would have to file an EEO 1 and do their own
14 affirmative action program, and that would be for
15 the subcontractor, about the same threshold,
16 \$50,000 and 50 people. So as a prime contractor
17 you have to do, you can do it on a contract by
18 contract basis. In other words, all the people
19 that are employers, subcontractors, and vendors,
20 you have to send out that notification, this is a
21 government contract and you know they check some
22 certification log.

23 MR. WEINBLATT: The last thing. Are you

1 aware of any prosecutions of any company for false
2 representations on the EEO 1 or the other forms
3 with respect to compliance or non compliance?

4 MR. RUNNING: No, not that I can recall
5 now.

6 CHAIRPERSON ROGERS: One final question
7 from Lupe Lopez.

8 MS. LOPEZ: Where could a person go to
9 get information on the apprenticeship programs?
10 That's a lot -- I receive a lot of complaints at
11 our office about people, specifically minorities
12 not being able to get into the apprenticeship
13 programs, and if they do, they're out before they
14 complete their number of hours. And I know one
15 particular person that came to me not too long ago
16 and he said that he's having a hard time getting
17 anyone to listen to him about the dilemma that
18 he's in to.

19 MR. RUNNING: Earlier in the discussion I
20 talked about a 29 CFR initiative and that's where
21 we met within the last two years. I'm trying to
22 think of the guy's name, Tony Swopes, for the
23 Bureau of Apprenticeship Training where we get in

1 and do discrimination as part of the reviews and,
2 you know, back pay and whatever would go with
3 those kinds of things. And so we were moving in
4 to do reviews of the joint apprenticeship process
5 and but there's two venues for doing those
6 reviews. In Illinois you have a non sacks
7 (phonetic) state for OFCCP can send out a letter
8 to this joint apprenticeshiping ahead and do it.
9 In Minnesota we have a sacks state so the Bureau
10 of Apprenticeship training for the State of
11 Minnesota does no compliance reviews. And I can
12 give you the federal person's name because we work
13 together in this little initiative, but there's
14 not much activity in Minnesota because that
15 happens with a lot of federal agencies where they
16 have a lot of presence in some states and not as
17 much in others. But the state has, you know,
18 maybe some of the compliance stuff, but I'll give
19 you the federal person's name and also it would be
20 the State Bureau of Apprenticeship and Training.

21 CHAIRPERSON ROGERS: Thank you, Mr.
22 Running.

23 We will now hear from Jaime Pedraza,

1 Director of Fair Housing and Equal Opportunity
2 Division, U.S. Department of Housing and Urban
3 Development. Patricia Mack is also present.

4 JAIME PEDRAZA, Director

5 FAIR HOUSING and EQUAL OPPORTUNITY DIVISION
6 U.S. DEPARTMENT OF HOUSING and URBAN DEVELOPMENT

7 I do have my remarks prepared and I
8 will give you all a copy at the end of the
9 session. I have divided my presentation.

10 First I'd like to thank you all for
11 giving me the opportunity to speak before the
12 Commission regarding the Civil Rights work that
13 HUD does. Just for your ease of following, I've
14 provided this in three segments. I'm going to re
15 update you on the reorganization that HUD has
16 undergone, telling you the kinds of resources that
17 we have in our office and how we're trying to meet
18 our civil rights obligations in the Minnesota
19 office.

20 My name is Jaime Pedraza, I'm the
21 Acting Director of Fair Housing and Equal
22 Opportunity within the State of Minnesota. Our
23 HUD office has jurisdiction for the entire state.

1 There have been a number of structural changes
2 that have taken place in the organization since
3 last November when Patricia spoke to you, and I
4 want to bring you up to date on those issues. I'm
5 taking the time since I think it's real important
6 for you to have heard her remarks in November,
7 known what's happened, and see where we are now
8 with regard to Fair Housing and Civil Rights
9 Administration in the state. As part of the
10 reinvention, HUD were restructuring each of the
11 divisions. In Minnesota we have fair housing,
12 community planning and development, public
13 housing. There are five major divisions. Each of
14 those division directors, like myself, now report
15 into an Assistant Secretary at the HUD office in
16 Washington. We no longer report to a field office
17 manager, but I report to Assistant Secretary
18 Aucton Burke. She's been appointed by Cisneros.
19 The other division, community planning and
20 development, they report into their assistant
21 secretary. So we have a direct link to
22 headquarters now.

23 As a part of the reorganization the

1 regional offices have been eliminated. When you
2 heard the discussion last November regarding HUD
3 you were probably told there were ten regional
4 offices located across the country. There were
5 field offices like ours reporting into a regional
6 office which at that time was Chicago. Then the
7 region reported to headquarters. Well they've
8 eliminated the whole regional office concept.
9 Some of the divisions do not have any person in
10 that old regional office that does any of their
11 work any more. In the area of fair housing the
12 regional offices are used to be where the fair
13 housing investigators were, where the Title 6
14 investigators were, where the 504, which is
15 qualified people can't be prohibited from
16 participating in a program simply because of their
17 disability. That's where those investigators
18 were. What they have done in place of that
19 regional structure is create ten enforcement
20 offices. So where the regional offices used to
21 be, there are now what are called ten enforcement
22 centers. Those investigators are officed in those
23 enforcement centers. So they did not bring the

1 investigations down to the field office level
2 during this process.

3 Along with that is the fact that you
4 know we don't report up through those enforcement
5 centers at all, we report directly into
6 Washington. The enforcement centers report
7 directly to Washington. We're sort of autonomous
8 organizations. Yes, they may contact us for some
9 basic, for example, but they don't report down to
10 us and we don't report up to them. That's kind of
11 important I think for you to keep in mind as
12 you're doing your assessments.

13 Another thing that happened is that
14 they have upgraded the division directors, the
15 fair housing division directors grade to be equal
16 to all of the other division directors, which is a
17 plus. The fair housing division directors across
18 the country, with the exception of one office, Los
19 Angeles, were grade 13s. All of the other
20 division directors in the HUD offices were grade
21 14s. For people who didn't care about grades it
22 was not a big deal, but for others the grade is
23 important.

1 What they've done is they've
2 upgraded the positions to 13/14. You could maybe
3 come in as a 13 with potential for a 14 or you
4 could come in as a 14. Along with that, all of us
5 fair housing directors got our pink slip last week
6 saying our 13s have been eliminated, but they've
7 got these new positions which were just posted as
8 vacancies last week, so if we're interested in
9 still working with HUD, we need to apply for the
10 new jobs. So that's what's going on. But that's
11 just to give you some background. That was like
12 part one of my presentation.

13 Now you know we're still responsible
14 for civil rights issues in the state of HUD with
15 all of our HUD programs. The only group of people
16 that we don't touch at, we haven't for a long time
17 and we're still not, even with the reorganization,
18 are the Native American individuals and families
19 living on reservation land. That's still a
20 special group. The regional office, program
21 offices do have somebody who specializes in Indian
22 programs, so that's a whole, yea, it's a whole
23 office on it's own. So just sort of keep that in

1 mind that the American Indians living on
2 reservation land, they don't have a voice here yet
3 in the field office structure.

4 Our mission is still providing safe,
5 decent, sanitary housing to our residents.
6 Building and rebuilding local communities through
7 redevelopment efforts, assuring that illegal
8 housing discrimination is eliminated in the
9 country, and particularly in Minnesota.

10 As Patricia said earlier, all of
11 HUD's programs, whether they're grants, whether
12 they're loans, whether they're any other kind of
13 subsidy, comes with a number of civil rights
14 obligations. The obligations and responsibilities
15 were specifically outlined to you by Patricia last
16 November, so I'm not going to repeat all that
17 information, you'll have it in your handout. But
18 I do want to give you information on two new
19 responsibilities the fair housing division has
20 gained since November. We are now responsible for
21 providing technical assistance to our grantees
22 like our cities and counties that receive grants
23 of money, to our housing authority, to builders of

1 apartments, to builders of other complexes using
2 HUD money, to managers of our assisted and
3 subsidized properties on something called Section
4 3. Section 3 is a law back from 1968. We've had
5 the regulation for a long time. Section 3 says in
6 the area of construction to the greatest extent
7 feasible, you will try to employ local area
8 residents. August 1st the fair housing division
9 headquarters issued some regulations which gave us
10 in the field some guidance on how to help other
11 grantees, our recipients, our counties, abide by
12 Section 3. So there's heavy duty technical
13 assistance, a lot of hand holding, them to help us
14 and us in turn to help the communities that we
15 deal with. Even though the regs have been around,
16 old regs have been around for many years, it's not
17 been a program that got much attention and I think
18 with Cisneros' goal of empowering the communities,
19 of building communities, of rebuilding
20 organizations, Section 3 will be very important
21 because that keeps the money in the community. It
22 gets low income people who may not have had the
23 opportunity for perhaps some training and some

1 ongoing employment-related skills. Another new
2 technical assistance initiative, another very
3 intensive TA type of thing is our, is working with
4 our communities that have block grant funds,
5 Minneapolis, Edmund County, Morgan, Duluth,
6 Moorehead, Rochester, those larger communities to
7 affirmatively through their fair housing. It's a
8 phrase that's been around since '74 when the
9 Community Development Block Grants Act was
10 created. It never had any better description than
11 those words, and over the past year and a half the
12 fair housing staff working with other parts have
13 been trying to put together some plan, what is --
14 how can a community form fair housing? How can
15 they show us that they're doing this? And what
16 they've done in regulation which comes about the
17 steps that these community should go through in
18 order to determine what the level of fair housing
19 is in their community and then how they can make
20 some changes so that all of their residents,
21 regardless of disabilities, regardless of race,
22 regardless of familial status, have access to
23 housing and services. What this is involving for

1 us is meeting individually with the community,
2 helping them build partnerships with the local
3 association of realtors, maybe the local school
4 boards, the local builders organizations, the
5 local advocacy groups, legal aid, centers for
6 independent living, different organizations who
7 see fair housing from a slightly different
8 perspective. So that they can let the community
9 know where their clients are finding barriers to
10 fair housing.

5 11 It could be some very simple things
12 like expensive housing, it could be some other
13 things that say there's -- we don't know when
14 units are becoming available, we don't have access
15 to that particular neighborhood. We don't feel
16 comfortable in that neighborhood. Those kinds of
17 issues. So we're working with those communities
18 to show them how to get partners with other parts
19 of their community to provide this information.
20 Because generally when you're asking a community
21 to tell us where they might not have or they might
22 have some rules that prevent affordable housing,
23 because those employees of that city or their

1 county were probably instrumental in creating some
2 of those rules, they're not seeing them as
3 barriers. What they're seeing is maybe there may
4 be some safety issues, maybe this issue that will
5 keep the look of that community in place. So we
6 needed to pull in other organizations to help them
7 do that.

8 Now what kind of resources do we
9 have in the Minnesota office to handle the work
10 load? Oh one other thing. I've relisted again
11 the various rules and laws that are in our HUD
12 programs that we are to assure our grantees and
13 recipients comply with. Just for your
14 information, if a person has a complaint based on
15 Title 6 or a complaint based on Executive Order
16 11063 or the Section 3, stuff that I'm talking
17 about, all of those complaints continue to go to
18 the enforcement center in Chicago for
19 investigation. There's no investigation that's
20 done in the field office level.

21 What kind of resources do we have?
22 We are currently a three person office. I'm one
23 of the people. I'm the Division Director. I have

1 one secretary, and one equal opportunity
2 specialist. So it's three full time individuals.
3 Peter asked me to provide some history on some
4 staffing issues. In the late '70s and end of the
5 '80s there were always at least two or three equal
6 opportunity specialists, two or three of those
7 professional positions in a full time situation.
8 On occasions there were maybe management in turn
9 circulating through various divisions or offices,
10 settling in fair housing for a couple of weeks, a
11 couple of months, to just to get some information
12 on how we functioned. What was nice was that then
13 they went to their next office, they had that as
14 background and they could probably be bastions of
15 the division. So that was always available. The
16 interns, the trainees kind of individuals. By the
17 mid '80s though the record that I have, because I
18 took over the job in late '89, was that as staff
19 transferred out of fair housing to go either
20 another division or maybe another HUD office
21 elsewhere or perhaps out of federal government
22 entirely, those positions were not kept vacant in
23 the Minneapolis office. They were taken back by

1 the regional office and staffed there. Perhaps
2 they were an investigator or the intake person.
3 So we may not have had many vacancies because when
4 the person left the job, the job was removed from
5 the Minneapolis office. When I started in late
6 '89 there was one equal opportunity specialist
7 full time and one part time management trainee and
8 he was part time because we couldn't get the full
9 time position from headquarters. He stayed about,
10 oh about a year and a half after I came. He was
11 at that time working 32, 35 hours a week pretty
12 steadily and he left when the region told me that
13 I had to cut his hours back to less than 20 hours
14 a week. So then he began looking and found
15 employment elsewhere. I had to cut his hours
16 because they needed the hours to do their work
17 and, you know, at that point we got our hours and
18 our travel from the regional office.

19 In the summer of 1991 headquarters
20 was looking at some experimental type of a program
21 to get the field offices like our office more
22 involved in Title 8 issues. So they had, for a 6
23 month period, they would allow the field offices

1 to hire in an entry level professional person
2 familiar with the GS. If you're familiar with the
3 GS grade, it's grade level 5, so it's like entry
4 level professional or semi professional to deal
5 with discrimination complaints. And that person
6 since it was at that particular level would help
7 people fill out complaint forms, talk to advocacy
8 groups, sort of sheppard those complaints through.
9 Perhaps do a little investigating at the request
10 of the region or was very -- or with some very
11 strict guidance from the region. We did have
12 somebody, but unfortunately because of some
13 unforeseen funding problems in another part of
14 HUD, we had to eliminate all those positions. I
15 had one in our office. I know that other offices
16 in our region also were able to bring somebody on
17 board for a short period of time. So it was an
18 experiment that just never got a chance to get
19 it's feet off the ground.

20 During this time, of course, the HUD
21 programs aren't getting less complicated and the
22 needs of the clients aren't getting less
23 complicated either. As a matter of fact, with the

1 new kind of HUD programs that have been instituted
2 in the last two or three years and the new kinds
3 of recipients of federal dollars, now it's non
4 profit can also apply for federal funding. A
5 group that didn't have that close of a link with
6 HUD, aren't quite as organized as the cities and
7 counties, maybe don't have the money base that the
8 cities and counties do to get the staff. We're
9 providing more technical assistance, more of the
10 hand holding kind of things than we were in the
11 past. They need more of our help, unlike a city
12 where you kind of pick up where you left off with.
13 The non profits you often start with the very
14 basics and just build from there.

15 Just for your information, in
16 Minnesota we don't have any what are called
17 substantially equivalent agencies. Those are the
18 agencies we used to have Minneapolis, St. Paul,
19 and the State of Minnesota Human Rights
20 Department. Substantially equivalent agencies are
21 those agencies whose fair housing law or human
22 rights law mirrors the HUD law, and they had an
23 agreement with HUD in this case it would have been

1 in Chicago region, to investigate fair housing
2 complaints if it came to them on behalf of HUD.
3 So they could do the investigation, resolve it,
4 and simply notify HUD of the resolution and it was
5 done. In the late -- in late 1990, early 1991 in
6 our region, in the former Chicago region,
7 substantially equivalent agencies were doing 42
8 percent of the housing discrimination complaints,
9 a significant number for the HUD office.

10 If you will remember in late '88 the
11 fair housing law changed and it included two new
12 groups of individuals, people with disabilities
13 and families with children. It also put more
14 teeth into the fair housing law. It talked about
15 some civil penalties, some monetary penalty, that
16 an investigation should be done in a hundred days;
17 those type of things.

18 The word was out to all the
19 substantially equivalent agencies and there were
20 either 120 or 140 across the country that if they
21 wanted to maintain their substantially equivalent
22 agency within the next initially 18 months, they
23 needed to revise their own human rights laws or

1 fair housing laws to reflect the new HUD
2 protections and the new HUD administrative
3 processes. In Minnesota the three agencies are
4 still trying to do that. They've probably I feel
5 pretty safe in saying that their laws have always
6 had broader coverage than ours. It was the
7 administrative processes that didn't mirror the
8 HUD processes, and I was just looking at -- I've
9 got one of these books which I'll leave which is
10 the report to Congress on the Fair Housing Act for
11 fiscal year 1992. At the end of 1992 there were
12 19 agencies in the country whose fair housing laws
13 mirrored HUD's, but only one of those had
14 administrative processes in place to be
15 substantially equivalent, and that was Texas.
16 Also, at the end of 1992 it said that there were
17 89 requesting from other agencies for HUD
18 assistance at headquarters to help them get their
19 laws in place, get their administrative procedures
20 in place. So Minnesota is one of many locations
21 that doesn't have this resource available anymore.
22 What it means is when somebody calls our office
23 and says I've got a discrimination complaint, can

7

1 you handle it, we always say where do you live?
2 If they live in Minneapolis we say you can go with
3 HUD or Minneapolis. If you live in St. Paul, HUD
4 or St. Paul or the state. There could be two
5 investigations going on regarding the same housing
6 discrimination complaint, and I do know of one
7 instance where the outcome was different. So
8 that's a little bit about the substantially
9 equivalent issue. I don't have that research
10 right now. The three agencies that we have are
11 excellent in what they do. And they're very fast,
12 they're very responsive, they just can't be -- we
13 can't use them as the resource that we used to use
14 them for.

15 The other issue is we're one of the
16 few states in the country that does not have a
17 fair housing testing organization. Now the
18 organization that goes out and does random tests
19 in the area of rentals. Some organizations are
20 getting into the area of purchasing and mortgage
21 practices. We don't have that. And one of the
22 sad things was that the last two years HUD has
23 issued a notice to the general public saying there

1 are X number of dollars available for
2 organizations who want to start up a new like a
3 fair housing organization to do some outreach,
4 some education, some training, some testing or to
5 add new components to your existing organization.
6 They had a very short list of priority locations.
7 Minnesota was not one of those priority locations
8 in either the '93 notice or the '94 notice, and we
9 as an office have gone back and forth saying we
10 don't understand this. We need to be here. We
11 have nothing available. We've also got some
12 concerns from regional organizations saying it's
13 very difficult for us to even think of getting
14 money when we're not one of the priorities here,
15 how can we do it?

16 On a weekly basis between three of
17 us on the staff, I can safely say we get between
18 ten and fifteen calls a week from individuals
19 alleging discrimination. I don't know how many of
20 those people actually file a complaint. When we
21 get the call, we take their address and we send
22 them out a packet of information and it includes a
23 fair housing brochure, a complaint form, and they

1 have the choice of either sending the form back to
2 us in Minnesota and we forward it to the Chicago
3 HUD office or they can send it directly to the
4 Chicago HUD office, it doesn't make any difference
5 to us. But what we don't know is how many of
6 those people actually file discrimination
7 complaints. We forward maybe three complaints a
8 week to the Chicago office and I was looking in
9 this report, in FY 92 there were 143 complaints
10 filed from Minnesota. I'm not certain how many
11 people dual file maybe with HUD and with the state
12 or with HUD and with one of the cities.

13 One of the things that Peter also
14 asked us to talk about was what are we doing in
15 our office. With all these things we can't do,
16 I'm sure it sounds unbelievable. But unlike the
17 other agencies that you just heard, HUD has
18 programs and I'll spend one second and tell you
19 that our staff reviews documents from every single
20 application that comes through the office to make
21 sure that the fair housing certifications are in
22 there, to make sure that that particular
23 organization isn't under a compliance review or

1 any other particular issues. We review all the --
2 we read and review all of these documents because
3 we want to make sure that if they're applying for
4 some funding or elderly housing, just an example,
5 that other documents that we have, say there's a
6 significant need for elderly housing. So we
7 review all the program documents that come through
8 the door.

9 Specifically on the housing
10 discrimination issue, I can tell you that we
11 believe in our office that education, outreach,
12 technical assistance are key in fighting
13 discrimination. It's just the real important
14 issues for us. From our perspective if you can
15 prevent an incident from happening, you've gone
16 much farther than if you simply reimbursed or
17 concilliated an issue from happening. We do a
18 significant amount of training, being seminars and
19 workshops. Our audience is generally property
20 managers, apartment owners, housing authority
21 recipients. HUD funding in the past three years
22 because the fair housing law has included some
23 accessibility features in the new construction of

1 housing, we have expanded our outreach to
2 architects, builders, and contractors. Since
3 October of 1993 we have conducted -- this is our
4 small staff -- between 54 and 55 presentations to
5 over a thousand people and we're not talking any
6 of those one on one kinds of presentations or
7 bring a couple of people in the office and I'll
8 talk to you. And what I think is the real success
9 is that every single one of those presentations
10 was based on a request from our clients and our
11 customers. None of them were as a result of a
12 complaint that was filed, of a conciliation
13 agreement that the region had written in, or as
14 part of any other kind of settlement that may have
15 come about. But all of them have been word of
16 mouth, all of them have been the client coming to
17 us to say I'd like to include you on our annual
18 agenda. I'd like to include something on fair
19 housing to our staff meeting that we're having. I
20 did the Mortgage Banker's seminar in May and it
21 was the State Mortgage Bankers like a three day
22 meeting, and they had a four hour segment on
23 housing discrimination issues. Practically this

1 was the second time I had been at their annual
2 meeting. I had been once before when it was a
3 breakfast kind of meeting. So we're on their
4 scheduling for about every other year to get a big
5 segment of their time.

6 Another nice thing is next month I'm
7 going to be doing a two hour session to property
8 managers who manage Farmer's Home properties.
9 Farmer's Home, from what I've been hearing, is
10 just notorious in the area of housing
11 discrimination. We are told that their staff,
12 their property managers, they are independent
13 individuals that manage private-owned properties,
14 are not instructed to forward a housing
15 discrimination complaint anywhere. So if some one
16 comes in with a complaint, it doesn't go anyplace.
17 One of their property managers had attended a
18 seminar that I had in the spring for apartment
19 managers in general and recommended that when they
20 have their annual meeting this September, they
21 have a segment on fair housing issues and concerns
22 that they should be aware of. So this is a group
23 that we're trying to get into and it just so

1 happened. We've gotten -- we're trying to figure
2 out how to work with the VA little bit. A former
3 employee of mine works in the single family
4 division with the appraiser and she read me a memo
5 which outlays discrimination complaints, and if
6 you get a complaint, forward it to the VA office,
7 don't send it over to HUD. So those are the kinds
8 of issues that we're hearing about and we're
9 trying to get some inroads into some of these
10 organizations. But I think it's important when
11 you hear what HUD is doing to remember that fair
12 housing is all housing whether it's HUD, private
13 market, whether it's housing financed by Farmer's
14 Home, whether it's housing built with bond
15 financing, all kinds of issues. And just because
16 we are responsible for the Fair Housing Act does
17 not mean that all the other federal agencies march
18 in step with us in helping us assure the rights of
19 citizens to move into a community that they want
20 to live in.

21 One other statement is why are we
22 doing what we do regarding education? And it's
23 basically because I believe in dealing with the

1 complaint is a one to one issue. It's one
2 complaint, one landlord, one settlement. You
3 can't get global with the one, but if they can do
4 the education, if they can talk with those
5 property managers, we're helping hundreds of
6 people. And if all we do is remind them to think
7 twice before they make a decision, before they
8 decide to evict, before they decide not to house,
9 before they decide to enforce that rule, we feel
10 that we are preventing more complaints from coming
11 up and prevention is basically is the key. The
12 downside of that of course is we don't get credit
13 for prevention. So when they look at how many
14 complaints come from Minnesota, there's no way
15 that you can count the complaints that didn't
16 come. So other than that, I'm available for
17 whatever questions you might have. Thank you.

18 CHAIRPERSON ROGERS: Thank you very
19 much. Questions? Lupe?

20 MS. LOPEZ: Yes. Now that you don't
21 have that enforcement or that component within
22 Minnesota, do you see that as a benefit or as a
23 hinderance as far as you know fulfilling your

1 mission of fair housing?

2 MS. PEDRAZA: Now that we don't have the
3 substantially equivalent agencies, a hinderance,
4 absolutely. The staff in the region, although I
5 don't know exactly how many there are, did not
6 increase because the substantially equivalent
7 agencies were no longer certified to do the
8 discrimination complaints. All that meant was
9 that the complaints, if you filed with HUD, what
10 you used to be able to do when you filed a
11 complaint with HUD and it was from Duluth, HUD
12 could send that complaint to the State Department
13 of Human Rights because they dealt with Duluth and
14 have the state do it. Investigate, complete it,
15 it's done and the state got I think \$750 to do it.
16 Now that resource isn't available, and even during
17 that period of limbo when they were certain of
18 grandfathered in, they could not, none of those
19 substantially equivalent agencies could
20 investigate a familial status complaint or a
21 handicap discrimination complaint. So it's a
22 definite hinderance not having that resource
23 available.

1 MS. LOPEZ: And I'm wondering if
2 Cisneros knows, with all of this restructuring
3 that particular office, thought about the
4 consequences of such a restructuring because there
5 is, first of all, there's many hinderances to
6 people in the housing, public housing, especially
7 in St. Paul because a lot of them are very, very
8 limited in English and some can't speak English at
9 all. And now that they have to go to filing,
10 nobody's there to even see if they're going to
11 pursue that call of a complaint. I see it's going
12 to be -- there's going to be more discrimination
13 for a people, especially low income people that
14 really have the need for that kind of thing.

15 MS. PEDRAZA: One of the things that I
16 try to do is when I talk to people, I encourage
17 them if you live in St. Paul, go to St. Paul Human
18 Rights Department too. Don't think that HUD is
19 all that there is. Go to the State Department of
20 Human Rights, go to Minneapolis and go to St.
21 Paul, if you're within those two cities and also
22 file your complaint there. But yes when I talk to
23 people and they ask, you know, will an

1 investigator come and talk to me or see me and I
2 told them well they're in Chicago and yes they do
3 come here routinely, but I can't tell you when.
4 Chicago is a long ways away. They don't know the
5 politics of this area, they don't know landlords,
6 they don't have a good feel for what's going on
7 here, never mind what's going on in Brommer or
8 Moorehead with the two complaints they might get
9 there or the one from The Mickey. They're coming
10 from a completely different perspective.

11 MS. LOPEZ: One more question, Madam
12 Chair, and that is under your new Section 3 that
13 you said was there before but never really
14 utilized, what responsibilities do the manager or
15 whoever is in charge have to prepare residents to,
16 you know, get those jobs that are available
17 because many of the residents don't have the work
18 experience or whatever those jobs look for. So
19 whose responsibility would that fall on?

20 MS. PEDRAZA: What will happen is I'll
21 use the housing authority as an example. Section
22 3 will apply to construction type of business and
23 the housing authority when they contract with the

1 contractor to do the work in the contractor's
2 documents are: Contractor, I will abide by
3 Section 3 to the greatest extent feasible. So
4 what they'll do is they'll have to work closely
5 with the contractor. It might be working with the
6 unions for apprenticeships, it might be working
7 with the Urban League to help get people ready for
8 this kind of employment.

9 MS. MACK: In St. Paul they're doing a
10 lot of work with the St. Paul public school
11 district. They're really just getting going and
12 St. Paul is leading for the rest of the state
13 actually.

14 MS. LOPEZ: So they do have contracts
15 whereas to specific as to what they have to do?

16 MS. PEDRAZA: Yes.

17 MS. LOPEZ: Because I see that there's
18 also a barrier there, especially if the
19 requirements aren't what I would consider level
20 entry.

21 MS. PEDRAZA: Sure, exactly, okay. We're
22 just, as I said, the regs were just finalized in
23 August and we're just sort of tip toeing into that

1 at this point. See what we look like in two
2 years.

3 CHAIRPERSON ROGERS: Thank you for your
4 presentation.

5 We'll adjourn briefly for lunch and
6 get started again at 1:15.

7 (A luncheon recess was taken at 12:00 o'clock
8 p.m..)

9 AFTER LUNCHEON RECESS

10 CHAIRPERSON ROGERS: At this time we will
11 reconvene our fact-finding meeting focused on
12 resources devoted to local and federal civil
13 rights enforcement in Minnesota with a
14 presentation from David Beaulieu, Director,
15 Minnesota Department of Human Rights. Welcome.

16 DAVID BEAULIEU, DIRECTOR

17 MINNESOTA DEPARTMENT OF HUMAN RIGHTS

18 I'm glad to be here. I think this
19 is about the third time I've made a presentation
20 before the Minnesota Advisory Commission. One
21 time we talked about the education issues and
22 another time about media issues with regard to
23 minorities. This particular topic is one that has

1 been the focus of my life for the last three and a
2 half years. When I was appointed Commissioner by
3 Governor Carson three and a half years ago, I
4 would say my principal responsibility in charge
5 was to deal with issues regarding the agencies in
6 terms of processing charges of discrimination. We
7 had an agency that was suffering I think from
8 significant issues of staff morale, issues of
9 organization and management, of case loads that
10 appeared to be growing all the time, and the
11 resources that were diminishing. The principal
12 challenge over the last three and a half years has
13 been trying to do more with less. In attempting
14 to try to do that, in attempting to work very
15 deliberately at that task. I think I've learned
16 and I think our agency has come to understand some
17 of the real significant issues of enforcement in
18 terms of resources and in terms of how we go about
19 our business.

20 I'm going to say when I first was
21 appointed as commissioner I had a sort of a view
22 of the world that has been changed in terms of
23 human rights. I thought that when I was appointed

11

1 that if we simply did the very best we could, if
2 we applied ourselves and so forth, eventually
3 issues of discrimination would disappear. And I
4 must say that I've changed. I think it was in the
5 first week I began to change that view of the
6 world.

7 This area of work is an area where
8 you learn the value of vigilance, the need to be
9 constantly present with regard to enforcement.
10 You learn that if you begin to relax your response
11 in enforcement, the issues come forward more so.
12 So there is a need, I think, to serve a constant
13 vigil with regard to enforcement activity in human
14 rights. And it's actually common sense when you
15 think about the changing nature of our society.

16 Today issues that we may focus on
17 during a period of time in a sense there's some
18 resolution and all of a sudden we find that there
19 are other areas emerging. In this state we find
20 emerging issues of discrimination in the area
21 outside of the metropolitan area. In fact, the
22 particular Chicano/Latino discrimination in
23 communities where this community is more recent

1 and involvement with long term residents in those
2 communities is new and issues of discrimination in
3 terms of intercultural relations in terms of
4 getting along in term of developing an ethnic of
5 dealing with differences and resolving issues is
6 new and is really untested in those communities.
7 So we see many issues popping up all over the
8 place. You actually begin to see yourself as a
9 dutch boy with your fingers in the dike at times
10 plugging up one hole here and seeing it pop out
11 elsewhere. So, the value of vigilance I think is
12 important. It's something that we need to have.
13 Let me explain a little bit about our overall
14 approach, and then I'll get into some of the
15 specifics that affect resources and human rights
16 enforcement.

17 As I mentioned, one of the overall
18 agenda items that we had when I was first
19 appointed was to deal with management issues and
20 resource issues in the Department to improve
21 overall the function of the agency. We also had
22 an agenda that attempted to look at more proactive
23 stance for our agency in an attempt to get after

1 discrimination issues in a sense before we saw
2 them as charges of discrimination at the agency.
3 Certainly if we were dealing in a world where
4 resources are short and where our primary mission
5 is enforcement, we need to begin to look at ways
6 of mitigating discrimination at it's root. As
7 sort of not only that, it's more to do. So in
8 itself, but certainly we need to rely on other
9 strategies besides enforcement in terms of dealing
10 with discrimination and to get at sort of the root
11 causes. In that regard we focused on a number of
12 initiatives in the agency to look at getting out
13 ahead of the issues. One is an initiative which
14 we call zero tolerance, and we pulled together a
15 number of representatives and corporations and
16 companies in the state to tell us what works, what
17 is working in your company, in your corporation in
18 terms of diversity, in terms of strategies that
19 sort of lessens the issues of discrimination, that
20 improve the quality of the work force environment
21 there, and generally eliminates hostile
22 environments for employees in conflict situations.
23 In terms of we gathered a bunch of people

1 together, we sort of listened to them and we put
2 together sort of a booklet now of strategies we
3 think are worthwhile to consider and intend to
4 market them in a sense as examples of your peers
5 to other companies, smaller companies, and best
6 businesses that really haven't begun to think
7 about it. And we've begun to promote the idea,
8 not just as an enforcement idea, but we tend to
9 believe that a harrassment free work environment
10 is more productive, creative environment anyway,
11 and that's what's good for business is in these
12 strategies, that to really improve the overall
13 quality of life in the workplace.

14 Companies need to begin to think
15 about the character of their clients, which is a
16 diverse client base, becoming even more so, and it
17 just makes common sense, a lot of this stuff,
18 above and beyond the needs that companies need to
19 pay attention to the law and to the rights of
20 individuals in employment situations.

21 We also were the first agency to
22 ever deal with the issue of student on student
23 sexual harrassment in the schools. A few years

1 ago we dealt with the Kitty Lyle case in Duluth, a
2 case of student sexual discrimination of another
3 student. And that was the first such case in the
4 country. Since then we've had many of those cases
5 in Minnesota and also cases of racial harrassment
6 as well. Students are beginning to understand
7 that they also deserve the right to a harrassment
8 free, discrimination free environment in the
9 schools, and when that environment is
10 discriminatory, their education is affected and
11 therefore, many young people their lives are
12 affected in some fundamental was because of the
13 nature of their experience in schools. Certainly
14 if we're ever going to do anything about
15 mitigating discrimination, we need to model the
16 kind of behavior for students we expect of
17 citizens in the future in the schools. We
18 certainly need to have an ethic for how people
19 treat each other in schools, which at least
20 resembles the principle in our Human Rights Act.
21 And so we've begun to think about strategies to
22 work at improving the school environments in this
23 area. It is a very hostile place for many

1 students, the schools. We focus on an initiative
2 which we called PRIDE, provide a respectful
3 diverse -- I forget what all what the acronym
4 actually means, they're all fine words, each of
5 them talking about an inclusive respectable
6 environment. We focus around the concept of self
7 esteem and pride in yourself. We believe if we
8 enable students to feel pride in who they are, it
9 requires that they also feel pride in their peers
10 and in their classmates, and we've tried to focus
11 on that.

12 I gave a press conference to a high
13 school newspaper reporter a couple of years ago on
14 the issue of sexual harrassment, and the nature of
15 the questions and the nature of the knowledge they
16 had about these kinds of issues in their own
17 schools was really quite surprising to me at that
18 time.

19 Another initiative that we worked on
20 to try to get out ahead of the issues is to
21 identify specific populations that we think we
22 need to be studied. In this case the example is
23 Chicano/Latino discrimination task force. We

1 wanted to find out discrimination issues which
2 were unique to this community and to their
3 experience in Minnesota. That's the first time
4 that the Department has ever done that is to take
5 a look at a particular population group and ask
6 them to explain what the nature of their
7 experience is as it affects discrimination. We
8 wanted to know what was the unique qualities of
9 discrimination they experienced as they told it to
10 us. What were the barriers for them reporting to
11 us and using our services, and then what were the
12 positive proactive things that were happening in
13 the community that we thought that were deemed to
14 be worthwhile, and although in infancy could be
15 supported and sustained. We finished that report
16 and have come up with a number of recommendations.

17 So we intend, through those kinds of
18 examples, to try to get out ahead of the issues
19 and to not rely exclusively on enforcement.

20 I think one of the great debates for
21 us is the role of enforcement in discrimination
22 itself. We realize it's a debate that I think is
23 similar to that that is discussed in the criminal

13

1 law, and that is that to what extent is more
2 punishment, stronger penalties, better
3 enforcement, could actually reduce discrimination
4 or reduce crime in this case actually reduce
5 discrimination? We know we have to maintain a
6 vigilance and we realize that we have
7 responsibility to investigate and enforce because
8 it's against the law. Because the actual role
9 with that with regard to eliminating
10 discrimination I think is an area of discussion
11 and debate that we need to think about it if we
12 are interested in sort of a larger mission for
13 human rights enforcement agencies which sort of
14 eeks out the issue or attempts to do that.

15 A third part of our agenda was to
16 increase our presence, increase the presence of
17 human rights agencies statewide in terms of making
18 sure that citizens who felt they wanted to utilize
19 our services had access to that. As you may
20 understand, our agency is physically located in
21 one place, which is in downtown St. Paul, in the
22 Brimmer Tower right above the Burger King on the
23 Skyway, and I tell you in terms of explaining to

1 people how to come to us, it's been some time
2 describing how you get to us. But we've developed
3 a number of strategies in terms of enabling people
4 to have access for people who are disabled in
5 various ways to interpreters, to toll free
6 telephone numbers, to advertising how you can get
7 a hold of us, that type of thing. And we've found
8 that in terms of the number of people who call us
9 and get in touch with us that the rate per
10 population is precisely the same in every county
11 in the State of Minnesota, except for the counties
12 Ramsey and Hennipen. So that the sort of the
13 utilization of the Department is common throughout
14 the state with the exception of the Hennipen and
15 Ramsey Counties. The reason why I would -- at
16 least we thought that it's not the location of the
17 Department is the reason, it's the nature of the
18 community relation issues in this particular area.
19 It's an incredibly more diverse area,
20 significantly disparate in terms of income, of
21 race, of cultures, so on and so forth, and
22 significant issues with regard to downsizing major
23 closings and so forth.

1 When you look at age discrimination
2 issues and so forth that the number, in fact it's
3 double the number in Hennipen and Ramsey County
4 may be related to that. That's just a guess since
5 we haven't studied it, but we know in all other
6 counties that the rate of access or utilization of
7 department services to population is the same.
8 That may change because I think if you look at the
9 State of Minnesota outside the metro area is
10 changing quite a bit. So that our overall
11 approach is to first look at trying to do more
12 with less in terms of some significant
13 improvements in management, trying to be proactive
14 and trying to increase our presence in that latter
15 area is which I'll talk about is the whole area or
16 issue of the relationship of the Department to
17 local human rights commissions in terms of what
18 their role may be in this whole area. I know you
19 have some people that you've invited from the
20 Human Rights Commissions that talks to you on that
21 as well, but we've had some experience in trying
22 to develop those relationships that I'd like to
23 talk about as well. The Department itself in

1 terms of what we've attempted to do, let me first
2 explain that we've had to -- we started off with
3 actually about a ten percent cut in our budget to
4 begin this whole process up. So we lost resources
5 to begin with. To some extent that was good, let
6 me explain why because it's compelled us to take a
7 solid look at every aspect of what we do, from
8 beginning to end.

9 I created a case processing task
10 force and composed it of individuals who dealt
11 with the case processing from beginning to end to
12 think of strategies on how we can improve that
13 process to make it more effective, more efficient.
14 One of the statistics that we had to work within
15 was that if all the charges filed with the agency,
16 75 percent of those charges ultimately result or
17 have resulted, it's not positive for the charging
18 party. So about 25 percent of the charges filed
19 with us actually result in a probable cause or
20 some settlement agreement which is reasonable for
21 the charging party. That means that the large
22 amount of our work and our investigative time is
23 on cases which, for various reasons, do not result

14

1 in the determination of discrimination is the
2 basis for what has happened. There may be within
3 that figure, people that cases which are dismissed
4 for various reasons. We don't -- the charging
5 party disappears, so on and so forth, and all of
6 that. But that's a lot of our work which doesn't
7 result in probable cause of discrimination. A lot
8 of things may happen to people. A lot of things
9 may be they're not good and people feel that
10 they've been unjustly treated and, of course, our
11 mission is to determine whether or not a specific
12 reason is the basis for what happened to people;
13 that being whether race is the issue, or gender,
14 or sex, you know, national origin, et cetera. And
15 so that we spend a lot of time doing that.

16 One of our strategies was that we
17 began to think about is if we can reduce the
18 amount of time it takes to prove the efficiency
19 and effectiveness of filing cases which ultimately
20 do not result in a probable cause, make judgments
21 better, quicker, surer, that we would be able to
22 spend more time, be more effective with cases that
23 where we do have that type of a finding, we can be

1 able to develop stronger cases, cases which may
2 move into litigation that will net significantly
3 more investigative time. So we began to think
4 about a number of strategies on how to improve
5 that whole area. One of the things that is hard
6 as a result of that is that we begun to reduce the
7 amount, the total amount of time it takes to
8 investigate cases. Our statute allows us a year's
9 period of time in which to investigate a case and
10 we've been a little bit above that in about 1991
11 or so about 395 days, right over 365 days on an
12 average. We've now reduced that down to 305 days
13 on an average. So that the amount of time on an
14 average we've begun to reduce just by improving
15 the effectiveness and efficiency in how we're
16 handling cases and so forth. That doesn't mean
17 that we won't have a case that sometimes goes
18 significantly longer than that because of these
19 circumstances, but on an average, sort of the
20 stereotype about us is it takes forever to
21 investigate cases. Our statistics suggest that
22 that's not true on an average. However, if you're
23 a charging party who feels that you've been

1 discriminated against and your perception of the
2 world and of us is that you want justice
3 immediately and that the longer the time it takes,
4 the rigors and standards for how we do cases can
5 be time consuming and involve a lot of time on the
6 part of the charging party and the other is
7 developing witnesses, talking to people and so
8 forth. So the sense is that it's taking a long
9 time to do that.

10 So we've begun to work on a lot of
11 those types of issues. One of the things that
12 struck me at least as we began to think about this
13 area, this 75 percent is that that's not something
14 to write off as expendable. You know that we do
15 provide I think a very significant social function
16 in being a place for people to bring complaints.
17 Even though they may not result in a determination
18 of discrimination, which is probable cause for
19 discrimination, it's a very valuable social
20 function to have a place where people can come and
21 can bring those types of issues forward. The
22 perception that they've been discriminated against
23 and that they can have a place to come to, even

15

1 though 75 percent don't result in probable cause
2 is a very valuable figure, just generally, and
3 we're constantly battling against to what extent
4 we can become more and more efficient against the
5 question of justice. We can't begin to become so
6 efficient and effective and in so beginning to
7 push our judgments quicker and quicker to the
8 extent one case, a good case may disappear. So we
9 have to make sure that in trying to improve the
10 efficiency of our investigations and with some of
11 the strategies that we do have available to us
12 that we don't push the justice question too far.

13 As you are aware, citizens are able
14 to take the case out of our process at any time
15 and a number do, and take their cases out from the
16 investigative process. One vehicle that exists
17 within this agency is the 180 day hearing right.
18 Anybody can take a case out of the system, so to
19 speak, after 180 days and bring it before an
20 administrative hearing. That was originally put
21 in sometime ago as a way of handling the backlog
22 in the department, and it has very large numbers
23 of cases which were some number of years behind as

1 a way of cleaning out the backlog. After six
2 months if a determination hasn't been made, the
3 person can do that. That right has now been
4 discovered by some attorneys, and after we've done
5 a lot of the background work and put a lot of time
6 in it and so forth, cases are then, a number of
7 them have been taken out and brought before an
8 administrative law judge. Under the statute we
9 have to pay the cost of the hearing. And we have
10 no say so in whether we'll let it go or it won't
11 go or whatever. And we may have already invested
12 a significant amount of investigative time into
13 that case. Typically it's cases that are good
14 cases, and we don't get it from the attorney, the
15 charging party has to cover the lawyer's cost and
16 then we do have a provision now, a recent one that
17 if there's a loss in that case then the judge can
18 order the costs be paid by the Respondent. So
19 there's some, you know, that's an area that needs
20 to be looked at is that 180 day hearing right in
21 the sense it competes with our responsibility.

22 We have a statute that says a year's
23 period of time to investigate our cases and then

1 we have this right to take cases out at 180 days
2 and originally put in for the backlog. It now
3 sort of competes with us, and that area is growing
4 from what I see. And if you would like to have
5 some recognition in terms of our resources to
6 cover that, right now the cost of 180 day hearings
7 comes out our litigation budget, which in a sense
8 weakens our capacity to take cases forward to
9 court after probable cause. The overall trend is
10 one that suggests the number of charges are
11 increasing at a rate of about ten percent per
12 year. So we see about ten percent new charges
13 every single year. That's not likely to go away.
14 Our investigators handle about 16 cases at one
15 time. That's a major amount of cases to handle at
16 one time, to try to organize and to prioritize, to
17 investigate, to organize witnesses, to deal with
18 correspondents and all of that other type thing.
19 It's a major juggling act and if we don't begin to
20 deal with just the total number that individuals
21 are handling at one time, I think the initial
22 quality comes into play. If you're faced with
23 that many different cases at one time, the quality

16

1 of investigations begins to, I think, suffer as
2 one of the management issues. We have put into
3 place, and one of the things we did early on was
4 to put in performance standards for investigators.
5 We had a study of the processing of cases in the
6 Department over a number of years, and we've
7 developed sort of performance standards for how
8 many cases an investigator should investigate in a
9 year's period of time. And then we ranked that
10 from average to above average to below average,
11 and then we put in a sort of performance
12 management system on that which we try to assess
13 and help investigators that are performing too low
14 to get them to improve their production, and then
15 hopefully if we can find the resources, we would
16 like to put in a reward system, an achieving
17 reward system for investigators that are doing
18 well. But the number that we've established is
19 about 50 cases on an average per year per
20 investigator. That tells me exactly how many
21 people I need in order to investigate a particular
22 case load. Once we had the study and once we have
23 the number established, which is reasonable for

1 investigators on an average, based upon our own
2 history, then we know what it will cost.

3 One of the things that I've had to
4 do with regard to policy for the agency is that
5 I'm able to translate the cost of expansions under
6 our jurisdiction and inform the legislature and
7 the Governor's office of what it will take in
8 terms of resources if anybody wishes to expand
9 their jurisdiction. Every year at the legislature
10 there are a number of people who have some
11 legislatures who have ideas or initiatives to
12 change the Human Rights Act to expand it's
13 jurisdictions. One such idea which appears year
14 after year is to expand the statute of limitations
15 from one to two years. Senator Marty's been a
16 promoter of that idea, even though Minnesota
17 statute is one year is one of the best in the
18 country. I think there's only seven states with a
19 year, most have six months or around that area.
20 So we have a fairly good statute in terms of that
21 compared to other states, but we know what it
22 would cost. We're able to estimate, based on our
23 experience, what resources would be if you wanted

1 to expand to two years.

2 When the sexual orientation
3 provisions of the Human Rights Act were added with
4 Governor Carson's endorsement and support, we were
5 able to estimate how many cases we would have to
6 handle, and based upon that estimate, explain the
7 number of resources we needed in the Department to
8 handle that and so forth. I've positioned the
9 agency in such a way, based upon making the
10 improvements, we've done just about everything
11 possible, we've got a little bit of the report if
12 you're interested, that talks about all the -- but
13 I wanted to position the agency in such a way to
14 be able to explain, very frankly, that we had done
15 everything possible with the resources we have to
16 do the very best job possible and then to explain
17 that if we need to do more, this is what it's
18 going to cost. If you want to add the statute of
19 limitations, this is the cost in terms of
20 resources to take. Someone has to begin to
21 understand that this is a significant policy issue
22 with regard to enforcement of the human rights and
23 we really couldn't do that with any confidence

17
1 until we had the agencies managed well and
2 upgraded in terms of its capacity to do with what
3 it had. We can document and say that there are no
4 other excuses available to explain why we're not
5 doing our job right. It's your investigators, you
6 know, you just had a bunch of lazy people sitting
7 around down there, you've got people not committed
8 to their work or whatever it may be. That's out
9 there. If we can document, which we can, it would
10 do the very best with the resources we have, then
11 there becomes a significant policy issue that
12 takes resources and funding for our agency. It's
13 a major one for us to begin to document.

14 There is other things that sort of
15 caused us to push the button on some policy
16 issues. One of the strategies that we thought of
17 in terms of living within our means is to begin to
18 have discretion at intake. To begin to make
19 judgments about a case in terms of it's viability
20 for example for investigation, given that we have
21 a mandate to enforce the Human Right Act, and
22 given that we have so many resources one strategy
23 was to begin to not to take -- to intake certain

1 cases based upon a judgment. Right now under the
2 statute we are required to take in cases we can
3 establish jurisdiction. We don't make any
4 judgment in terms of it's merit or our ability to
5 investigate those cases. That's an issue. That's
6 a strategy given, but we have. The other issue is
7 that if we begin to try to do all with what we
8 have, we become very ineffective in doing well
9 with those cases which are, in fact, where we
10 ultimately find probable cause. To the extent to
11 which we are inundated by cases and charges that
12 we are required to do, we lessen our overall
13 ability to do justice for the cases that have, in
14 fact, probable cause. That's a very significant
15 issue.

16 I don't think we've been in a
17 position as an agency, quite honestly, to make
18 this claim. We would raise it, really raises the
19 resource issue. We didn't raise the resource
20 issue until we had our house in order. For
21 example, and this is a single thing, our policy
22 and procedure book. The book that guides
23 enforcement, when I took over was ten year old, is

1 now up-to-date and our enforcement officers are
2 required to know that book. There's been
3 significant changes in human rights laws in terms
4 of policy and practice, in terms of precedence
5 since ten years ago, and our agency had been
6 getting along with individuals just kind of by
7 word of mouth trying to understand the rules.
8 That no longer exists. Position descriptions were
9 out of date. That's a simple thing, but they're
10 now all up-to-date and we're finding with
11 investigators.

12 So that's what we've done. I think
13 the significant issue is that we have is that once
14 we understand what the cost is, we can, in fact,
15 clean up the policy issues. I wonder if my time
16 is going. Maybe we can ask questions.

17 CHAIRPERSON ROGERS: We have about five
18 minutes for questions. Any questions? Mary?

19 MS. RYLAND: Would you mind giving us
20 the figures on funding today versus before that
21 ten percent cut from your department?

22 MR. BEAULIEU: We have a budget of about
23 \$3.2 million. A ten percent cut is about

1 \$300,000. We lost at that time about five
2 positions. We estimate about \$350,000 per
3 investigator with salary and fringe, so every time
4 50 cases, it's not a simple formula, but 50 cases
5 per year cost about \$50,000 in terms of personnel.
6 And so if you imagine we're increasing by ten
7 percent per year was case load about 2,000 cases,
8 200 cases. If we just did a straight line without
9 any changes or efficiencies or improving the way
10 in which we do our work, we can quickly see how
11 fast that would rise. We did make some major
12 structural changes in the department, and I was
13 able to add staff into enforcement by limiting the
14 staff elsewhere. Those kinds of changes cannot go
15 on forever, so.

16 CHAIRPERSON ROGERS: Lupe?

17 MS. LOPEZ: I know that there was a lot
18 of publicity regarding discrimination against the
19 mexican hispanic community and what were the
20 results of those hearings or --

21 MR. BEAULIEU: Two basic results. One
22 of the things that I think the Commission needs to
23 understand is that I commissioned the task force

18

1 to help the agency, but the issues were so
2 extensive, the hearings had such an impact that
3 they required a response bigger than just the
4 human rights agency. So there are a number of
5 recommendations and topics that the Spanish
6 Speaking Affairs Council attempted to take
7 leadership with to go talk with other agencies of
8 government and with legislature to work on. In
9 terms of it's impact on the human rights agency,
10 we found some major issues that are systemic in
11 nature. Two major areas, employment and in
12 housing that are unique affect the communities in
13 a unique way. One of the ideas that we have is to
14 create a systemic unit on systemic discrimination
15 in the department.

16 A unit that will, as you may
17 understand, almost all of our investigations are
18 individual. An individual files a charge and we
19 investigate the individual charge. Few exceptions
20 are the Commission charges which I've made, there
21 have been a number of affected individuals. Some
22 of the processing turkey processing or meat
23 processing plants, for example, have had two

1 commissioner charges; one with Tony Downs and one
2 with Hartland Foods. Tony Downs is coming close
3 to a settlement now. So I've had a number of
4 commissioner changes in that issue, in employment
5 issues. The discrimination unit will deal with
6 more broad-base discrimination issues and in
7 housing or employment, and I think we need to get
8 a bigger bang for the buck so to speak; make a
9 greater impact in doing that. We have had, as you
10 may be aware, a Hispanic liaison position in the
11 Department that is attempted to deal with
12 outreach. We are going to be increasing and
13 improving the nature of our contact with the
14 outreach activities and the number of communities.
15 I think we're particularly proud of our
16 relationships with Club Medelia. And what we've
17 done there, we think that kind of example of how
18 we work together and how they're working together
19 might be useful and also worthy throughout. So we
20 wanted to improve the community services functions
21 of the agency as well. Those are some of the
22 things we're doing.

23 MS. LOPEZ: I have one more question

1 Madam Chair, and that is you were talking about
2 speaking about your performance standards for
3 staffing as to more or less. I would look at it
4 as an evaluation to see how many cases they're
5 doing and perhaps putting some kind of achievement
6 built into. I'm wondering if that would -- what
7 impact that would have, you know. You see a step
8 come, you want to get a whole lot of cases done.
9 What would that do to the way the case is being
10 looked at or handled?

11 MR. BEAULIEU: Yes, we've considered
12 that and each unit, of course, has a supervisor
13 which is responsible to assign cases and to look
14 at case load, and we attempt to do that in such a
15 way that there is a random grouping of cases and
16 that individual is simply not working on the easy
17 cases to produce the numbers. The standards are
18 not based upon any moment of time within a year,
19 but over a long period of time. The case load
20 that you see from one investigator to the next are
21 pretty much the same people over a year's period
22 of time.

23 The standard, as the investigators

1 evaluate it month by month, sometime might point
2 in the direction where an individual may need
3 help. If you in one month only completed two or
4 three cases and you should be six or seven, then
5 the supervisor will sort -- is on the alert to
6 talk to that person and to see what the issues
7 are. The issue may be, you know, it may be a very
8 complicated investigation. There is no issue it
9 will work out in the wash. But it keys in
10 supervision and it makes sure that the quality
11 standards for investigations are maintained as
12 well by keeping that contact.

13 MS. LOPEZ: Does it become quantity
14 versus quality?

15 MR. BEAULIEU: Yes, absolutely not. We
16 have to have, because of the nature of our work, a
17 quantity standard. You simply cannot not have
18 that. We are evaluated. The statute requires us
19 to investigate at certain times. We deal with
20 charges and cases. So, we have to watch our
21 memories and we have to have certain standards for
22 production, and it's based upon there are
23 reasonable history among investigators over the

1 past few times that are not unreasonable
2 standards. But the quality issue is very
3 important to one having a new policy and procedure
4 act against which to supervise is good.

5 I should also mention one other
6 feature. We're creating a training unit in the
7 department, first time ever. We will have about
8 six or seven new people hired. There's a number
9 of people that have left their assignments. Also
10 there's been some turnover. So we are, rather
11 than just bring them in and drop them down in the
12 middle of a unit and say go for it and do your
13 work. We've created a training unit in order to
14 sort of help the individual altogether learning
15 the policy procedures apart from the investigative
16 procedures while they're working on cases and when
17 they finish their training time then to move into
18 a different unit that will be assigned.

19 CHAIRPERSON ROGERS: One final question,
20 Alan.

21 MR. WEINBLATT: Yes. You mentioned your
22 desire to move into the areas of systemic
23 discrimination. Have you raised that subject

1 matter with the legislative leadership that would
2 be responsible for or responsive to your agency,
3 and if so, what response have you got? And that's
4 really part of a more broader question, what kind
5 of support has the agency received over the last
6 four or five years -- or during your term at
7 least?

8 MR. BEAULIEU: I think we've had good
9 support within the context of the overall budget
10 situation in the State of Minnesota, better than
11 any other agency's let's put it that way. When
12 the sexual orientation amendment passed the
13 legislature, we received an additional \$450,000 at
14 that time. We said that we needed about one
15 additional enforcement officer in order to handle
16 the cases we anticipated with that. We got that
17 support. Because we've been making some major
18 organizational and institutional changes, we
19 realize that our overall technical capacity, our
20 computer system, and our media is set up for that
21 type of information, processing and so forth is
22 woefully inadequate. The legislature, upon
23 Governor Carlson's recommendation, gave us \$25,000

1 this last year to beginning a three stage process
2 to developing a computer system which is worth
3 something in our agency and will greatly improve
4 our effectiveness. So we've had good support.
5 And if you realize what it has been like because
6 generally the funding for big agencies, the
7 response to the Governor and the legislature is
8 tremendous for us, although I must say that we
9 have not been able to get a dime more without
10 documenting the extent to which we have done the
11 things that we can with what we have. Every step
12 of the process, both within the executive branch
13 and the legislature has required us to prove that
14 we are doing the very best we can.

15 CHAIRPERSON ROGERS: I want to thank you
16 for your remarks and ask you to give us a copy of
17 the Innovations and also some of the changes
18 you've made. Please submit that to our office in
19 Chicago.

20 MR. BEAULIEU: Yes, I will. Thank you.

21 CHAIRPERSON ROGERS: We'll have a two
22 minute break to let our next panel assemble.

23 (A brief recess was taken.)

1 CHAIRPERSON ROGERS: Next we have here
2 Mr. Sam Myers who is the Roy Wilkins Chair at the
3 Hubert Humphrey Institute, at the University of
4 Minnesota.

5 SAM MYERS, ROY WILKINS CHAIR

6 HUBERT H. HUMPHREY INSTITUTE

7 UNIVERSITY OF MINNESOTA

8 Thank you very much. I appreciate
9 the opportunity to testify before this Commission.
10 I'm partially deaf and Ms. Judy Glad will be
11 typing your questions for me. What I'd like to do
12 is to pose what I have is a very significant
13 problem. The problem, racial economic inequality
14 in Minnesota. I'd like to spend a moment,
15 probably a little bit of evidence of the widening
16 gap between whites and non whies in the State of
17 Minnesota, and then I'd like to briefly go through
18 ten possible explanations for this widening gap,
19 and I'd like to conclude by pointing out we have a
20 serious lack of sustained research in choosing
21 among these alternative explanations and;
22 therefore, we are in precarious situations with
23 respect to schooling them on alternative policies

1 in order to reduce the widening gap.

2 With your permission, I'd like to
3 use some of these overheads. The two pieces of
4 information we need to be aware of, one is that
5 there's a gap between white and non white rates
6 and salary earnings as well as income have widened
7 in Minnesota since the 1950s. Put that into in
8 the United States, at least from World War II
9 until the 1980s there was a general narrowing of
10 income and I'm to try to answer the question of
11 why. But before doing that, I'd like to use as an
12 example to illustrate the difference between
13 what's going on in Minnesota and what's going on
14 in the rest of the United States. There's some
15 evidence on black/white per capita income ratios.
16 The only purpose for using black and white is the
17 fact that I'm using census data and it's easier
18 for me to make these computations for black and
19 white as opposed to for specific non white groups.
20 The first picture shows the ratio of black/white
21 per capital income, 1970, '80 and '90 in the
22 United States and what we find is that although a
23 little over \$.55 for every dollar per capital

1 income went to blacks as opposed to whites in
2 1970, by 1990 it was almost \$.65 for every dollar.
3 In other words, there was a general improvement in
4 the relative economic well-being of individual
5 blacks in the United States. This is total
6 income, so it includes not only wage and salary
7 income, but also income from different individual
8 interests and so forth.

9 Now there's big literature in the
10 economic professional explaining why that
11 improvement occurred, and one of the number one
12 explanations was that in 1964 because we passed
13 the Civil Rights Act Title 7 banning
14 discrimination in employment and such employment
15 is a primary component of total income, that the
16 anti discrimination laws had the input of helping
17 to improve the relative position of non whites.
18 I'm trying to emphasize the fact that this is the
19 whole United States.

20 Now I'd like to show you a picture
21 of what happened in Minnesota. In 1980 the ratio
22 of black to white per capital income was about
23 .75. In other words, there was substantially

1 higher ratios of black to white per capital income
2 in Minnesota than in the rest of the United
3 States. But from 1970 to 1980, 1990, the ratio of
4 black to white per capital income fell in
5 Minnesota. Now some people will say well that
6 just means that Minnesota is catching up with the
7 rest of the United States to the extent that the
8 ratio was higher in 1970 than the rest of the
9 country, the fact is that's not true. We weren't
10 catching up with the rest of the United States, we
11 were falling behind the rest of the United States.
12 This graph really matches the ratio of the black
13 to white earnings for the whole United States for
14 Minnesota and for the twin cities, metropolitan
15 area and what you will find is that in both the
16 Twin Cities and the one in black is Minnesota, the
17 stripe is Twin Cities, the one in the black, the
18 checkered, is the United States. In 1970 both in
19 the whole State of Minnesota and in the Twin
20 Cities metropolitan area the ratio of black to
21 white per capital income was higher than the rest
22 of the United States. In 1980 it was true for the
23 whole state, but not in the Twin Cities. In other

1 words, by 1980 you know the Twin Cities caught up
2 with the rest of the United States. By 1990 both
3 in the whole State of Minnesota and in the Twin
4 Cities area the ratio of black to white per
5 capital income were lower than the ratio of black
6 to white per capital income in the whole United
7 States. That's my point. The point is things
8 gotten better in the United States and things were
9 getting worse in Minnesota. And so that leads to
10 the question why? When I say why, I'm really
11 talking about the academic literature among
12 professional economists and social scientist
13 researchers who are trying to give to public
14 policy makers some advice about policies that we
15 might, you know, pursue. One explanation is that
16 well non whites are just less qualified. In other
17 words, they have fewer skills and have lower
18 education. The problem with Minnesota is the fact
19 that the gap between black and white, non white
20 and white education is very, very small. In other
21 words, it maybe in Mississippi there's a huge gap
22 in the educational attainment between blacks and
23 whites, but not in Minnesota. Minnesota has a

1 very tiny gap. With respect to skills, nobody
2 really knows how to measure skills. Now I know
3 that they talk about the number of years of
4 education. You may say well the high school
5 education a non white has in Minnesota is just not
6 same as a high school education that whites have.
7 Well that may be true and it's hard to argue with
8 that possibility, but in terms of quantitative
9 measures of things that I can grasp with my hands
10 and actually look at, the explanation that these
11 people in Minnesota are just unqualified because
12 they don't have the credentials, the education,
13 doesn't seem to hold up because the relatively
14 high, you know, high school completion and
15 additional education completion in Minnesota that
16 whites as compared to non whites elsewhere in the
17 country.

18 The second explanation is that we've
19 had this big migration of lower skilled people.
20 This is the Gary, Indiana hypothesis. They're all
21 coming from someplace else. Well we have done
22 some statistical analysis in which we've just used
23 micro sample tape from the 1990 census as well as

1 the current population survey on tape to estimate
2 earnings equations for whites and non whites and
3 which we have controlled for migration and we have
4 asked the question, how much of the wage gap
5 between whites and non whites is explained by
6 migration? What do we find? We find using
7 current population that migrants who are non white
8 have about 5 percent lower earnings than non
9 migrants who are non whites.

10 And the effect of being a migrant
11 has an insignificant effect on white earners;
12 therefore, migration has an effect on to wage and
13 equality, but it's not all that bad. I'm not
14 saying that we have the final answer on all these
15 different explanations, I'm just trying to itemize
16 the explanations and give you a little bit of
17 evidence of what we know and what we don't know
18 about them.

19 Another explanation is that non
20 whites are concentrated in low wage jobs. Forget
21 for a moment why they're concentrated in low wage
22 jobs. One explanation is while they're
23 concentrated in low wage jobs and, of course, low

2

1 wage jobs have lower average salaries than other
2 jobs, then it's just the fact that they are
3 disproportionately in those jobs explains the wage
4 gap and not anything else that might be insidious
5 about what's going on in the labor market. We've
6 looked at this and what we did was that we took
7 the 1990 census data and took within individual
8 gender groups, in other words, men and women, took
9 all the occupations, found the median wage in each
10 occupation, ranked them; top third, middle third,
11 lower third with the top third we called good
12 jobs, lower third, we called bad jobs, and we
13 found what is the fraction of white men, black
14 men, Asian men, American Indian men, and other
15 race men who has bad jobs, okay? And the answer
16 was that a little more than a third white men have
17 bad jobs, by the way, just divide by the third,
18 over 60 percent of black men have bad jobs, but 40
19 percent of Asian men have bad jobs, almost 60
20 percent -- 55 percent American Indian men and
21 almost 60 percent of other race men have bad jobs.
22 So there is some truth to the contention that non
23 white men, with the exception of Asians, are

1 highly concentrated in the bad jobs. We also
2 looked at the good jobs and we found that black,
3 American Indian, and other race men were under
4 represented among the good jobs.

5 The problem with this is that
6 doesn't answer the question of whether most or
7 any, any or most of the wage gap between whites
8 and non whites is due to whites -- non whites
9 being heavily concentrated in bad jobs and under
10 represented in good jobs. So what I did was I
11 took the average wage of blacks in good jobs,
12 average wage of blacks with bad jobs, average wage
13 of blacks overall, divided that by the average
14 wage of whites in good jobs, average wage of
15 whites in bad jobs, you hear what I'm saying, and
16 what do I find, even in bad jobs, blacks are more
17 likely to have lower earnings. When I say lower,
18 they earned \$.82 for every dollar. So that means
19 that the wage gap is obviously smaller in the bad
20 jobs, but there's still inequality in the bad
21 jobs. Inequality is bigger in the good jobs in
22 the sense that it's less than the ratio of black
23 to white earnings in the good jobs, it's less

1 than, you know, 80 percent. So the explanation
2 for the overall ratio of black to white earnings
3 being about 68 percent is the fact that it is a
4 high fraction of blacks in bad jobs than there are
5 in good jobs.

6 So both explanations count. One
7 explanation is blacks that have been concentrated
8 in bad jobs. But the second explanation is that
9 in good jobs blacks have lower earnings than
10 white. You can also find that in the American
11 Indian community, there's a big, big wage gap in
12 the earnings among American Indian men who have
13 good jobs and white men who have good jobs. In
14 other words, white men -- American Indian men only
15 earn about 60 some odds cents for every dollar
16 that American white male earns in the good jobs.
17 And so the nature of both the inequality there is
18 not just the under representation of American
19 Indians in good jobs, but it's also due to wage
20 disparity in those good jobs. Even among Asians,
21 who we have pointed out before tend not to be as
22 under represented in the good jobs. In the bad
23 jobs Asian men earn less than white men do. Are

1 you following my point? So the conclusion is that
2 the simple overrepresentation of non white men
3 into bad jobs isn't the whole explanation. And
4 that was explanation number three.

5 Explanation number four was
6 concentration and substitute labor markets. Well
7 yes, it's true non white men are heavily
8 concentrated in central city labor markets and
9 it's also true the wages are lower in central city
10 labor markets, and that's an explanation. It pans
11 out. The people who, whether they're white or non
12 white who have their jobs in central service labor
13 markets are penalized because of the lower wage.
14 That's explanation number four.

15 Explanation number five is
16 concentration and declining industry jobs. This
17 is a view that we frequently see from sociologists
18 at the University of Chicago that minorities have
19 been concentrated in those industries that are
20 declining and that's the explanation for the lower
21 wages.

22 Well at least in Minnesota that
23 doesn't pan out, perhaps because this is not

3

1 Chicago. The type of industry might be is
2 sufficiently different because non whites who are
3 in manufacturing jobs in Minnesota actually have a
4 premium. In other words, their average wages are
5 higher than the non whites who are in industries
6 other than manufacturing industries. So that
7 explanation doesn't hold. Another explanation is
8 well non whites are heavily concentrated in single
9 headed families, heavily dependent on welfare. In
10 fact, this is the point that is expressed most
11 substantively with respect to blacks and this is
12 also sometimes called the welfare magnet
13 hypothesis. People from Gary, Indiana are coming
14 here in order to avail themselves of welfare. Now
15 the validity of this explanation is caught in
16 data, although there are some obviously
17 pathological support for it. The pathological
18 support is women earn lower wages than men;
19 therefore, if you have higher instance of female
20 headed families that among family heads you'll
21 have low salaries. Okay, that's just topological
22 sort of thing. So for whatever reason then of
23 overrepresentation of female families, and by the

1 way, Minnesota happens to have the second highest
2 rate of female headed families in the United
3 States, female headed families with children in
4 the whole United States, Wisconsin is number one.
5 So pathologically, if you're saying female family
6 however created tends to general the wider wage
7 gap suggests. But is it welfare dependency? Are
8 there female headed families because they come
9 from other states to Minnesota in order to avail
10 themselves of the attractive welfare system,
11 there's very little empirical support for that
12 welfare magnet hypothesis, despite the Star
13 Tribune's assertion to the contrary.

14 So I think that explanation number
15 five really calls out for a little more careful
16 analysis; particularly since there's virtually
17 nothing said of elimination of welfare or work
18 requirements or the penalizing, having an added
19 babies and so forth. It's very little to
20 construct in our mind in terms of sound public
21 policy to deal with racial inequalities. In fact,
22 it's the cause. Okay, are you still with me on
23 this? Okay, Number 7 it's language barriers. We

1 include immigration status as well as fluencies in
2 English as one of the independent variables, and
3 yes we found that particularly for male workers,
4 non white workers, there was a penalty for not
5 being fluent in English. Interestingly that
6 effect was smaller for female earners. By the
7 way, when the effect of smaller female earners,
8 what I'm really saying is that non white females
9 who don't speak English receive a smaller penalty
10 in terms of their income as to compared to white
11 females. In other words, the comparison I'm
12 making is non white females to white females.
13 It's not non white females to males.

14 Explanation Number 8, transportation
15 barriers. I've never really explicitedly tested
16 this hypothesis, although you can go back to
17 Number 4 which looks at the difference in wages
18 between people in central city and those in the
19 suburban areas. And if transportation is the
20 largest share of the minority population, the
21 better jobs in the suburban areas and in the
22 explanation for why people can't get to those
23 better job is that they don't have access to

1 transportation, that's a possible explanation.
2 But I personally have not explicitly tested that
3 hypothesis. Number 9 is the hypothesis I did test
4 and this is the test of hypothesis of racial
5 discrimination. This is the economic notion of
6 racial discrimination where we're talking about
7 unequal treatment of equally qualified
8 individuals, based on observable characteristics.
9 Okay, so number 1, we are not just talking about
10 the gross gap between whites and non whites, we're
11 referring to the adjusted gap that takes into
12 account characteristics. Number two, only
13 characteristics that are counted are those that
14 are available in the census type or the current
15 population census data. I don't know anything
16 about your morals, I don't know anything about
17 your values, your work ethics and so forth, all I
18 know is about your education, about your migration
19 status, about your language skills, about your
20 occupation, your industry and related things.

21 The paper that Alan Marcus, who is
22 my collaborator on this research, and I produced
23 as well as a metropolitan council paper which I

1 produced and which I discussed the details of the
2 methodology of computing this racial gap in
3 Minnesota. I've been doing this for 20 years
4 using data on earnings, on housing, on criminal
5 justice and so forth, but usually using data will
6 pull you down the stats, but sometimes using
7 Maryland, Pennsylvania and other places. This is
8 the first time in my life where I've estimated
9 this measure of discrimination and I've discovered
10 such huge, huge portion of the residual gap in
11 earnings between whites and non whites that you do
12 to discrimination. 75 percent of the gap between
13 white and non white earners, using the current
14 population survey data, a merged data set for
15 1989, 1990-1991 which is a small data set so and
16 so I redid it using this 1990 which is just a
17 micro sample which is a 5 percent sample of all
18 returns. The equations were estimated on 112,000
19 observations, so it's not everybody, but it's a
20 bigger sample. And in both instances we estimated
21 that only 25 percent of the wage gap could be
22 explained by the observable characteristics,
23 whites and non whites, although that other 75

1 percent couldn't be explained. I thing things
2 that were left out in the model or generally we
3 just called it residual discrimination. One of
4 the bad amounts that can't be explained.

5 Okay, and the technical term within
6 economics literature for the unexplained residual
7 is discrimination, even though I quite understand
8 when you go to court that people might disagree
9 over whether it's actually discriminatory. But
10 there's a tenth possible explanation one day I'd
11 like to put before the Commission. After all
12 we're looking at Minnesota, a place that started
13 out with much, much lower inequality. In other
14 words, a high ratio of white to non white
15 earnings, didn't we? Okay. So this is Minnesota,
16 the place that has not had all that much
17 experience, continuing experience in dealing with
18 the vestiges of discrimination and so forth. Now
19 whereas it doesn't have a legacy of slavery and
20 Jim Crow laws and so forth, it also doesn't have
21 experience dealing with these people. We're
22 different, okay? These people I'm referring to,
23 you know, blacks who are from the south or, you

1 know, these southeast Asians or American Indians
2 who have migrated from, you know, reservations or
3 you know Hispanics who may have come from Texas.
4 When I say these people, I'm referring to a cohort
5 of people and it's absolutely true the vast
6 majority of non whites in Minnesota have been here
7 since World War II. So we began with the evidence
8 that after World War II the relative position of
9 non whites was good, not only good in Minnesota,
10 but good relative to any other place in the United
11 States.

12 Okay, having said that, the tenth
13 possible explanation that I'd like to put before
14 you is that we've been ineffective in our anti
15 discrimination efforts over the years. In other
16 words, things have changed and we had things in
17 place that are based on older views of the world.
18 That view of the world of black and white, that
19 was the world in 1964. In some respect when the
20 law was written people viewed discrimination as
21 being the result of some bigots, all right, and so
22 you stop the bigots and they stopped
23 discriminating, okay? So it's possible, one

1 possibility is that we had mechanisms and
2 processes in place that could have worked in 1960,
3 1970, but the world that we in Minnesota are
4 confronting in 1990 is a different kind of world.
5 So that's what I'm talking about, the possibility
6 of ineffectiveness. It's not that the people of
7 human relations, human rights, civil rights
8 agencies are non committed interested and about
9 these problems, but it may be that the mix of
10 processes and procedures might not be as effective
11 for the 1990s type of discrimination that exists
12 in Minnesota, and I represent that we give this
13 some more careful viewing. Thank you very much.

14 CHAIRPERSON ROGERS: Thank you, sir. Do
15 you have questions for Mr. Myers or are there any
16 burning questions at this time? Alan?

17 MS. LOPEZ: I have one question.

18 CHAIRPERSON ROGERS: I recognized Alan
19 first.

20 MR. WEINBLATT: Put another way is the
21 possibility of number ten, that the economic and
22 employment discrimination is simply more
23 sophisticated, is simply less obvious and is

1 simply less talked about within the employment
2 community.

3 MR. MYERS: Well one issue is whether or
4 not the discrimination itself is more
5 sophisticated. Another issue is whether or not
6 the enforcement mechanisms have kept up with it,
7 and see there are two sides of the same coin, and
8 what I'm trying to emphasize is the fact that the
9 type of discrimination going on in the rest of the
10 world is changing. Maybe that there's an
11 ineffective match between the way we think about
12 discrimination in Minnesota and the way the rest
13 of this world is changing. Let me give you a very
14 concrete example. In North Carolina, the
15 University of North Carolina is a university that
16 actually explicitly excluded blacks. When the
17 who probost says that we need to make a special
18 for the in order to hire minority faculty, then a
19 recognition that this is a remedy that is being
20 undertaken in order to rectify something that was
21 done wrong in the past, okay. At the University
22 of Minnesota the probost would never openly say we
23 want to take special pains in order to hire

1 minorities. And for the following reason; one is
2 that the special preferential treatment for
3 minorities might be in violation of our sense of
4 fairness and, in fact, equal opportunity for
5 whites. And secondly, what is it that we're
6 trying to remedy? Because this was a university
7 that had black faculty. I don't know when they
8 had the first one, but I'm sure they've had them
9 for at least dozens and dozens of years. And so
10 here we have a situation where the type of remedy
11 that we're trying to implement in Minnesota is
12 viewed as it's inappropriate, and it would be
13 inappropriate to say we're going to have a
14 race-based effort in part because; A, we don't
15 think that we have anything that needs to be
16 rectified, but B, because of something that is
17 inherent in our culture in this state. But this
18 state really and truly embraces the notion of
19 fairness, and I think that's very ironic, a place
20 that embraces fairness is a place where it might
21 be more difficult to bring, you know, a southern
22 style type, you know, anti discrimination suit.

23 MS. LOPEZ: Well my question was on the,

1 almost on the similar question as was previously
2 asked of him, but you did make a statement about
3 perhaps we're not geared for the '90s as far as
4 enforcement of discrimination and I'm wondering do
5 you have any thoughts on how we could better it
6 other than what you've just said?

7 MR. MYERS: Well see I'm wondering with
8 you. I'm struggling with this reality and that is
9 that some of the things that we observed in
10 Minnesota are not really sophisticated
11 discrimination. It's not some sort of new, you
12 know, intricate well-thought out, well-rationaled
13 out discrimination. Some of it is stupid. There
14 are some things that are going on is just simply
15 in any other place, at any other time would be
16 regarded as just ignorance, okay? I mean I
17 remember once I had a speech before some council,
18 citizen's league, and one of the employees who was
19 talking about wage inequalities and one of the
20 employees who has a plant out in the suburbs said
21 you know, I hired a black person once back in 1976
22 or something like that. I'm not a bigot, I'm not
23 a discriminator, I'm not a racist. I actually

1 went out of my way and hired this guy and he
2 didn't come to work on time and it didn't work
3 out. And so this person was, the basis of his one
4 experience of hiring a black person who didn't
5 work out comes to look me straight in the face and
6 says that the reason for why my company refuses to
7 hire minorities at this point is that we believe
8 that minorities are unqualified or that they don't
9 have the necessary work skills and work readiness
10 characteristics. And I'm saying to myself, wait a
11 minute, this is 1990 and any other place in the
12 country people would look at this employer and say
13 Joe or Bob that's racist. But we're living here
14 in Minnesota and nobody says it's racist. In
15 fact, if a minority says it's racist, then whites
16 would respond by saying, why is it that minorities
17 always accuse racism, always claim that every
18 hardship that they face is a result of racism?

19 Do you see the perceptual gap that
20 we have here? You've got a group of whites who
21 are native to Minnesota, who have been here for a
22 long time, and who have understood that
23 themselves, as being bias free of being fair, of

1 being fully devoid of even a shread of bigotry,
2 and they're confronted with the difference,
3 difference, different language, different colors,
4 different ways of wearing hair, and they just
5 haven't come to grips with the possibility that
6 they're engaging in edical differential treatment.

7 CHAIRPERSON ROGERS: Lee?

8 MR. RUIZ: Thank you. I happen to agree
9 with your data in a way. If we perceive that
10 employment living wage jobs is a resource to the
11 area and that resource is depleting, would you
12 concede that people are now saying well that's a
13 valuable resource, we'd better save it for the non
14 minority population? Because I detect every time
15 things get tight, people of color, the
16 opportunities are less, are less significant. Do
17 you consider that a contributing factor?

18 MR. MYERS: I think that's a
19 contributing factor. It's just the economy. We
20 are growing and we're growing substantially. It
21 will be easier to justify opening up additional
22 doors for minorities. But let me raise this
23 question. Relative to the rest of the United

1 States, the Minnesota economy was doing very, very
2 well. We were not in a stagnant economy. So
3 whereas I quite understand your point, your point
4 is that we're tightening our belts. Relative to
5 elsewhere, we're not tightening our belts anymore
6 than anybody else has to tighten their belts. To
7 some extent we're growing a little better, a
8 little more because we're in the country. So the
9 problem with that explanation, in other words, a
10 shrinking budget; and therefore, it's kind of the
11 self interest of non white thinking if the size of
12 the pie is smaller, we don't think we should be
13 giving it out to any newcomers, but the level of
14 that explanation, the size of the pie hasn't
15 become smaller, it's been getting a little bigger,
16 at least relative to the whole pie, the whole
17 United States. And other places in the country,
18 interestingly, have been doing better with respect
19 to the actual measure of racial gaps and incomes.

20 Now I'd say only with respect to
21 those measures which is not south central Los
22 Angeles, it's not Bentonhurst. In other words, we
23 haven't gotten to the point where we're actually

1 killing each other in a continuous daily manner,
2 but we have gotten to the point where our relative
3 economic standards are deteriorating for non
4 whites.

5 CHAIRPERSON ROGERS: Sam, thank you for
6 your lengthy comments.

7 MR. MYERS: Thank you.

8 CHAIRPERSON ROGERS: We will now hear
9 from Rey Harp of the Minneapolis branch of the
10 NAACP.

11 REY HARP, PRESIDENT

12 MINNEAPOLIS NAACP

13 Thank you, Madam Chair,
14 Commissioners, my name is Rey Harp and I represent
15 the Minneapolis branch of the NAACP. The NAACP
16 has been involved in a number of initiatives on
17 the anti discrimination level, one of which I've
18 been invited to discuss with you today. And that
19 initiative is desegregation of housing litigation
20 against the Department of Housing and Urban
21 Development and other various governmental
22 defenders. But before I go too far into that, let
23 me give you a little bit of background of how that

1 problem arose and perhaps why that is a very
2 appropriate topic for you to take with you when
3 you're dealing with the question of allocation of
4 governmental resources in the anti discrimination
5 area. If you look at the traditional public
6 housing, citing decisions that have been made
7 under the years ever since public housing came
8 into play, you will see an area where governmental
9 decisions have directly contributed to segregated
10 housing patterns and to a destabilization of
11 residential neighborhoods within various cities
12 and locations. You see decisions that lead to the
13 north side projects in Minneapolis, the public
14 housing development which was built and pretty
15 much historically restricted to housing African
16 American public housing recipients. More recently
17 it's been expanded to include Asian Americans
18 within the population base. You see public
19 housing decisions that lead to the Robert Taylor
20 projects in Chicago, you see decisions that lead
21 to the Igor projects in the St. Louis area, a
22 whole host of examples can be cited from
23 everywhere around the country where you have a

1 governmental decision which was made regarding the
2 allocation of money for goods and services which
3 is proven to have disasterous, unintended perhaps,
4 but disasterous consequences. And we are in the
5 process now of attempting to correct those
6 decisions, those bad decisions that were made and
7 citing public housing and the administration of
8 public housing programs by developing a more
9 conclusive and expansive and appropriate way to
10 administer public housing resources to the public
11 housing recipients.

12 Within the context of the litigation
13 that we are involved in, the NAACP is co Plaintiff
14 in a class action brought by the Legal Aid Society
15 and various individual public housing recipients.
16 The thrust of that litigation is to challenge the
17 historical pattern of siting public housing within
18 Minneapolis and the allocation of housing
19 resources, in the manner in which they've done.
20 And thirdly, the traditional finger pointing that
21 always goes on when you have multi jurisdictional
22 bodies involved in one governmental program. We
23 sued the City of Minneapolis Public Housing

1 Authority, the City Council, MCDA. Both local
2 defendants in turn sued HUD and HUD and local
3 defendants then also brought in as co defendants
4 the metropolitan HRA MET Council fully has multi
5 jurisdictional regional responsibilities for the
6 administration of housing programs in this area.
7 Out of nine various governmental agencies that are
8 involved as defendants, they all have a tendency
9 to say well these problems were not of my making.
10 We're just following what HUD told us to do. And
11 HUD said well we just provide the money, the local
12 entities have the authority to administer that
13 money and develop proper decisions in the
14 operation of a program. The City Council takes
15 the position historically that they don't want to
16 put public housing in areas that are politically
17 unpalatable for low income residents to live in.
18 So we get a political process in the biggest,
19 grandest sense of the word that results in denying
20 anything, or worse for those recipients of
21 governmental service. The lawsuit is intended to
22 do several things and I think it follows a pattern
23 of lawsuits around the country that have requested

1 public housing practices similar to those that we
2 have here.

3 We as Plaintiffs are committed to a
4 deconcentration remedy. Meaning we expect the
5 over concentrated areas where public housing is
6 cited. We expect the racially discriminatory
7 locations in which public housing projects exist
8 themselves to be deconcentrated and in a sense
9 disbursed out so that every medium in the
10 metropolitan area will bear it's fair share of the
11 public housing burden. There's a cost associated
12 with maintaining a public housing program and with
13 providing governmental services to low income
14 individuals. Historically that cost is pushed
15 down to the lowest rung on the ladder and those
16 areas that are less politically capable of fending
17 for themselves are getting dumped on with the
18 excess cost. This lawsuit and the remedy that's
19 intended to come from this lawsuit will in turn
20 spread that cost throughout the broader
21 metropolitan area so that the city, the suburban
22 areas alike will pay their fair share for the
23 public housing burden.

1 We also looked to what's called
2 concentration issues to determine where additional
3 public housing siting decisions will occur. We do
4 not want public housing decisions to lead to
5 further concentrations by race, concentration by
6 economic class. If we have an area which becomes
7 overly concentrated, predominantly African
8 American if you will, then that has a ripple
9 effect throughout the entire surrounding area.
10 The more problematic the area is deemed to be, the
11 fewer services that go into that area. So we look
12 to create a broad mixture of persons and
13 individuals throughout the metropolitan area which
14 will in turn lead to a sharing of the burden of
15 expansion of opportunities for those public
16 housing recipients who have to utilize those
17 services.

18 Now that program, the thrust of that
19 program is based on what is called the Goutrol
20 Program that came out of the Chicago public
21 housing litigation of the 1960s and 1970s wherein
22 public housing recipients were given the
23 opportunity to use Section 8 certificates, take

1 those Section 8 certificates and move out to the
2 suburbs. And they've got 15 years of data on the
3 operation of the Goutrol program of Chicago and
4 that data is very positive. Those persons who
5 were given the opportunity to move out of say the
6 Robert Taylor project out to Downer's Grove with a
7 Section 8 certificate. Those people shortly after
8 moving out were able to find a job within the
9 surrounding area that they were living, were able
10 to then go off of the welfare rolls, were able to
11 enroll their children into good, stable schools,
12 and were able to reverse a cycle of decline that
13 the public housing projects themselves almost
14 locks and forces a person into. Simply by moving
15 the public housing segment into a favorable area,
16 one where ancillary resources are available to
17 assist that individual, it's shown great success
18 and great promise by taking people off of the
19 public welfare rolls giving them jobs, giving them
20 and making jobs and schools and making them
21 productive members of society. If we take the
22 experience of that program and revisit it here in
23 Minneapolis, we suspect that we will again see

1 positive results in term of the allocation of
2 available resources. If people move out of the
3 welfare rolls, if they get decent jobs, if they
4 have affordable housing, if their children can go
5 to the schools, then that is an overall net gain
6 for the economic base of the city.

7 Now, we have gone a bit further than
8 the Goutrol program to one of the negative effects
9 of the Goutrol program is the argument that well
10 perhaps we're just disbursing people out of
11 central cities, out of the African American
12 communities, out of their cultural base and then
13 not providing the connection back that you would
14 like to see to rebuild those communities to make
15 these contributing people contribute more fully to
16 their cultural base. So our program hopes to have
17 a return element to it; meaning we look for an
18 element in the program that will promote home
19 ownership, in a home. Actually the type of
20 benefits for the people who happen to go through
21 our program, they will be coming out of the
22 projects, go to the suburbs or some within the
23 city, and then come back with their home ownership

1 and equity skills and become productive members of
2 the community. If they choose that they can.

3 So we do not have the disconnected
4 incident that seems to be one problem with the
5 Goutrol type program. I've accomplished that.
6 All of the defendants are working hard to develop
7 a proposal that they can all agree to in terms of
8 funding, in terms of operation, in terms of
9 counseling, the program that needs to be redone
10 and then to present that as a joint unified
11 settlement option.

12 To date all of the defendants have
13 been quite accommodating. We're trying to work
14 these problems out over the course of the last 18
15 months of constant settlement discussions. The
16 Department of HUD, Housing and Urban Development,
17 is an active player in trying to fashion a remedy.
18 Local defendants are very active players in trying
19 to correct the historical problems that they have
20 committed over the years and get the
21 administration operational of public housing
22 programs. We do not have an agreement fashioned
23 yet at this time as we speak, some ongoing

1 efforts. But it's an effort that we expect will
2 produce results for the future. The applicant --
3 and that is the thrust of what our housing
4 litigation effort has been focused on. As an
5 organization we are committed to correcting what
6 we perceive to be the misallocation of government
7 resources through usually litigation, but also
8 through working with the various communities and
9 agencies that share a common goal and the goal
10 that fits with the goals of our organization and
11 being mindful of time, I would like to take
12 questions.

13 CHAIRPERSON ROGERS: Okay. We'll hold
14 the questions until after Mr. Hemphill has made
15 his presentation.

16 CLELL HEMPHILL

17 EXECUTIVE DIRECTOR

18 MINNESOTA STATE COUNCIL ON DISABILITY

19 Madam Chairperson and the balance of
20 the committee members, I would like to have just a
21 few minutes of your attention. First, a couple of
22 minutes for another observation of Commissioner of
23 Human Rights for Minnesota that contributed to you

10

1 just a few moments ago. I tried to stop David and
2 ask him to stay for a moment, but we had a
3 disagreement in the hallway I'm sure not only I
4 could hear.

5 For clarification sake, I run a
6 small disability organization, state funded in
7 which we are very rights -- advocacy oriented. I
8 have about 14 thousand unit calls per year and I
9 average about 100 to 150 of those calls per month
10 that are specifically related to rights-related
11 problems. My community is very, very concerned
12 about this utilizing the Human Rights Department
13 because of the long time period that it gets for
14 resolution of a problem. That's not untypical,
15 but I'm telling you from my, which I'm kind of a
16 new kid in town, this good gentleman and his years
17 of warfare leads me only to be concerned that if
18 it's taken 20 years to get to the level of
19 satisfaction for he and his community, I'm not
20 sure I've got 20 years left.

21 So for shortcut purposes, under the
22 ADA, that's Americans with Disabilities Act which
23 is once again the new kid in town, we're seeing

1 probably our best resolution to take care of
2 rights-related issues for my agencies. I'm not
3 saying that's the best way for all of us to look
4 at this issue, but I'm saying because it's new,
5 because it's a different piece of legislation, and
6 because it's kind of like a square peg fitting
7 into a round process, we're trying to resolve
8 those concerns principally by ourselves. I'll
9 give you an example that's untypical, but
10 concerning a case resolved through mediation, a
11 five and a half year old case. Now that isn't
12 saying we can't find exceptions like that in every
13 state in the country, but there is a series of the
14 concerns within our community that says we are on
15 the bottom of the ladder for resolutions of human
16 rights cases.

17 I would just kind of give you one
18 more feeling about that. Our observation and
19 understanding of what has happened in the last
20 three and a half years is that we have gone
21 through three commissioners, we've gone through
22 nine assistant commissioners, and we have seen a
23 reduction in the amount of investigators available

1 to the Minnesota public of a concerning level.
2 The reverse of that is we have seen a 40 percent
3 increase and a shift of management development.
4 David preferred not to stay and discuss the issue,
5 but I will discuss it with him again about the
6 lost of investigators. I understand as of a few
7 moments ago in the hallway that he has an open set
8 of opportunities for nine investigators. It seems
9 like a lot, but that's about the same number that
10 I think that's been reduced in the last 12 months.
11 I'm not sure, but through the restructuring we're
12 losing person power in order to look at case
13 resolution.

14 One other thing. A fellow colleague
15 that was just on a moment ago, gave a little bit
16 of information that was unique from my community,
17 my community being the disabled community. It is
18 seeing a significant increase in out state
19 Minnesota. For the moment, if you would picture,
20 we're a long narrow state. If you could for a
21 moment take a paint brush and make a C within the
22 confines of our state. The center part of that is
23 Dakota citizens, Dakota County, Ramsey County,

1 Minneapolis/St. Paul and on and on. Those areas
2 are receiving populations from south state. Once
3 again, paint brush around in your mind the C.
4 That population is reducing as quick as in some
5 counties. 26 percent population under 30 in the
6 last 12 months in a couple of southwestern
7 counties.

8 What we're seeing is resources
9 shifting quickly because people cannot find
10 opportunities. Once again, I use this good
11 gentleman as a colleague of mine because it's easy
12 for us all to use numbers, but for just a minute
13 all of our communities of color and myself are in
14 dire straits for employment opportunities. None
15 of us are any worse probably than my own. I run
16 65 to 75 percent unemployment in all cities at all
17 times. In outer state Minnesota it can run as
18 high as 90 percent. I will use a friend, a
19 colleague, and an ex-board member of mine that is
20 now a board member of yours, Jerry Hayes to
21 ratify. Generally speaking, we have some real,
22 real problems in out state Minnesota where we have
23 at least 50 percent of our population and we

1 literally have no transportation system. It makes
2 no difference what your color and what your
3 problems are, there just is no public
4 transportation, except in some cities. That only
5 adds to the dilemma of not getting correct
6 housing. That also is one of our greatest
7 problems for us. Rey mentioned just the volume of
8 ghettolizing, how we use old world, because I'm an
9 old gray haired guy, his community has done great
10 in the last few years of trying to break that down
11 and get vouchers so that they can be relocated.
12 It's different when you're in Jerry's chair trying
13 to find accommodations in housing, be they public
14 or be they personal because while chairs just flat
15 don't fit everyplace, and I use that so that you
16 can draw pictures in your mind as to how complex
17 it is for us to find -- and this town is like all
18 other towns. We have Seward which is a highrise,
19 almost predominantly persons with disabilities,
20 and if a fire comes, there is no evacuation
21 process designed for that highrise. I only give
22 you some of the problems that majority of the
23 residents of that public housing opportunity are,

1 in fact, in problem restricted conditions.

2 That isn't why I came. I just
3 wanted to clarify a couple of points that was
4 brought up. I do have some statistics also for
5 you to take home if you would. Our State of
6 Minnesota, I have some comfortable data for the
7 feds, but total number of human rights complaints
8 filed in 1993, 1992 was 1,275. The number of
9 disability-related complaints was 235. The total
10 number of employment-related disability
11 complaints was 190. The percentage of human
12 rights complaints based on disabilities was 18
13 percent, and in fact, employment was 81 percent of
14 the complaints filed. The average turnover time,
15 and this is an easy average, I think it's much
16 greater than that. Since my own staff figured
17 these numbers up, I guess I'll have to eat them
18 and take them, 305 days. I've heard that it's two
19 to three years, but 305 days is what the hard data
20 shows. I have lots of cases that tell me
21 different stories. Fiscal '94, total number of
22 human rights complaints filed 1,395, total
23 disability complaints, 295, total number of

1 employment-related disability complaints, 224. An
2 increase in the amount of human rights complaints
3 based on disability from the previous years from
4 18 to 21 percent. The good side of that is now
5 our data begins to tell me that we're seeing more
6 resolution and more mediation take place. After
7 246 days for the investigative phase, which
8 previously had been two years before they even get
9 some cases.

10 We feel in correlating data of a
11 significant magnitude is as follows: Our
12 population is the greatest amongst the minority
13 council. Normally my colleagues, which are
14 DeLeon, Lester Collins, Garza, and the Native
15 American Council head, from amongst the five of us
16 we all are really, really concerned about school
17 dropout issues. It's no different in our state
18 anymore than it is across the country. It's the
19 specificness my state is in, this in particular
20 any other home state we see between 35 and 40
21 percent children dropout rate. Once again that's
22 across my whole state. And for those of you who
23 have not been blessed by the waters in the Lake of

12

1 Minnesota, when you get to the outer parts of our
2 state, it's pretty bleak, pretty barren. And if
3 you don't do sugar beets, you'd better do corn.
4 If you can't do one or the other, you'd better
5 relocate into the big city. And the reason I say
6 this is employment last year, and it's very
7 difficult to get a hard, hard number, we
8 calculated between 56 and 70 percent unemployment.
9 Once again in the city this year we're saying the
10 numbers are changing adversely. We're seeing
11 dropouts at the rate of 38 percent, school
12 dropouts. We're saying now that employment has
13 moved into the 70 to 75 percent. If I took you to
14 where I live, which is 95 miles away from here,
15 and I commute daily, the unemployment rate for
16 persons with disabilities ranks above the 90
17 percentile rate. It's ag, it's rural, it's a long
18 ways away. But the reality is if you happen to be
19 on top of that, a person with color just flat
20 forget it in out state. It just is not probably
21 going to happen in your lifetime that you're going
22 to have an opportunity to have employment. It
23 isn't quite that totally barren, but it's very,

1 very close, in the above 90 percentile. If you're
2 Afro American male and in a wheelchair and living
3 in Duck Lake where I come from, jobs are very
4 sparse.

5 I will move you for a moment to
6 Washington because many of us would like to think
7 that's the mecca of resolution. I would have a
8 hard time supporting that thesis. By the way, we
9 train about ten thousand people in audiences a
10 year. A third of that training goes to people
11 interested in rights issues concerning
12 understanding of ADA and we push hard to file
13 complaints, go to Washington, Chicago, and in
14 Minneapolis. I on some days say that may be not
15 our wisest move, but if you are in a wheelchair or
16 on crutches or had a mobility restriction or
17 mentally retarded or mentally ill and you live in
18 my Duck Lake, Minnesota, a long ways for any
19 support services, you get turned down a number of
20 times, our feeling is you'd bet file because there
21 isn't a lot of change going to happen in your
22 lifetime unless you make some changes that way.
23 But once again I've got statistics for EEOC and in

1 Washington 52 percent of the current complaints to
2 the local offices are ADA related. In Minnesota
3 currently ranks 12th in the nation of the number
4 of ADA complaints filed with the EEOC. Total 1994
5 ADA complaints to date 1,106, total 119 ADA
6 complaints filed, a total 1992 ADA complaints
7 filed were 609. Typical and actual resolution of
8 time was about 258 days. We now see a backlog of
9 4,000 cases in EEOC totally nationally than we
10 were seeing a year to three years resolution. I
11 was on the phone early this morning about an
12 educational issue and they say we can't flat take
13 any more educational issue related problems in the
14 ADA area. We have now a backlog, it's probably
15 going to take us three years to resolve them.
16 This doesn't give us a lot of confidence that with
17 our new civil rights legislation that we're seeing
18 a learning from the problems of the past. So if
19 nothing else, I ask you all to come back to where
20 you all come from, if it's Hemphill and St. Paul
21 and Minneapolis, say it may not be working, maybe
22 we best ask some people how we can tweak it a
23 little bit, how they can make it work. So if

1 we're hearing concerns and complaints that have 20
2 years, 30 years to come to an factory to try to
3 make it work better and I'm coming up with a new
4 kid, a brand new piece of legislation and say I
5 want my share of the rights and down here on the
6 bottom what I draw as a ladder. Again, if I can
7 put one more, last one and I'll take questions.
8 If you will, for a moment, my fingers up this way
9 means tongs on a ladder any of the communities of
10 color all represented on these tongs. If you will
11 for a moment allow me to build a 5th, I'm telling
12 you that I'm on the bottom in any and everything
13 we have learned and all of the problems we have
14 encountered are now at the level we're trying to
15 find to then begin, and we're finding just as much
16 opposition, just as much concern, and just as much
17 difficulty in finding ways to even go through the
18 course. The woman that I mentioned, the five and
19 a half year case is been waiting humbly, and when
20 I met her the other day it had now generated to
21 the point she had five lawyers after waiting 5 and
22 a half years, and I had a good old attorney
23 general, good old boy, it took me about two

1 minutes to realize this is a real tough day and
2 ten hours later we found a resolution. But that
3 isn't a good way to handle things. It should have
4 been handled years and years ago.

5 I bow to your wisdom and questions
6 that you might have for us.

7 CHAIRPERSON ROGERS: Okay, thank you.
8 We will now entertain questions for Mr. Harp and
9 Mr. Hemphill.

10 MR. WEINBLATT: Mr. Harp, I hear in the
11 direction of your suit, a direct frontal assault
12 on public housing, period and so I have two
13 questions that arise from my interpretation of
14 that direction. Number one, is there new public
15 housing being sited and located in the old manner
16 today; and secondly, is the remedy that you're
17 seeking a legislative one; that is the increase in
18 the Section 8 program and the decrease in
19 ghettolizing of public housing, eliminating the
20 concept of public housing?

21 MR. HARP: The concept of public housing
22 is being sort of lowered the safety net for those
23 who can't afford housing, while it be there, it's

1 a question of how to administer that. So they
2 would have to have a system. In large part to
3 answer your first question, no, they do not make
4 the decisions to site project-based developments
5 in the same manner and to the same extent as they
6 did before. They've learned that from the errors
7 that are so glaring that they do not now dare to
8 build another north side project or Robert Taylor
9 Homes or something of that sort. The preferred
10 remedy now is scattered site housing and scattered
11 site individual space, vouchers or certificates
12 that the individual can take and use on the
13 private market to obtain rental assistance to
14 supplement to their income which they then pay to
15 any landlord who wishes to qualify for receiving
16 the Section 8 assistance for the renters.

17 So in a sense that part of the
18 problem is not present now, but the problem still
19 exists in how the Section 8 program is
20 administered and the low level of resources that
21 they provide for Section 8 certificates. They
22 don't have very many of them. They're, within the
23 whole state of Minnesota, there are 1,200 Section

1 8 certificates, so you're not dealing with a big,
2 big population of those problem based assisted
3 dollars.

4 In large part the housing assistance
5 dollars are paid to the project unit, being the
6 massive housing complexes or individual multi unit
7 projects that qualify for a project driven
8 assistance supplement. It goes to the developer.

9 The next part of your question, the
10 second question was --

11 MR. WEINBLATT: Isn't it more of a
12 legislative remedy that you seek rather than
13 judicial?

14 MR. HARP: Yes and no. No it's
15 definitely a judicial remedy. We have enough laws
16 per se to accomplish fairness and equality in that
17 context. We need appropriate enforcement of the
18 laws that we have. There will be some legislative
19 requirements implemented that we happen to get.
20 There's an appropriation issue that goes to the
21 question of how many Section 8 certificates will
22 be provided for this remedy. We're looking for a
23 substantial number and upon a national basis that

14

1 will require some federal appropriation. The
2 representatives and senators have been very
3 receptive to it and HUD is receptive to it. Our
4 last suit says well as the companion lawsuits that
5 are going on in the other cities that this is a
6 major problem. So we respect the legislative card
7 to cure itself, but what we need is to first
8 confirm effective administration and
9 interpretation of application of. If perhaps we
10 had correct application of fair housing laws, we
11 had correct application of the various public
12 housing statutes that prohibit discrimination in
13 citing application, we would not have had a
14 problem with making today to the extent that we
15 have to go back and reverse this misapplication of
16 laws. That is much more difficult when you got a
17 big project, most of them multimillion dollar
18 projects sitting in the middle of the city. You
19 go throughout, through each project disbursing and
20 it's very costly, and to do that, you have to
21 balance what you're doing on the metropolitan
22 level. There may be some legislative issues that
23 arise for those suburban jurisdictions that may be

1 locked in to accept their fair share of the
2 housing burden that flows in from this program.
3 To the extent that local units have barriers, they
4 do have barriers by ordinance, by regulation, or
5 by practice. They simply don't want to accept low
6 income housing recipient.

7 We fully expect that this remedy
8 will remove those barriers and will make the
9 metropolitan agencies provide strong enforcement
10 and carry a stick type of rules and regulations
11 that will encourage the recalcitrant jurisdictions
12 to step up to the plate and take their fair share.
13 That comes in the form of applying existing
14 federal housing subsidies, federal funding
15 conditions, the receipt of that by the various
16 local jurisdictions to adoption and accommodation
17 of the fair housing program. So we expect the
18 remedy to the both legislative and judicial
19 because we're not coming about, but for the
20 judicial action, but to enforce it with some small
21 legislative items.

22 CHAIRPERSON ROGERS: Rey, could you name
23 the defendants again?

1 MR. HARP: Commission on Public Housing
2 Authority, MCDEA, Minneapolis Community
3 Development Agency, the City Council of
4 Minneapolis, Metropolitan Council, Metropolitan
5 HRA, Capital Development Authority, Minnesota
6 Housing Finance Agency, HUD. It might be a few
7 minors.

8 CHAIRPERSON ROGERS: You also spoke of
9 -the program in Chicago.

10 MR. HARP: Gautreu, G-a-u-t-r-e-u, named
11 after the litigation, Gautreu versus Chicago
12 Housing Authority.

13 CHAIRPERSON ROGERS: And is there a name
14 for the Minneapolis program or is there one now?

15 MR. HARP: We don't have one currently.
16 It's still in developing stage of assuming the
17 settlement then takes final shape, again somewhat
18 restrained in what I can tell you because part of
19 it I'm not quite sure what is going to finally
20 come to. The large parameters of the resolution
21 are set and I think they will stick, but there's
22 still quite a bit of distance between here and
23 there.

15

1 CHAIRPERSON ROGERS: Lupe?

2 MS. LOPEZ: You mentioned that there are
3 1200 Section 8 vouchers throughout the whole State
4 of Minnesota.

5 MR. HARP: That's correct.

6 MS. LOPEZ: And are they all taken at
7 this time?

8 MR. HARP: All of them except I think
9 105 or so.

10 MS. LOPEZ: Does your suit, does it
11 contain like as part of the settlement if it goes
12 through will be designating a certain percentage
13 of those Section 8 homes.

14 MR. HARP: What I, right now what the
15 number of new Section 8 certificates that is being
16 discussed is that we find \$950,00, that's roughly
17 80 percent increase over what it's currently in
18 place. So that's a very substantial number and
19 that's where the cost item really is impacted. An
20 additional part of the cost item is removal,
21 replacement of the north side projects or portions
22 thereof which they require either rehabilitation
23 or just dropping for soil condition reasons and

1 it's economically unfeasible for MCHA to continue
2 all the north side projects in the manner and
3 location that they're in now. So that will be a
4 part of the resolution. They will be allowed to
5 demolish and replace those units on a scattered
6 site basis. But we're also talking about new
7 Section 8 certificates that will be available and
8 used.

9 CHAIRPERSON ROGERS: Any other questions?
10 Thank you, Mr. Harp and Mr. Hemphill.

11 We will take a five minute break and
12 we will start at 3:00 with the Yvonne Price.
13 Before we go, let me say we received a call from
14 the Mayor's Office and due to her tight schedule,
15 she will not be here. She will send her remarks
16 and so they will become a part of our official
17 report.

18 (A brief recess was taken.)

19 CHAIRPERSON ROGERS: So to get started.
20 I'll have you starting with Yvonne, state your
21 name and your role.

22 MS. PRICE: My name is Yvonne Price,
23 Y-v-o-n-n-e- P-r-i-c-e, I am the President of the

1 League of Minnesota Human Rights Commissions,
2 Morton, M-o-r-t-o-n, R-y-w-e-c-k --

3 MR. MINARIK: The Mayor is here.

4 (A brief recess was taken.)

5 CHAIRPERSON ROGERS: Our next presenter
6 is the Honorable Sharon Sayles Belton, who is
7 Mayor of the City of Minneapolis.

8 HONORABLE SHARON SAYLES BELTON

9 MAYOR, CITY OF MINNEAPOLIS

10 Well let me just say it's my
11 pleasure to be here. I know we had called earlier
12 indicating that my schedule was going to prevent
13 me from making my scheduled appearance. As you
14 know, this has been a very difficult period of
15 time in the Twin Cities. In the last of five days
16 we've had two law enforcement police officers
17 killed while on duty, and as well yesterday we had
18 the funeral service for Gleason Glover who had
19 given a lot of his time and energy to this
20 community over the past 25 plus years in helping
21 to enforce civil and human rights in a number of
22 areas and a number of other issues, and so it has
23 been a trying week.

1 I did not want to let this
2 opportunity to come to present to you escape. I
3 remember when I was in this room before and when
4 the Commission was visiting, I think at the time I
5 was either a council member or the city council
6 president and there were a number of questions
7 that the commission was raising, and as I look
8 over some of the questions that you have framed
9 for us as a community, I see that some of them
10 still remain unanswered and there perhaps is more
11 that we can offer you as a community.

12 What I want to tell you is that the
13 City of Minneapolis, in my opinion, has one of the
14 strongest civil rights departments in comparison
15 to other cities in the State of Minnesota. That
16 does not suggest that our department is perfect,
17 but I do want to suggest to you that we are one of
18 the departments that has probably the broadest
19 area of citizens who can receive enforcement
20 protection under it. It covers public
21 accommodation, it covers public persons whose
22 status is in public assistance, it covers sexual
23 preference, the standard race, sex, and sexual

16

1 harrassment in the areas of housing, employment
2 and so on. So we have a wealth of protection that
3 we can provide; however I want to suggest to you
4 that given the problems that are growing in the
5 City of Minneapolis and as well I expect other
6 cities across the country, the issue of the
7 protection of civil rights is in question as our
8 resources continue to dwindle as it relates to law
9 enforcement and housing and some of the basic
10 survival areas. We're finding even our own civil
11 rights department under a certain amount of
12 pressure, and while our civil rights department
13 under my leadership as mayor is very strongly
14 supported by me, I think that there is a time when
15 we are going to have to weigh the amount of
16 dollars that we can put into civil rights
17 enforcement in comparison to just dealing with
18 some of the basic survival issues that the
19 citizens of our community face.

20 Currently we're spending about
21 \$4,500, \$450 per case and our civil rights
22 department has shared with me that well that
23 really cost of doing a good job, a thorough job,

1 it really costs approximately \$3,000 per complaint
2 to investigate again thoroughly and within a
3 timely manner. Some of you might know that we
4 have a new civil rights director. We had Emma
5 Hickson our director for some seven years. As Ms.
6 Hickson's term was coming due, one of the
7 criticisms that we received from the public on our
8 civil rights department was the length of time
9 that it takes for us to process an investigation.
10 That has everything to do with the number of full
11 time employees that we can bring into the
12 department to satisfy the citizens who are looking
13 for a timely response to their complaint being
14 resolved.

15 I can tell you that a lack of timely
16 response allows for a circumstance in the
17 community that exists to continue to exist, and
18 for more persons to be victimized. So again, this
19 is a concern of ours. But in the context of the
20 larger financial restraints that we as a
21 municipality are experiencing, I suspect that our
22 civil rights department will continue to be under
23 pressure. As the Mayor of this city I have asked

1 our civil rights department to present their 1995
2 budget to me with a three percent cut. I don't
3 know how they will make the three percent cut, but
4 I have no choice but to ask them for that because
5 my alternative is to ask for a significantly high
6 tax increase, and in an environment where
7 certainly my citizens cannot afford that. So I
8 have a strong support committment to civil rights,
9 but again in the context of trying to balance it
10 within the larger objectives and responsibilities
11 of the office and the duty that is becoming
12 increasingly difficult.

13 Now we do know that we have some
14 opportunity to receive a certification from
15 federal agencies so that we are entitled to some
16 settlement dollars from them to investigate in
17 particular the housing complaints. We are not
18 currently certified, but our civil rights
19 department in the City of Minneapolis is currently
20 pursuing that. Again it's an attempt by us to try
21 to supplement city dollars with federal dollars so
22 that we can continue to perform effectively on the
23 part of the citizens who are seeking some

1 resolution with regard to discrimination.

2 Now let me just make one other broad
3 comment. In spite of the fact that the State of
4 Minnesota and the City of Minneapolis in
5 particular has been probably in the forefront of
6 the civil rights movement in this country, I will
7 tell you that the problems of racism and it's
8 impact are growing significantly in our community.
9 So much to the point that we have tried to work,
10 tried to organize a cross section of citizens in
11 Minneapolis from all the sectors of the society to
12 talk about the growing racism and to make some
13 committments to address it within the context of
14 their own sector. For example, we're asking the
15 business community to understand what the real
16 issues are associated with the perpetuation of
17 racism and the things that they do as institutions
18 to continue to perpetrate it. And we're asking
19 them to establish and buy into a set of
20 recommendations that we hope will help to reduce
21 it's impact. We've asked the business community
22 to do that, and as well the educational community,
23 the civic community, and the City of Minneapolis.

17

1 Our attempt here is to try to pass the
2 responsibility for the enforcement of civil rights
3 beyond the obligation of government and really put
4 it into the hands of individuals in our community
5 and get sectors assuming some responsibility for
6 it's elimination. We're only -- I should suggest
7 that we're only very partially successful in that
8 because people are overwhelmed by just the general
9 topic of racism and we're still struggling as a
10 community to try to figure out how we can even
11 talk about it in a way that keeps people treating
12 each other with respect and dignity and not, you
13 know, falling into some of the traps that occur
14 when you have real thoughtful discussions about
15 race and past practice and current actions and et
16 cetera. We're struggling with it as communities,
17 but we are committed to try to expand the umbrella
18 of those people who are responsible for the
19 enforcement for the protection and just for
20 keeping the issue of civil rights at the
21 forefront. Currently we do not get any support
22 from the State of Minnesota for the enforcement of
23 civil rights. I'm not under the impression that

1 that is ever going to happen. In fact I would
2 suggest that if we don't find a way to bring
3 additional dollars into civil rights enforcement
4 from outside of the City of Minneapolis, and we
5 increasingly look to the property tax as a way of
6 paying for it that there will be more people in
7 local government who will be suggesting that we
8 ought to have the State of Minnesota assume total
9 responsibility for the enforcement of civil
10 rights.

11 Now I personally think that that
12 would be a mistake. I think that that would cause
13 a lot of the citizens in our community to wait
14 even longer for a resolve of their complaint, but
15 I do want to suggest though that that is certainly
16 a problem and certainly a possibility. So I
17 personally would like to see every opportunity
18 that I can for the federal government to, you
19 know, provide some support for local governments
20 to continue to enforce civil rights.

21 I've heard the president and others
22 talk about the importance of building a unit and
23 connectedness amongst the citizens of our

1 community if we're going to strengthen America and
2 put her back on, you know, the front page and on
3 the front line. Well it starts with people
4 deciding as a community that every citizen has
5 worth, and so my view is that you build it then
6 put your money where your mouth is. We definitely
7 need it at the local level. And I think it's
8 important for the government to again not buy it,
9 but certainly assume some responsibility for
10 protecting the rights like that that all of it's
11 citizens are supposed to have. And when they are
12 denied them, that they provide some level of
13 recourse for them.

14 CHAIRPERSON ROGERS: Thank you.

15 Questions?

16 MR. WEINBLATT: Madam Chair?

17 CHAIRPERSON ROGERS: Alan?

18 MR. WEINBLATT: Madam Mayor, thank you.

19 I know of your own personal dedication to the
20 cause of civil and human rights and without
21 intending to put any greater burden on you than
22 already is, I think it might be of a value and I
23 think through the presentation of the issue to

1 community groups and to the citizenry in
2 Minneapolis in general to remind them that you
3 have personally, and the city as a whole come from
4 a relatively long tradition of recognition of
5 worth and dignity of each human being and
6 committment to enforcement, both in words and
7 deeds.

8 Going back to your predecessor,
9 Humphrey transformed Minneapolis into a place, the
10 beginnings of a place that was a heavy burden for
11 you personally, but also for the citizenry. The
12 last question I really have of you, has the city
13 given any thought to a violator's fee; that is to
14 a civil penalty in cases of violation of human
15 rights equal at least to the cost of the
16 investigation, whether it's \$3,000 or \$450 or
17 whatever the number is.

18 MAYOR BELTON: I don't think that a -- I
19 don't think I've ever been a part of a discussion
20 Commissioner where that was kind of on the table.
21 We have talked about the importance of bringing
22 all of our city departments under the umbrella of
23 civil rights enforcement. As you know, our

1 Minneapolis police department is exempt from
2 citizens being able to bring a civil charge
3 against them. All citizens have to go outside of
4 our civil rights department to do that, but we
5 have not talked about the idea of if there is a
6 finding of discrimination, then charging that
7 party with the cost of the investigation. This,
8 as you know, if we do have a finding, we were in a
9 position to force the party to provide the victim
10 with a payment of sort. And so I would suggest
11 that that would be a very interesting conversation
12 to say in addition to being able to request an
13 award for the wrongdoing that you will also assume
14 some responsibility for the cost of the
15 investigation. It probably would get their
16 attention. And it's a suggestion that I don't
17 mind bringing back to Mr. Kenneth White, who is
18 our new director of civil rights in the City of
19 Minneapolis, and I might also suggest though that
20 one of the things that we have also asked Mr.
21 White to do is to take the message of civil rights
22 enforcement out to the public so that they
23 understand the importance of the department and

1 also it's history and legacy.

2 Just so that we all are aware, Art
3 Navlin, who was the mayor back in the mid 60s was
4 the first Mayor of the City of Minneapolis who
5 brought the issue of civil rights to the forefront
6 and created a blue ribbon committee of which Mr.
7 Gleason Glover chaired. That committee gave birth
8 to the civil rights of the department and a couple
9 of other initiatives in our city. So we do have a
10 legacy, but again even with the legacy we are
11 going to have to identify new and creative ways of
12 being able to fund civil rights enforcement in the
13 City of Minneapolis and we definitely need some
14 new partners.

15 MS. LOPEZ: Just a comment.

16 CHAIRPERSON ROGERS: Lupe?

17 MS. LOPEZ: I think that people usually
18 pay attention when it hits their pocket, so I also
19 think that would be a good -- something to look
20 into. I don't think anything works better than to
21 admit you've done something wrong and have to pay
22 something for it.

23 MAYOR BELTON: It would be very helpful

1 to me and I would imagine as well to Mr. White
2 that if it's your experience that other
3 municipalities across the country have used this
4 as a process or a way of funding civil rights,
5 that you would send to me as Mayor or to Mr. White
6 as the Executive Director of Civil Rights in the
7 City that information so that we don't have to
8 reinvent the wheel and we can use some other
9 city's experience as a basis for putting forward
10 this new idea. So I would really appreciate
11 commissioners if you would help us access that
12 information.

13 CHAIRPERSON ROGERS: Lee?

14 MR. RUIZ: Mayor, there is precedent for
15 a fee such as that. There's administrative law
16 judge hearings in the affected industry who must
17 pay for that hearing which can run several hundred
18 dollars, that's just for the hearing. But it
19 would seem to me that it's fair and equitable to
20 make the violators pay since they are the users of
21 the service, so to speak. So why spread that cost
22 amongst the people that had no participation in
23 the discriminatory practices. I would suggest

19

1 beyond that also in that I was going to say from
2 the state human rights department also that's a
3 way to hold down cost and yet give adjudication to
4 the various cases brought before the various
5 panels. That is one way of thinking. I
6 definitely believe that the concept has merit.

7 CHAIRPERSON ROGERS: Do we have any other
8 questions?

9 MAYOR BELTON: Well I hope you have a
10 wonderful stay in Minneapolis and I know the
11 community is going to come forward and paint for
12 you the real picture of the status of civil rights
13 in our community. And while I'm very proud of
14 Minneapolis in general on this subject, I do want
15 you to know that we have much work to do. Racism
16 is very alive and well in this environment and we
17 suffer from what people call Minnesota nice which
18 is you know we smile in your face and then we do
19 the deed, and we really want to put an end to that
20 and really help our community come together as one
21 because the problems we face in our community over
22 and above civil rights violations warrant every
23 single citizen deciding to work in cooperation

1 with each other in every aspect of the community
2 life.

3 Thank you for giving me an
4 opportunity to come and speak with you.

5 MR. WEINBLATT: Madam Chair, if I may?
6 I don't know if her Honor received a copy of our
7 last report which addresses a related topic of
8 media stereotyping of minorities. If she hasn't,
9 I would request staff to provide a copy because it
10 seems to me that this is one area in which the
11 media ought to be more than enthusiastic about
12 spreading the message.

13 MAYOR BELTON: Commissioner, let me just
14 share with you I didn't highlight it because I was
15 really here just to talk about civil rights and
16 try to get an opportunity to get some financial
17 support for our department, but when I mentioned
18 the group of citizens that are working together to
19 address the issues of racism, the concept is
20 called Minneapolis Initiative Against Racism, and
21 one of task forces that we have is specific to
22 the media and we are doing a considerable effort
23 in terms of making sure that the newscasters have

1 a better understanding of the racial and ethnic
2 community in the City of Minneapolis. We are
3 identifying for them new resources for information
4 and input so that they don't continue to just
5 report on us when they're talking about crime and
6 violence, when they're talking about neurosurgery
7 and dentistry and nuclear warfare. Whatever the
8 subject matter is, we are going to identify for
9 them people of color from across this Twin City
10 area who are experts in that subject so that we
11 can change the perception of European Americans
12 about the contribution that we're making in the
13 community.

14 Oh a monthly basis we have ethnic
15 people's meeting with every one of our news
16 stations and our radio stations again establishing
17 guidelines of dialogue for the purposes of trying
18 to destroy those stereotypes. We have people who
19 are monitoring the news so that when there's a
20 violation we can put it on the table of the news
21 director right away and get him or her to respond
22 to why this reporter used a racial slur, you know,
23 or did whatever it is that they did to warrant our

1 being concerned about it.

2 I appreciate the opportunity to
3 understand what you all have learned from your
4 experience across the country so it can strengthen
5 our local effort here. We're serious about
6 dealing with this problem and again some of the
7 things that we're doing aren't monetary in nature,
8 but they're designed to get at some of the
9 institutional things that are going on. That's
10 right Commissioner Lopez, the preventative kinds
11 of things so that we can move forward.

12 CHAIRPERSON ROGERS: Let me just add
13 that I'm a member of the task force that the Mayor
14 just spoke of and they are all working with our
15 document by their sides, so they certainly do have
16 that.

17 Thank you for taking the time in
18 your busy schedule to make a very enlightening
19 presentation.

20 MAYOR BELTON: Thank you. My pleasure
21 to be here.

22 CHAIRPERSON ROGERS: We are now going to
23 hear from the Minnesota League of Local Human

20

1 Rights Commission, and along with Yvonne Price,
2 several members of the Commission. I believe
3 Morton Ryweck was in the process of spelling his
4 name, so Morton, can we start with you?

5 MR. RYWECK: Morton Ryweck, M-o-r-t-o-n
6 R-y-w-e-c-k. I'm working with the League of
7 Minnesota Human Rights Commission which is a state
8 project Aware.

9 MR. ALCORN: Wallace Alcorn, Chair of the
10 Austin Human Rights Commission, A-l-c-o-r-n.

11 MS. WILLIAMSON: Pat Williamson, Chair of
12 the Mayport Community Relations Commission.

13 MS. MAC CROSS: Linda M-a-c-C-r-o-s-s,
14 I'm a human rights commissioner, St. Louis Park.
15 I chair a grievance procedure task force and I'm
16 an organizational development consultant and
17 trainer that deals with diversity issues. So when
18 we're done with this human rights thing, I hope
19 you'll give me one minute to share my experience
20 in public housing which you listened to before,
21 but I'd like to make that contribution wearing
22 another hat.

23 CHAIRPERSON ROGERS: Okay, time

1 permitting we will do exactly that.

2 YVONNE PRICE, PRESIDENT

3 MINNESOTA LEAGUE OF LOCAL HUMAN RIGHTS COMMISSIONS

4 I think to set the stage I'll give
5 you a little historical background of the League
6 and then in the interest of time I'd like you to
7 hear from all of these other commissioners.

8 The League of Minnesota Human Rights
9 Commissions was founded in 1972 and reorganized in
10 1987 as a coalition of local human rights
11 commissions which have been established by charter
12 or ordinance in communities throughout Minnesota.
13 While its member commission are public agencies,
14 the League is a private non governmental
15 organization with a 501 C 3 classification under
16 the IRS codes. Many grants and gifts to the
17 League are tax deductible. The League is the only
18 private state wide agency concerned with fighting
19 all forms of illegal discrimination and of
20 enhancing the rights of all groups of people
21 defined under the Minnesota Human Rights laws
22 Statute 363.

23 Members of commission as of July,

1 1994, Albert Lee, Arton Hills, Austin,
2 Bloomington, Brooklyn Center, Brooklyn Park,
3 Columbia Heights, Konrapi, Cottage Grove, Crystal,
4 Eden Prairie, Medina, Alton Heights, Friendly
5 (phonetic), Golden Valley, Libbey, Hope, Tinisanti
6 County, Lake Elmo, Maplewood, Mancato, Marshall,
7 Novice County, Minneapolis, Moorehead, New
8 Brighton, New Alm, Northfield, North St. Paul,
9 Oakdale, Oreno, Plymouth, Red Wing, Ridgefield,
10 Robbinsdale, Rochester, Rose Health, St. Cloud,
11 St. Louis Park, St. Peter, Shoreview, St. Paul,
12 Virginia, White Bear Lake, Wilbur, Wynonna and
13 others in formation. Among the League's purposes
14 are to encourage and assist development of new
15 human rights commissions in cities and counties
16 throughout the state which is one of Morton
17 Ryweck's projects to help increase expertise and
18 involvement level of human rights commissioners in
19 their community, to monitor and improve and
20 promote the use of the no fault grievance
21 resolution process for resolving human rights
22 disputes on the local level, to gather information
23 and publications involving human rights in

1 Minnesota, especially touching on local
2 opportunity and activity to circulate news of
3 human rights happening regularly to interested
4 parties throughout the state. To develop
5 educational materials on human rights, especially
6 on Minnesota Human Rights Act for local
7 commission's use in their schools and communities.
8 To develop models for local human rights
9 observations, such as Martin Luther King Day,
10 Cinco de Mayo, American Indian month, Black
11 History month, Asian Celebration and other
12 activities to conduct workshops and conferences to
13 assist and inform the city and county officials
14 and others who are concerned with enhancing the
15 rights of all the communities, and to cooperate
16 with the Minnesota Department of Human Rights in
17 an effort to enhance human rights in Minnesota.

18 Currently we have 24 directors,
19 elected directors on our board. Our budget is
20 roughly \$5,000 a year, our only income is dues
21 from the member cities. We meet monthly in cities
22 around the state. I was a member of the
23 Bloomington Human Rights Commission during my term

1 on that commission and negotiated 52 no fault
2 grievance cases at the local government level. I
3 believe strongly in the no fault process and that
4 if there's a way if we can find a way to fund the
5 Department of Human Rights, that they should be
6 the entity that should provide it because they are
7 the enforcement agency in our state.

8 So with that, I'll turn it over to
9 Dr. Wallace Alcorn from Austin.

10 DR. ALCORN: I chair local human rights
11 commission in metropolitan elitist referred to as
12 out state. Refusing that piece of sofistry
13 (phonetic), I affirm that we are a part of that
14 geographically and demographically larger portion
15 of the state. We are a food industry city of
16 23,000 in a rural area. Within this past eight
17 years we have gone from being a culturally
18 racially and economically homogenous society of
19 old family to one of marked diversity. Not even
20 diversity has turned, see not usually acted upon,
21 but always influences attitude and perception.
22 Although our commission is longstanding, it has
23 been uninvolved and unnoticed until three or four

1 years ago. It has been dutifully maintained by
2 city government, but only recently has come any
3 active support or actual value. The commission
4 has been a sincere service who has always been
5 willing to respond to the needs of every presented
6 to them, but the present commissioners are
7 dedicated to the mission and proactively involved.
8 Although some radical activity from the
9 metropolitan area have been bitterly criticizing
10 the honesty of greater Minnesota communities to
11 innovate the human rights provisions solely in
12 recognizing the needs is closer to the reality.

13 It isn't that we don't care, but we
14 don't always understand. Human Rights Activism
15 has become associated with social engineering and
16 abandonment of community value while the wish to
17 progress is not absent the conservation of
18 traditionally validated values seems the first
19 order. Our Commission regularly is confronted
20 with suspicions of being liberal do gooders out to
21 get the goods on the politically incorrect. We
22 are followed to protect the rights of all humans,
23 even the majority. We have asserted our ability

1 to engage in no fault grievance procedure. We
2 have grown from waiting for requests to projecting
3 our readiness. We no longer depress ourselves
4 with a small number of actual cases because we
5 have customized the value short of or even beyond
6 that. Most of the inquiries we receive are not
7 cases that really are illegal discrimination and
8 we feel we provide a worthwhile service in
9 teaching inquirers the meaning of law and
10 suggesting procedures by which resolving their
11 conflicts. A smaller number of inquiries evidence
12 the need for professional attention at the state
13 and we considered a worthwhile service to
14 encourage that appeal and to assist in making it.
15 We've come to feel then that we can validate our
16 existence and activity without actually mediating
17 any cases; however there have been a few of these
18 and they have been administered successfully.

19 Early in our period of activity we
20 focused on local law enforcement agencies in the
21 public schools. This began with learning from
22 them what they are already doing and how they
23 perceive the needs, then we engage in cooperative

1 development of programs. We had not needed to do
2 more with the schools and observed sincerely
3 effective programs, but have conducted training
4 sessions on cultural diversity with law
5 enforcement. At the same time, we have sought
6 exposure in the public news media. We discussed
7 with them appropriate ways to report and comment
8 on socially sensitive matters and to recognized
9 the news value of human rights efforts.

10 I serve on the advisory board to the
11 local newspapers and another commissioner is the
12 official liaison for the commission. The recent
13 legislative procedure for the sexual orientation
14 amendment gave us the opportunity to project our
15 resources and get offices. We held both open and
16 semi closed sessions so all parties now -- well
17 they've had the opportunity to, clearly to
18 identify their concerns and promote their separate
19 causes. Probably this project brought us more
20 into the public attention than any other one thing
21 we've undertaken. We are now working through the
22 final details of the existing city commission
23 functioning as if one commission with a yet to be

1 created county commission. This will increase
2 personnel resources, scope of operation and
3 strength of impact. We are now creating a train,
4 a speaker's bureau that will feature commissioners
5 and others with a published guide to personnel and
6 topics to be distributed widely. We refuse to
7 accept responsibility for the scope of human
8 rights tasks ourselves because we are more
9 concerned that human rights are facilitated and
10 experienced than in getting credit for having done
11 it.

12 In point of fact, probably more
13 things are accomplished by our individual
14 commissioners than other activities than they have
15 discrimination letters. The commission often
16 becomes a clearing house or coordinating agency to
17 preclude unproductive duplication, but encouraging
18 mutual re-enforcement among many interested
19 community groups.

20 Finally, we must be honest to
21 indicate that the Minnesota Department of Human
22 Rights has often been a disappointment to us. Our
23 perception is they perceived us more as an

1 auxilliary, if well-intended, but not especially
2 competent novices than as a legally constituted, a
3 valid local action agency. When interest is
4 shown, it seems more to restrict us than to
5 facilitate us.

6 When we take the initiative, they
7 seem slow and indifferent in response. Their
8 response to our referee has been erratic and
9 unpredictable. They seem more interested in
10 prosecution than prevention. We respect their
11 office and are jealous of their resources, but we
12 need their help and actively support and
13 encouragement. Thank you.

14 CHAIRPERSON ROGERS: Do we have any
15 other speakers?

16 MS. WILLIAMSON: I've been an active
17 member of the League Board for about ten years I
18 suppose, and I've also been past president of the
19 League and the Mayport Commission. I've chaired
20 that several times in Mayport we tended to focus
21 mostly on educational and outreach in the last few
22 years and in that way we've been trying to work
23 with schools, with some teachers on educational

1 issues. We've run a few essay contests, poster
2 contests in the schools to try to inform young
3 children or to better inform them, make them more
4 aware of interaction and concern and respect for
5 other individuals. We have also worked closely
6 with the Department of Human Rights and trying to
7 establish other commissions around the state. We
8 work with neighboring cities to establish new
9 commissions in the last three or four years, and
10 with several communities in other areas of the
11 state. And I'm concerned in Mayport we're a city
12 of approximately 30,000 individuals and in our own
13 area we've had experienced more than a few racial
14 problems of the last five years within the schools
15 and in the streets, and we're concerned that
16 unless there are not more joint efforts within and
17 among the communities and in cooperation with the
18 state department, things will only go -- could end
19 up much worse than they are. And it's really
20 important to have the leadership from the
21 Department of Human Rights working with their
22 local commissions and the League as a mechanism to
23 reach the communities and to coordinate activities

3

1 and the interpretation of individual effort.

2 CHAIRPERSON ROGERS: Thank you.

3 MS. MAC ROSE: I guess I'm going to
4 share with you my experience as human rights
5 commissioner. There are many reasons why people
6 serve on human rights commissions, mine is that
7 our community be a welcoming community and people
8 from the diverse backgrounds are comfortable
9 living in our community.

10 In order to do that, I think we need
11 to do one thing. When I joined -- the Human
12 Rights Commission was formed in '68. There's
13 never been a no fault grievance commission. When
14 the state had anything, they sent it to mediation,
15 West Hampton Mediation Services. We are seeing
16 that, not me, but other commissioners had arranged
17 to do. My first part of coming onto the
18 Commission was finding out that nobody knew what
19 was going on in our community. I was being told
20 that the state Human Rights Department would get
21 wind of it or we would tell them to do that. So I
22 called the city and asked them, said I was being
23 discriminated against, what shall I do? And they

1 said hire an attorney. So I quickly realized that
2 we didn't know what was going on and there are
3 reasons why. So I wanted to get in touch with
4 what was going on and I invited several human
5 rights commissions to come and speak to us and we
6 had a forum and then I joined the suburban racism
7 committee and I went to the League and I went all
8 over trying to figure out how we were going to be
9 effective and what I've come down to right now is
10 we have a grievance procedure task force in order
11 to look at the first point of contacts; who all is
12 even following that. There are human rights
13 violations in our community, who were being
14 called, and as I looked at it, I find out that
15 sometimes we don't know what is a civil rights
16 violation. The police in our community use
17 mediation services. There was a fight in an
18 apartment building and they sent that to
19 mediation. In mediation it turned out that the
20 fight come about because the people of color in
21 that apartment building were not getting their
22 windows washed while the white people were. The
23 white people could store their bikes, the people

1 of color couldn't. So there were racial things
2 going on, but yet it wouldn't really be known that
3 it was racial. It wouldn't come through that kind
4 of vehicle. So right now we've been spending the
5 last year trying to figure out who all even knows
6 what's going on.

7 One of our surveys has been to do a
8 survey of all city people to find out who is being
9 called in. I thought the survey was sent to
10 everybody and our city management decided not to
11 send it to police, fire people, and public works
12 people where there were mainly white males who
13 might get offended by the survey which was really
14 simply saying have you ever gotten a call about it
15 and what have you done? So I convinced them the
16 police needed to be part of it and my task force
17 has a police captain on it and that's been really
18 good. We have someone from housing and someone
19 from police within the city so that they can work
20 with us, and right now we have our meeting with
21 our city council, city managers to figure out how
22 we're going to get the rest of that survey. So
23 that's very bad for us. I personally believe that

4

1 the city don't want to know what's going on in the
2 community. You can say you're a lovely community
3 as long as you don't know. The most complaint I
4 can find go to the newspapers in our community and
5 into our like The Sailsor, The Sun, whatever the
6 local one, they got 20 complaints last year, two
7 years ago, basically related to the police. I
8 can't get into that. We're hearing a lot of our
9 people of color being pulled over by police. The
10 City Council gotten letters from people of color
11 saying they've been pulled over by the police.
12 We've asked as a Commission to have some kind of
13 advisory panel and no one responded to us. I've
14 tried to work with the police chief because I've
15 worked in a police department as a consultant, but
16 he's pretty defensive. So that's a real
17 frustrating area for me.

18 I just did a diversity workshop in a
19 factory in my community and both sessions it was a
20 24 hour a day plan and both sessions I had the
21 managers said there are people of color being
22 pulled over by the police on the way to work,
23 whether they're walking to work or driving to

1 work. A Vietnamese manager says he's been
2 followed twice. A man from India says his
3 brother's been stopped just bringing him something
4 over. I asked him to write a letter thinking as a
5 business they would get heard faster than we could
6 and they have decided that they don't want to
7 jeopardize their relationship with the police.
8 And so I think the person making that decision has
9 his own racism issues and he wants to be
10 protected. So there's some funny issues in here,
11 but it's a real frustration for me. So I see that
12 we are -- I don't see anyone that's effective in
13 human rights as far as I'm concerned, and if we
14 were effective and if we could design an effective
15 procedure, I believe that why would anybody
16 believe that? I mean there's too many. My friend
17 of color, when she had an incident in Golden
18 Valley, she would never think of going to the
19 Human Rights Commission. I convinced her to go to
20 the Mayor.

21 How are we being seen in the
22 community? Are we effective? We don't feel
23 effective, and we're being seen that way. So I

1 think if we're going to do anything, it has to be
2 money allocated to buttress this task along time.
3 We have a long history of not being effective and
4 if we were going to design an effective process,
5 we need to have money to educate people and to
6 show them that we can be effective. So that's one
7 thing. I can go on for hours.

8 MS. WILLIAMSON: Can I just state one
9 thing? In Maplewood we have actually the reverse
10 experience. We have developed a close working
11 relationship with both the police chief and city
12 manager, and we now have a system in process
13 whereby if there are any racial tensions or
14 difficulties, the Commission will be notified so
15 that we can contact the individual and see if they
16 want any assistance or someone to talk to from the
17 Commission member. The commission members being
18 non city people, they feel comfortable talking to
19 us and that's worked out well. So there are some
20 cities when you say cities you may have been
21 generalizing, I would say that does not include
22 Maplewood. That doesn't mean we don't have
23 problems, but we're actually working on them.

1 MS. MAC ROSE: I do want to say because
2 of the task force I do have a police captain from
3 housing and we have been dealing with grievances
4 that have been coming and it's been -- even I'm
5 not sure how much people even need to have a -- if
6 there's a grievance. There is one man who
7 complained that his friends of color are being
8 stopped by the police and I talked to the captain
9 and he's so happy that he got attention from me
10 and attention from the captain that that's really
11 what he needed to have, I think, his need to be
12 heard.

13 So I'm not sure all time that we
14 need to go real far with what we're doing. I
15 don't want to make it sound like we don't have
16 anything going, but I guess I may be more
17 skeptical. I just don't believe that most
18 communities want all their dirty laundry aired and
19 that's how they feel threatened.

20 CHAIRPERSON ROGERS: And I would almost
21 have a question because the person that you're
22 talking about may have been satisfied by talking
23 to the policeman. Has that stopped his friends

1 from being unnecessarily stopped by the police?
2 So it seems to me that would be a core of that.

3 MS. MAC ROSE: Now if one of his friends
4 is stopped, he has a direct line to the captain to
5 call him immediately. So they've set up that and
6 I think that makes him happy.

7 CHAIRPERSON ROGERS: As a former resident
8 of St. Louis Park, I know how this concerns
9 personally --

10 MS. MAC ROSE: At the same time, because
11 this man of color told me his friends don't want
12 to come to St. Jewish Park anymore, as a Jewish
13 person, I was very concerned that this incident
14 contributed to police being, you know, St. Louis
15 Park being called St. Jewish Park, and the
16 perception that it's Jewish and does that add to
17 black Jewish relationships and the problems? And
18 I was a little concerned about that and first I
19 talked to him about that language that, was that
20 language okay for him?

21 MR. RYWECK: I'd just like to pick up on
22 a few of the things that were said here and a few
23 of the things that Yvonne Price said the size of

1 the League at the beginning. Number one, we have
2 close to 50 leagues throughout the state. There
3 were about 11 formed so far this year and there
4 are a number in the process of being formed. Our
5 goal this coming year, 1995, is to form 12 to 14
6 new leagues throughout the -- new commissions
7 throughout the state and the number 2 one of our
8 emphasis this year touches upon a few of the
9 things that you said here has been setting up a
10 series of regional meetings throughout the state.
11 We've done them in nine cities on how to counter,
12 how to identify and report and how to try to
13 prevent hate crimes in communities. Every one of
14 these meetings we've made an expressed effort to
15 have the police chief and the county sheriff
16 participate in these nine regional meeting. We
17 have the cooperation of the state department of
18 police chiefs and the state sheriff's office. As
19 a result of these meetings, what has come out of
20 it, one of the unexpected bonuses that's come out
21 of these meetings on hate crimes is that we now
22 have a much closer relationship with a number of
23 police departments throughout the state and they

1 have invited us to three meetings this month; the
2 police chiefs. We've just conducted a session at
3 the Criminal Justice Association meeting at the
4 Radisson where there were lawyers, police chiefs
5 and the like. So we have a lot of things
6 developing and hopefully we'll have a much more
7 closer relationship with the police chiefs.

8 When we met with the police chiefs
9 and their officers, we not only deal with them on
10 hate crimes, but we remind them of some of the
11 issues that we've just broght out by Linda MacRose
12 that we're really dealing with here. It's not
13 just hate crimes, but the continuum prejudice,
14 bigotry as well as hate crimes and that the police
15 have responsibility in this area. So we expect to
16 do much more this year with police departments
17 throughout the state. And I just wanted to
18 apprise you of that. We're working more closely
19 with them.

20 We also hope to do more training
21 with the commissions on no fault grievance
22 procedures, as Dr. Alcorn said. Some of the
23 commissions want more of this training and we need

6
1 the help of the state to do this training in
2 conjunction with them and in cooperation with
3 them. And some commissions feel that they have
4 not been as responsive sometimes to the state as
5 they could be or should be to local commissions
6 who want this training. The state doesn't have
7 the funds for it, but if we can go out and raise
8 some foundation funds, as we're trying to do.
9 Maybe they can still work with us more closely in
10 overall grievance training as well as other
11 elements of the League's programs. I just wanted
12 to highlight those areas that were going out. We
13 expect to have at least a dozen new commissions
14 formed throughout the state. Some of them are in
15 the county basis. That's a new development. Two
16 are county wide, others are exploring it. We have
17 a new one in Isanti County, which includes the
18 Cambridge City area, and as Yvonne Price said, in
19 Nobles County, which including the Worthington
20 area. So we're reaching out beyond the big city
21 in those areas to the small town that surrounds
22 them where no group really has a civil rights
23 presence. And that's one of the unique functions

1 and contributions the League of Minnesota
2 Commission can make in reaching a lot of these
3 smaller communities in the rural areas as well as
4 dealing more effectively with civil rights in the
5 metropolitan area. If we gain more skills
6 ourselves.

7 MS. MAC ROSE: I wanted to say from my
8 commission standpoint, my grievance procedure task
9 force, we probably would not do no fault
10 grievance. We are probably going to set up a
11 matrix of people where people can go, but I want
12 us at least to have a handle on what's going on in
13 our community. I don't like that no one knows the
14 numbers, so I'd rather we know the numbers and
15 then get into who is solving it. But I'm not
16 trusting you to build trust with me to make sure
17 the state was doing it. But, also even if the
18 state doesn't, I never hear what's going on in my
19 community. For me not to know that, I won't stay
20 on more than another year if I have to be on this
21 commission and not know what's going on. To me
22 it's really a fundamental piece that should be in
23 there. I'm not looking for no fault. I'm not

1 looking for the state.

2 MR. RYBECK: Every commission has
3 different needs and so are looking for it.
4 Particularly this full commission also wants to
5 deal with some of the simple discrimination
6 complaints in their community that they ask deal
7 with in processing them locally, not just going
8 through, okay.

9 CHAIRPERSON ROGERS: Mary Ryland?

10 MS. RYLAND: I'm painfully aware that
11 Duluth is one of those places that do not yet have
12 a Human Rights Commission.

13 MR. RYBECK: It's in formation.

14 MS. RYLAND: I hope that it really gets
15 put together. I missed the last meeting. I
16 didn't attend for that, but it's -- the call is
17 out to citizens that are interested to come. The
18 one meeting, were some of you up there before the
19 big human rights that was absolutely an excellent
20 meeting.

21 MS. RYBECK: It was our meeting. Yvonne
22 opened it up.

23 MS. RYLAND: You won the day. And I

1 think this response from Scott Lyons of the police
2 chief and Wall and the sheriff and so on, it was
3 just an excellent way to put that together, and
4 that Dr. Sullivan was absolutely wonderful in his
5 speech on hate violence and so on. And so I
6 really wanted to credit you then for the inclusion
7 of that kind of a lecture start and then their
8 response.

9 MR. RYBECK: That was one of our regional
10 meetings and by the way as a result of that
11 meeting it's stipulated the genesis of a new
12 commission in Duluth and it will be in, I'm
13 optimistic that it will be formed if a few of your
14 city councilmen are working on it and the police
15 chief was very sympathetic. In fact, he joined
16 our state wide response hate network. I forgot to
17 mention that, that every one of these nine
18 regional meetings we ask people to volunteer and
19 become part of our state wide response network to
20 hate crimes. Over a hundred people signed up for
21 the form and they agreed to help report incidents
22 that occur in their community to a local person as
23 well as to us at the state level, as well as to be

7

1 the eyes and ears in their neighborhood. So, and
2 your police chief was one of those who signed up
3 to be part of that mechanism.

4 MS. RYLAND: I think there's not yet a
5 budget up there and it's hard to do mailings and
6 so on throughout the budget, but the YWCA has been
7 assisting in putting out some mailings and so on.

8 MR. RYBECK: Another city where we had
9 these hate crimes regional meeting and we do not
10 have an active commission in Bimenji, either as a
11 result of the meeting in Bimenji, a new committee
12 will be formed. So these regional committees on
13 hate crimes has also led to the stimulation of
14 possibly new commissions in those communities, and
15 we certainly hope Duluth will be one of them.

16 MS. RYLAND: I think that they should be
17 embarrassed into it if nothing else because
18 someone did make the statement, well we really
19 don't seem to need it here. But I think when they
20 find out that there's 50 smaller towns, plus
21 Minneapolis-St. Paul that all have them, well
22 there must be something out there that really is
23 big.

1 MS. RYBECK: It's a growing momentum to
2 establish --

3 MS. MAC ROSE: Just briefly, one of the
4 brief concerns when commissions are established
5 for cities is a budget. As you mentioned, a lot
6 of them are established without budgets. For
7 years in Maplewood we had no budget; however there
8 are other ways to get the message out using other
9 groups and various other resources, ways of
10 communication, but establishing as a commission is
11 getting them sites and the grassroot groups in the
12 communities where citizens feel they can go to the
13 local level, and it's not getting sort of deeply
14 involved. You can make a lot of difference to
15 people. It's another opportunity.

16 CHAIRPERSON ROGERS: Alan?

17 MR. WEINBLATT: I have one question for
18 Mr. Rybeck, one for Ms. Price. Those communities
19 that have not as of this point seen fit to
20 establish a human rights commission, I know it's
21 none in Dakota County, in any of the cities, is
22 there any kind of pattern of reasons or the
23 rationales or roadblocks in which you've observed?

1 MR. RYBECK: Yes, there's one. There
2 are one or two primary reasons. Again we gho
3 before these cities and we fail very often. We're
4 right now working Minnetoka, in Stillwater, in
5 Eden. So there are some cities over in that area
6 that we're working on. The main reason they give
7 for not establishing a commission, two to three
8 main reasons, number one is we don't have a
9 problem. A lot of these communities are
10 relatively homogeneous; particularly the smaller
11 communities, and they see themselves as not having
12 a problem because they say we don't have many
13 people of color, so it's not an issue in our
14 community. This is what they tell us. We tell
15 them that's all the more reason you need a
16 commission because of the changing world we live
17 in and the like. And to help prepare your
18 students and your citizens to live in the larger
19 society.

20 The other reason some of them give
21 is that they don't have the funds to staff a
22 commission properly. That their city manager, I'm
23 speaking of smaller communities now, ten thousand

1 or more, that their city manager is already
2 overwhelmed with work and who is going to staff
3 the commission?

4 In my community it's a council
5 person who comes to the meetings and serves as the
6 liaison between the city and the commission and in
7 one city, in Northfield guess who staffs the
8 commission? I was surprised. I went to the
9 meeting a few weeks ago, the police chief, Chief
10 Pierri, P-i-e-r-r-i, he is the liaison between the
11 city and the commission and he takes notes and
12 reports back to the city.

8

13 So those are the main reasons that
14 they give. It's usually a rationalization of not
15 having a problem because we remind them up front
16 that the League of Minnesota Human Rights
17 Commission, as Yvonne Price said in her opening
18 remarks about the scope of the League, deals not
19 only with racial issues, we deal with all the
20 issues that are covered by the state law. So
21 that's race, religion, ethnicity, disabilities,
22 age discrimination, sexual orientation, and sexual
23 harrassment, and you know, and a few other areas.

1 So every community certainly is impacted in some
2 of these other areas, even if they don't have any
3 people and, of course the state law covers
4 everyone if they're discriminated by race, not
5 just minority persons.

6 MR. WEINBLATT: And the question for Ms.
7 Price is generated by what my ear heard as a
8 difference of view between her and Ms. MacRose
9 with respect to the concept of the value of no
10 fault grievance resolution process. I will tell
11 you straightforwardly, I have no idea what that
12 is, so if maybe since our task is to determine
13 what resources are devoted to local and federal
14 civil rights enforcement, perhaps this is the
15 reason or if it is not, if you could explain?

16 MS. PRICE: Presently it's not a
17 resource. For the past three years the Department
18 of Human Rights has not been doing no fault
19 grievance training, which is a process by which
20 people can file a charge with a local government
21 level. It comes before a commission such as any
22 one of us here, and we mediate it; try to mediate
23 it out. And the purpose in doing that is to

1 prevent lawsuits.

2 A lot of people that came before me
3 they just wanted a forum in which to talk. You
4 know this happened to me, okay, what do you want
5 me to do about it? And they were glad to go away
6 and just go on with their lives. And in the long
7 run I think it would save cities a lot of money if
8 they kept this process. But now there's no one
9 doing the training and that's one of the reasons
10 that we are getting, looking at that and working
11 with the Department of Human Rights to maybe
12 provide that training.

13 MS. MAC ROSE: But they were referred by
14 the Department of Human Rights to the local
15 commission, not the other way.

16 MR. RYBECK: And many of the local
17 commissions are no longer getting referrals from
18 the State Department of Human Rights because the
19 State Department of Human Rights is playing down
20 this process. They're discouraging it rather than
21 encouraging it, and a lot of the local
22 commissions, unlike the St. Louis Commission, want
23 to do more than they are not doing and want to be

1 prepared to do it, particularly the new
2 commissions. Many of them when they form the new
3 commissions, they see we see this as part of our
4 role and then when we tell them we don't have a
5 training program to train you more effectively to
6 do this, they're disappointed.

7 MR. ALCORN: Our city ordinance requires
8 that we contract with the state department to do
9 this and that this city ordinance seems to be
10 driven by a state law, likely the Minnesota Human
11 Rights Act. That agreement must exist, Yvonne has
12 referred to that. Only two of us on the council
13 have received any training because of turnover.
14 So only two of us. As it is, we are certified,
15 but even that the certification has run out. And
16 we've made many attempts to do it. To be frank,
17 we do what we can anyway. Sometimes we say now
18 technically we're in the talking to you as a
19 commission, but there are people in need, there
20 are people who need help and who can take the hat
21 off or whatever. But we give them this help. In
22 sitting down with the two parties, the grievant
23 and the respondent, we say we don't investigate,

9
1 we don't ask whose fault it is. We don't even
2 talk about that. The two of you talk to each
3 other. Largely we interpret one to the other, I
4 think I hear you say or did you really mean to say
5 this sort of thing. They come to an agreement as
6 to what the consequence will be of the actual or
7 alleged incident. Sometimes they say, all right,
8 we'll take a display out in the paper and we'll
9 apologize or we will go before the employees and
10 say that we'll no longer do this or we will create
11 a human rights policy.

12 Sexual harrassment is the thing that
13 comes to us more frequently than any other
14 particular cause, at least in our community. And
15 then when it's all over we don't report on it. We
16 make no findings. There are no findings. It's
17 entirely between the two, just simply mediation.

18 MR. RYBECK: I think it's important that
19 if the participants in the grievance process don't
20 like the result of what comes out of it, they can
21 always go to the State Department of Human Rights
22 and file a formal complaint.

23 MS. PRICE: It's informal.

1 MR. RYBECK: This is an informal local
2 procedure.

3 MS. MAC ROSE: We're just in the process
4 of exploring our options, so I don't want to make
5 it sound like I'm totally against this, but you
6 have to have commission members that are willing
7 to do no fault grievances and some commissions
8 might not have that. West Hennipen mediation,
9 when the director came to us, she told us Eden
10 Prairie, New Appleton Human Rights have requested
11 West Hennipen to do their mediation for it now, so
12 I don't really know. I've been trying to figure
13 out all these pieces myself and but I know that
14 some are being mediated and again commissioners
15 have to want to do grievances and someplace might
16 not even have mediation centers.

17 MR. RYBECK: And so communities do want
18 to use mediation services.

19 MS. WILLIAMSON: Up until about three
20 years ago the Department of Human Rights was
21 offering the training and when it was given, I
22 took it and gosh knows how many years ago. At
23 that time it was supposed to be up to renew after

1 so many years and I went two or three times, but
2 the people that have come on in the meantime,
3 there's no training available. And so now the
4 Department is saying okay folks, if we don't have
5 funds to train you, there must be alternatives if
6 we are going to continue to process no fault to
7 address the immediate issues. Some cities are
8 saying, fine, we'll go out and do such and such
9 mediation service and others in effect hasn't said
10 you folks that were trained years ago must stop
11 now because there's no renewal training. You can
12 sort of continue until something else better comes
13 along. They work closely with the League to
14 develop the initial training. We helped develop
15 them videotapes and put the manuals together and
16 even updated some of the materials, but that was
17 several years ago.

18 MS. MAC ROSE: Do they tell you if they
19 have a grievance in your community? They don't
20 tell us.

21 MS. WILLIAMSON: It depends.

22 MR. RYBECK: The commissions that do the
23 no fault grievance?

1 MS. WILLIAMSON: Individuals, the skill
2 grievance at the Department of Human Rights. The
3 Department of Human Rights offers the option to
4 the individual, do you wish to work with a local
5 commission? There is one handling grievances in
6 your area. If they say yes, they'll refer it to
7 the local commission and we try and handle it. If
8 it doesn't work out or they're not satisfied,
9 they can always go back to the state. Initially
10 that was supposed to help alleviate the load that
11 the Department stuck with years ago when they got
12 heavily overloaded and couldn't deal with the
13 thousand of cases. So who knows what happened now
14 because far few are being found out.

15 CHAIRPERSON ROGERS: We'll have one final
16 question from Lupe?

17 MS. LOPEZ: I don't know if it's a
18 question more so than some observations and it
19 appears to me like now the commissions, unless
20 they become an integral part of the State
21 Department of Human Rights would not be as readily
22 viable to the community at large because, like
23 you're saying now, you don't have the training

1 that you had before to do this and the community
2 has a perception of that. You know, I would think
3 that they would be hesitant to go to you to use
4 your services.

5 The other thing is having minorities
6 on your commissions. Do you have them because it
7 seems to me like you're providing a valuable
8 service at least I don't know how you would do
9 that but to become a recognized arm, for lack of a
10 better word, at this time of the State of
11 Minnesota, Minnesota House, this would be helpful
12 to many of us living in the small towns you know
13 for people like you say don't even know their
14 rights are being violated.

15 MR. RYBECK: There should be that
16 relationship.

17 MR. ALCORN: There is a distinct value
18 though to a distinctly local group because many
19 people don't trust state government. And if their
20 neighbors are saying they're not as a spokesman
21 for the state, there are some people who will
22 listen to them, would not listen to the experts
23 from the state.

1 MS. LOPEZ: That's what I'm saying. How
2 can we help or do you have any recommendations to
3 present to this body as to what would help you be
4 more viable, visible or whatever?

5 MS. PRICE: If there's a way that you
6 can restore some of the funding that was cut from
7 the Department of Human Rights so they could go
8 back to doing the training that they did it
9 before, and the certification.

10 MS. WILLIAMS: And make it equitable
11 statewide because the state has said to you, hey
12 you can develop materials and that's what we've
13 been working on the last three years. But now
14 they've turned around and said in the past year
15 and a half we can't handle it, there's no funding,
16 you're going to have to go out and handle it on
17 your own in your own community.

18 Well that could well be possible,
19 but how is that going to be equitable, and how
20 would that meet similar standards under the Human
21 Rights Act?

22 MR. ALCORN: There also needs to be
23 respect and confidence from the state

1 professionals and the local volunteer.

2 MR. RYBECK: There should be a closer
3 relationship, for example, they did this hearing
4 also on the Hispanic, discrimination against the
5 Hispanic community. They called us once or twice
6 to my knowledge to tell us about the hearings in
7 communities throughout the state where we have
8 commissions.

9 MS. LOPEZ: So you didn't have a
10 commission representative who those hearing --

11 MR. RYBECK: Well there was one person
12 in Moorehead. There was -- we could have helped
13 get the attendance out. We learned about it late.
14 Since they've had those hearings, we've sent a
15 letter to each of the commissions in the area of
16 larger Hispanic population with recomendations
17 that came out of the hearings. We got
18 photocopies. It -- they don't have the funds to
19 distribute it. We sent them to each of those six
20 commissions, asked them to follow up with the
21 local Hispanic communities on these
22 recommendations and to validate them and to help
23 implement them. So we can be of great help to

1 them if they would utilize the resources of the
2 commissions throughout the state.

3 One other thing, you asked do we
4 have minority group members, just two commissions
5 that I visited recently have minority group
6 chairpersons; Edwardo Wolae is the former
7 president of the Spanish Speaking Affairs Council
8 is the new chairperson in Northfield. The new
9 commission in Northfield and a Tom Marshall is an
10 African American who is the new chairperson in
11 Marshall, Minnesota. Those are the two that come
12 to mind that I recently visited with.

13 CHAIRPERSON ROGERS: One final comment
14 from Linda MacRose.

15 MS. MAC ROSE: I just want to respond to
16 you about money. I think there needs to be a lot
17 of money spent on education. A lot of people
18 don't know their rights, they don't know they're
19 being violated, and I know this Department of
20 Human Rights told me they were not going to spend
21 money educating people about that. I think we
22 needs to have editorials and testing. There need
23 to be more testing to show that the rights have

1 being violated. Steve Cooper was big on that and
2 it sort of lost it, but I think we need to go into
3 our communities and make sure, not just wait for
4 people to complain, but be proactive and testing
5 cases.

6 CHAIRPERSON ROGERS: I want to thank you
7 for your presentation, all of you, and we're
8 adjourned until 6:00 o'clock for our public
9 session.

10 MS. MAC ROSE: I would like to just tell
11 my experience. There was a HUD funded, a project
12 I think to 1700. It's across the United States to
13 help people in public housing start small
14 businesses and there was an agency here that was
15 given the funding; they wrote a grant and got the
16 funding to administer it. It was I think about
17 \$50,000. The person hired to run it and if he
18 were here would tell you had no skills to do it,
19 no training, no one mentored him, no one
20 supervised him, and I was hired to do the training
21 and when I got in there I found ten African
22 Americans -- there were other groups in the public
23 housing. But there were ten African Americans.

11

1 As I started to do the training, found out they
2 were really not interested in setting up a small
3 business, but they were sort of threatened that
4 they'd better have newspapers showing up because
5 they needed to show numbers to Washington, D.C..
6 And the people that I worked with, maybe one out
7 of ten was interested in starting a small
8 business. But there's a lot of fine things that
9 was given and I looked at the initial grant and
10 the initial grant said I was going to look at
11 those couple of successful projects and do what
12 they were doing, which wasn't what happened at
13 all, nobody looked at that. So from my
14 experience, nobody was really interested in
15 anything but a number, and so much was going on
16 that was to me it was \$250,000 totally thrown out.

17 Now the fellow that was running it
18 did call a couple of other sites and they also
19 were not being successful. So there was an awful
20 lot of money being spent on a project that nobody
21 was really watching, nobody really knew what was
22 going on. They were handing over this kind of
23 money, they weren't doing anything to prepared the

1 people. This is a group of people from the ones I
2 met, I mean owning a small business had never been
3 in their minds. And so all of a sudden you're
4 just going to throw the money at them and it's
5 like they don't know anything. It was so
6 ill-prepared. So it really bothered me that that
7 kind of money is being spent and that numbers
8 can't be created to make it look successful. So
9 if there can be anything -- I did write President
10 Clinton and someone did tell me it was being
11 investigated and I don't know if it's true or not.

12 CHAIRPERSON ROGERS: Can you give us the
13 information on the precise program so we have more
14 specific information as we look at including your
15 presentation, the presentation you just made, in
16 our report?

17 MS. MAC ROSE: So you want what kind of
18 information?

19 CHAIRPERSON ROGERS: The name of the
20 program.

21 MS. MAC ROSE: I don't want to point a
22 finger at an agency because that's kind of a
23 problem for me. I don't want to look like the

1 agency that got the funding though I don't think
2 it was run properly. I don't want to point the
3 finger at them, so I mean I will look and see if I
4 have anything on it. I can't remember the name of
5 the project, but.

6 MS. LOPEZ: Was that in St. Paul?

7 MS. MAC ROSE: Minneapolis was a site
8 that was funded for it, but a couple of other
9 things about the project area. When I went into
10 this community and I was at Glendale, which is
11 near the University, Prospect Park area, and the
12 people that were living there were feeling very
13 used by housing. They felt that their numbers are
14 being used, but that their rights really aren't
15 being cared about. And one of the things, they
16 opened up a recreation facility right on their
17 grounds and they used the people to come to the
18 meetings to get the funding and there are people
19 of color, but it's right near Prospect Park, and
20 when they planned the program, they planned
21 programs a lot for the people in Prospect Park
22 which are university people and their programming
23 needs weren't looked at. So I called someone in

12
1 housing because I wasn't supposed to be doing that
2 and all of a sudden I was getting nuts and I
3 called them and she said they didn't do a
4 political prospectus, Prospect Park people did.
5 Well the Prospect Park people know the political
6 process. So there were so many things going on
7 with these people that was really devastating for
8 me to watch their experience and so in anything
9 that we attempt to do, we have to know that people
10 are coming in here with all these negative
11 experiences and it's hard to change the paradigm.
12 I mean we have to really show them that there's
13 somebody caring and they sure didn't feel that
14 way. I feel like they were being used by so many
15 different agencies and so many different people.

16 My other one comment on scattered
17 housing because you asked about that Alan and I
18 just want to tell you that we did get a phone call
19 from a woman who is African American, she has
20 scattered housing in St. Louis Park. She is the
21 only person of color in her area, and the man
22 across the street from her stares at them day and
23 night. He just stands and watches them, and he's

1 told the little kids that they should go back to
2 Africa and he torments them, and I'm going to get
3 you out of here. And she had one son -- she has
4 five sons -- that police had come to the house and
5 this man called the housing and told them that the
6 police had been there a dozen times already and
7 he's trying to get her out. Now I know this woman
8 in housing because I have a relationship with her,
9 she's on my committee, said that she would suspect
10 he's the man who called when they bought the house
11 and said we don't want anybody here. And so he's
12 trying his hardest to push her out and she's
13 saying this is so nice for me, I don't want to be
14 out. And so when we do these kinds of things like
15 scattered housing, what are we really doing for
16 community people? What's her recourse? I told
17 her to just go to mediation. At least go on
18 record that she's trying to do something. But we
19 don't have anything, there's nothing that's
20 happening other than she's being tormented and
21 there's nothing that we can really do.

22 MR. WEINBLATT: Madam Chair, Linda,
23 there's a whole variety of remedies depending on

1 what she chooses to do and what kind of support
2 network that she has in doing that, ranging all
3 the way from felony prosecution because that is a
4 felonious criminal act which you just described,
5 down to the mediation that you've also described,
6 which is not easy. None of those remedies are
7 easy, especially for people without a support
8 network, but they are available. For the record,
9 before, Madam Chair, before we close the record, I
10 don't know if Peter you've been given these
11 numbers, but Mrs. Pedraza, who testified to us
12 earlier today from HUD did secure some different
13 numbers for Section 8 certificates.

14 CHAIRPERSON ROGERS: We are aware of that
15 and I've asked Peter to resolve that between
16 Jaimie and Rey outside of our public proceeding.

17 MR. MINARIK: I'm aware of it and I'm
18 going to following the Chair's direction.

19 CHAIRPERSON ROGERS: Okay. We're
20 adjourned.

21 (The meeting was recessed for a dinner
22 break at 4:50 p.m.)

23 AFTER RECESS

1 CHAIRPERSON ROGERS: The fact finding
2 meeting focused on resources devoted to local and
3 federal civil rights enforcement in Minnesota has
4 reconvened with the public session.

5 Before we start, I'd like to make
6 sure that we're all aware that the same rules and
7 guidelines that I stated at the beginning of
8 today's session still apply, and that we do have a
9 person who has come to speak to us and I will ask
10 that you identify yourself, spell your name and
11 then tell us why you are here.

12 P U B L I C S E S S I O N

13
14 REGINA LAI

15 Madam Chair, members of the
16 Commission, thank you for giving me the
17 opportunity to speak. My name is Regina Lai,
18 R-e-g-i-n-a, last name L-a-i. I am President and
19 Executive Director of Children's Hope and the R &
20 R Family Center which are abuse prevention and
21 intervention programs which are grassroots
22 statewide and national organizations. I'm also a
23 liaison to the Asian community and the Asian

13

1 Council and the legislature. So I specialize in
2 the areas of public policy and legal advocacy. I
3 apologize for not being quite prepared for this
4 hearing, but there were some issues that I did
5 want this Commission to be aware of. And as I
6 understand, they would be accepting input as far
7 as the impact of the problems of lack of
8 enforcement affecting areas of civil rights as it
9 impacts the community. So the prospectives that I
10 bring are simply different things that are
11 happening in the community, being that I also
12 network with other women's organizations and
13 children's organizations, consortiums and
14 coalitions.

15 I'd first like to pass out some
16 materials here and the first set of documents are
17 problems affecting our community in the way of
18 institutions that are directly or indirectly
19 linked to, and I spoke to someone earlier,
20 complaints that are made to the State Human Rights
21 Commission and I'm not sure to what extent it's
22 reached the Federal Civil Rights Commission. The
23 issue regards termination of parental rights.

1 These are national issues of concern to women and
2 their families and it has been occurring in
3 Minnesota and in other states and we even have
4 representatives from Wisconsin, Chicago, and in
5 the central district saying that these are
6 problems. These summarize some of the things that
7 affect families and particularly people of color.

8 The second document or the third
9 document relates to some of the statistics
10 regarding the people of color that are affected
11 and the different state agencies that interact and
12 have an impact on these people and their problems
13 in responding to the issues. Now these are more
14 technical issues than the state human rights
15 department can address and as my understanding of
16 it is a lack of personnel that are trained in the
17 areas, lack of investigative authority, and
18 perhaps it might also be because of the staffing
19 and a lack of the people who they're taking
20 complaints from that are really understanding what
21 needs to be submitted in making the different
22 complaints. And the third page was a report that
23 was sent to Congress and many of the legislatures

1 as to problems which I'm happy to say that this
2 body has also addressed as recognizing in this
3 morning's earlier session as far as report
4 writings and data information that is not
5 necessarily correct. And these problems persist
6 and they escalate to the point where families are
7 terminated, especially for people of color.

8 People are in the prison systems,
9 they are in inpatient hospitals and all stemming
10 from, like I say, the basic problems that have
11 gone unaddressed when it could have prevented in
12 the various stages. Now one of the documents
13 includes the statutes that we are hoping to
14 change, and these are statutes that I understand
15 that perhaps each state may want to or have their
16 own authority to address, but each state does have
17 them and it's a problem.

18 The last section of this first
19 submission regarding what's affecting children and
20 their families relates to a study done related to
21 the battered -- problems of battered women and
22 children and custody they face. So this is a 1985
23 report and we're saying we still have problems in

1 these areas as it especially affects women of
2 color. And as the last page indicates on page 6
3 is that we have problems with the way that the
4 systems have been responding to the problems as
5 far as the court systems, law enforcement, and
6 other institutions and these institutions do come
7 under the jurisdiction of your Commission's
8 authority or indirect authority and that's why I
9 raise the issues.

10 The second document relates to what
11 is entitled welfare reformed economic status of
12 women. It just goes on to give a little bit more
13 detail into some of the problems. Like I say,
14 that was addressed in the first set of documents
15 regarding termination of rights. That goes on
16 into more detail as to how some of these different
17 things occur and what the costs are to the system.
18 And the reason I address cost factors is because
19 when we're looking at resources that we have and
20 the lack of resources, if they were better
21 accountability and audit of the system and how
22 they can address some of these problems, there are
23 cost savings in these things where we can better

14

1 utilize how the monies are spent.

2 And then the last document is, of
3 course, an area that we're now looking at
4 regarding what we call the deceptive acts against
5 senior citizens because this is another area that
6 this same problem has expanded and touched upon
7 and what the law, our current law says in that
8 area and where they need to expand even further.

9 Now other states may or may not have
10 these laws, and there are different agencies that
11 deal with responses to senior citizens. The
12 reason I also raise that is because when you have
13 reports earlier talking about jobs and housing,
14 these indirectly -- what happens in these various
15 systems also a fact pattern in these particular
16 areas and that if we don't correct some of the
17 problems here of discrimination that happens here,
18 it always falls into what happens into why they
19 have problems in areas of housing and in areas of
20 jobs.

21 So this was background information
22 that basically says that we have problems in our
23 current systems, in our law enforcement system

1 which comes in our state under the Department of
2 Public Safety and in our social services systems
3 which is also referred to as Department of Health
4 and Human Services. And I won't go further into
5 that at this time unless there's questions.

6 What I do want to go over are issues
7 that not only affect what complaints are made to
8 these agencies and problems in these agencies, but
9 also some of the other agencies that have earlier
10 spoken to you and which I understand you have
11 authority over as far as compliance and
12 enforcement authority. First of all, complaints
13 that are made, we have problems as far as verbal
14 intake where through verbal intake entire
15 complaints may be dismissed or diverted, so you
16 don't get accurate reporting as to the number of
17 complaints, or what the complaint is, or the
18 record. And I think someone earlier addressed
19 that at the hearing. So we actually have more
20 complaints that aren't being dealt with than the
21 numbers show. The other problem is that when the
22 person or the client who does find out that they
23 did have the right to pursue the matter, we run

1 into the matter of the statute of limitations
2 being that you didn't complain within the statute
3 of limitation, so we can no longer take your case.
4 The recommendation that I would make to this
5 commission is to see to what extent we can expand
6 the statute of limitations so that we can take
7 into account for these factors.

8 The second point is that the
9 decisions that are made by the Commission or Human
10 Rights Department or any of these other
11 departments are based on the evidence submitted
12 and witnesses that may come into the complaints.
13 Now, if the agency finds that there is
14 insufficient data, they may dismiss the complaint,
15 they may take no action or make a determination of
16 no finding versus that had there been an
17 investigation, they could have had positive
18 findings and they would have had more information
19 where a complainant might have had other recourse
20 for remedies.

21 As to addressing the problems where
22 investigations are not done and the information of
23 what is necessary to help the agency deal with the

1 complaints, this is not being told to the person
2 making the complaint. I'm making a recommendation
3 that as part of the information about the agency,
4 whatever agency it is, that they include not only
5 the rights that a complainant may have as far as
6 making the complaint to you through the process
7 and so forth, but what they need to submit to that
8 agency in order to better help them if they lack
9 the investigative powers or staff to get into the
10 complaint and address the issues so that they can
11 have, I guess, a better chance of having a lot of
12 these cases that would have had positive findings
13 in them, positive findings and also a list of
14 resources where the complainant may know where to
15 get additional data or get the work done that has
16 not been handled by that particular department.

17 The third issue is relating to
18 complex cases, many of these staff people may not
19 have the training or education to deal with some
20 of the complex cases and the ones the senior
21 officers that may or may not have the time. So
22 times when a problem is not handled correctly in
23 the early intervention stages, it gets worse. And

1 to the extent where we do have people in the
2 system that have lost their children, that are in
3 prison, that are in the committment system, or in
4 other area where there has not been any tracking
5 of information done, and it all could have been
6 cut off by proper proceures in the beginning. So
7 the recommendation is to establish procedures
8 whereby a person can, when they do find out that
9 maybe their case wasn't properly handled or that
10 it didn't go far enough, can correct the data
11 because the power of the agencies making a finding
12 or submitting to an adverse party. We looked at
13 this case, there were no findings that there's any
14 wrongdoing, so they let the case go. That affects
15 the case that might have had or had there been a
16 proper investigation, a finding of positive
17 violations. So, we're recommending that there be
18 a procedure that a person can correct data and go
19 from there or that they make recommendations to
20 establish other committees or task forces for
21 doing follow up or more indepth study for other
22 recommendations and referrals.

23 The next point I want to touch upon

1 is the education and training. We have problems
2 in all areas of government as far as competencies
3 in understanding some of the diversely complex
4 issues that come before them problem when it does
5 take someone very knowledgeable to determine how
6 to handle a case problem. What we are
7 recommending, because of the upfront problems that
8 might occur because they are not properly handled,
9 is not only that they have a procedure for
10 correcting things that might be botched from the
11 beginning, but that they be ways to establish what
12 we call performance measurements.

13 Now, our state is currently
14 undergoing what we call statewide systems for
15 doing performance measurements of all employees
16 where they're talking about accountability, but
17 they've forgotten to establish the procedure that
18 any auditor would go in and say we need or an
19 evaluator would say you need, which is when you're
20 going through a particular procedure process that
21 there be other methods to monitor and to do
22 evaluations to look for compliance. And so which
23 is what you're doing now in a sense is looking at

1 some of the compliance issues and the
2 accountability factors and we're saying that some
3 of these things should be already be built into
4 the system so that they could address things of
5 discrimination, race bias and that there be built
6 in mechanisms for remedies as far as reversing the
7 process, making appropriate corrections,
8 expungment, restitution. That basically
9 summarizes the issues that I wanted to address and
10 in speaking with Mr. Minarik, there were other
11 things that this Commission did deal with which at
12 this point escapes me that I have knowledge of it
13 that I could address.

14 CHAIRPERSON ROGERS: For my knowledge,
15 could you please tell me what R & R stands for?

16 MS. LAI: R & R Family?

17 CHAIRPERSON ROGERS: What does R & R
18 stand for?

19 MS. LAI: That's basically initials with
20 the same connotation as the veteran's use as far
21 as rest and rehabilitation. Only the idea is the
22 same, but we don't use that, we just use it as R &
23 R.

1 CHAIRPERSON ROGERS: Are there question
2 from any of the committee members? Thank you very
3 much for the information.

4 Do you have statistics as to
5 parental rights termination as it came to the
6 particular ethnic groups in people of poverty?

7 MS. LAI: They have not done statistics
8 on that. What we see is children in the foster
9 care system where they say the parent's rights
10 have been terminated and right now we have about
11 16, close to 17 thousand children in foster care
12 system. Of this about one third are children of
13 color. They have more detailed statistics as to
14 just how many of these children or parent's rights
15 have been terminated, but those that lost their
16 children through the correctional system or the
17 medical system, which is the committment process,
18 they're just now studying and looking into, and
19 this is what they have not been keeping the data
20 on and what we're saying they should have been
21 keeping the data on. That's more than we know, so.

22 CHAIRPERSON ROGERS: Please feel free to
23 submit any numbers that you have or that you do

1 get your hands on in the future, to our Chicago
2 Office.

3 MS. LAI: The other two reports, I
4 apologize, were here and didn't get out and I
5 referred to them in the testimony, but I forgot to
6 hand them out.

7 CHAIRPERSON ROGERS: Okay. If you'll
8 please state your name and spell your name and
9 tell us why you're here.

10 JOHN GILBERTSON

11 My name is John Gilbertson, I'm here
12 because I happen to see a copy of your press
13 release and that you'll be addressing issues of
14 resources allocated to civil rights. I understand
15 earlier on today that the State Human Rights
16 Department offered testimony here, I was not in
17 town. I do work at the state Human Rights
18 Department. I'm also active in this community.
19 I'm on the Board of the State Affirmative Action
20 Association. I represent the state's professional
21 employees on the Governor's Diversity Action
22 Council, and I work with the union's affirmative
23 action committee. I think that the thing that I'd

1 like to address is what's happened to resources to
2 case investigation at the Human Rights Department
3 during the current administration. As indicated
4 by my notes here in December of '90 when the new
5 administration was about to come on, we had 27
6 investigators working specifically on case
7 investigation, that didn't include supervisors or
8 intake persons. As my records indicate, right now
9 we have 16. That's quite a decrease in staff
10 allocated to investigate human rights complaints.
11 It causes a lot of other problems to staff morale.
12 Investigators are too busy to really do a decent
13 job on case investigation. I'm not sure whether
14 you want to cover everything that's in my
15 submission here. Essentially investigators who
16 have left the department haven't been replaced.
17 Other people, we have right now a number of them
18 are part time inexperienced people. In fact, a
19 couple of people who have half time case load.
20 The Department has kind of dug itself into a hole
21 where the people who have charges filed right now
22 are going to be in for an awfully long wait to
23 have their charges addressed. The staffing that's

1 on my second page is the actual staffing of people
2 who actually are working on case investigation
3 right now. The Department has a plan to hire
4 trainees which would give us five more
5 investigators after a year's training. I believe
6 that's -- I think there are people out there right
7 now that can do the work, we should hire some of
8 those people. So I'm not sure what information
9 you got from the Human Rights Department in terms
10 of staffing problems, but I wanted to make sure
11 that this point got across.

12 CHAIRPERSON ROGERS: Okay, thank you. If
13 you'll wait just a moment, I believe there will be
14 questions. Lupe?

15 MS. LOPEZ: What is the total staffing
16 of the Minnesota Department of Human Rights?

17 MR. GILBERTSON: I really am not sure.
18 We used to have about 70 people and 3 years ago I
19 think right now --

20 MR. FAHEY: I can answer that. The
21 last -- Gerald Fahey, F-a-h-e-y, I worked at the
22 Human Rights Department from 1984 until 1990 and
23 then I worked with the affirmative action group

1 with the DOHR since then. I happen to deal with a
2 lot of the numbers and the Human Rights Department
3 now is staffed at the total of 59 people. In the
4 last quarterly data that came out, which would
5 have been the first of July, the number 70 I've
6 seen that run around anywhere between 68 and 70.
7 So that's been the general number, but that's
8 dropped off the last couple of quarters.

9 MR. FAHEY: I think all three of us are
10 on record in many places so we don't mind.

11 CHAIRPERSON ROGERS: Your name, sir?

12 MR. JOHNSON: Ted Johnson. My name is
13 Ted Johnson. I was until recently, May of '94, an
14 employee of the Minnesota Department of Human
15 Rights. I worked there for over seven years.
16 That whole time in the investigative unit and as
17 an enforcement officer with an assigned case load
18 and certainly feel that I can provide some
19 testimony with regard to the allocation of
20 resources at the Department during that period and
21 the significant reduction in the allocation of
22 those resources and how that had a specific impact
23 upon the Department and specifically the

16

1 individuals assigned to investigate cases on their
2 ability to do so effectively. I'm going to allow
3 for these other gentlemen to say their piece, I'm
4 going to add my phone number real quick here.

5 CHAIRPERSON ROGERS: You know we had
6 here earlier testimony and it led me to believe
7 the Department is now a number of innovative
8 actions have created an efficient running
9 department, something that I would liken to a
10 well-oiled engine in a car and this just little
11 things that I've heard from you so far cause me to
12 really raise questions about what we heard
13 earlier. So is it your contention that really is
14 not the case?

15 MR. GILBERTSON: Yes.

16 CHAIRPERSON ROGERS: And we may have had
17 a misrepresentation of the facts today.

18 MR. JOHNSON: Wholeheartedly. I also
19 believe that if you were to talk to the
20 individuals that are what I would refer to as the
21 on line workers at the Department of, Minnesota
22 Department of Human Rights, those individuals who
23 are most involved with the actual day to day case

1 work and performing the actual duties at the
2 Department, you would find an overwhelming level
3 of opinion that the Department is not a well-oiled
4 machine in any sense of the word. I don't doubt
5 that that was represented to you, it's been
6 represented to us for a long time. I would ask
7 that the Commission not take those statements on
8 faith based upon the fact that the individual
9 providing those statements have a very vested
10 interest in convincing you and others that the
11 Department is, in fact, a well-oiled machine.
12 They are the ones responsible for the
13 administration of that department. I think an
14 objective study of any relevant statistics with
15 regard to the performance of the Department will
16 clearly show that not to be the case.

17 One relevant statistic in mind would
18 be the percentage of cases where the department's
19 investigation produces a finding of what's
20 referred to as probable cause where there is
21 evidence to support that violation of the state or
22 federal civil rights statute has occurred. During
23 my tenure at the Department and in fact during the

1 last five years, as I believe Mr. Gilbertson here
2 points out, that percentage has dropped by four
3 fold, going from the neighborhood of 20 to 21
4 percent of our cases being found probable cause
5 down to the neighborhood of 4 to 5 percent. Now
6 that is not a reflection of a 4 fold decrease in
7 the level of discriminatory actions occurring in
8 Minnesota. In fact, I would argue that if
9 anything, statistics show that the incidents of
10 discrimination is increasing, particularly when
11 you add into that the increase in sensitivity to
12 issues such as sexual harrassment and the tendency
13 for individuals who have suffered incidents of
14 sexual harrassment to bring those cases forward
15 now as opposed to five years ago, and if you add
16 into that consideration the fact that during that
17 five year period we've had the ADA passed which
18 has increased the coverage of the relevant civil
19 rights statutes, you would expect to find the
20 higher incidents of findings of probable cause,
21 and what you find is the exact inverse.

22 I think another telling statistic is
23 the number of cases that the Department has sent

17

1 to litigation recently. I believe there were -- I
2 would encourage you as opposed to taking any of
3 the statistics that I provide to you as being the
4 absolute, absolutely truth, I know that they're
5 close to accurate. I know there may be some
6 inaccuracy. I would encourage the Commission to
7 get that information. I know there were two
8 consecutive fiscal years, I believe it was 91-92
9 and 92-93 where the Department, on each fiscal
10 year, sent a total of one case to litigation. Now
11 again comparing that to previous years where 20 to
12 30 to 40 cases to litigation was the norm, you can
13 see a tremendous decrease in the impact that the
14 Department is having on enforcing the Human Rights
15 Act. And I specifically saw it as an
16 investigator, as a person assigned with the task
17 of of investigating cases, and that task is left
18 largely in the hands of enforcement officers at
19 the Department. There's a very minimal level of
20 supervisor or intervention by supervision. There
21 is an almost non existent level of interaction
22 with the administration in terms of the actual
23 enforcement of cases there, I do not believe, and

1 I'm not aware of more than a handful of cases that
2 the Commission or the Department of Human Rights
3 had working knowledge of during the time I was
4 there. So it is not a situation where the
5 administration is actively involved in the
6 processing of cases that come to investigation.
7 That active involvement lies mostly with the
8 people who are in fact investigating those cases,
9 cases of which I was one. And those individuals
10 again will overwhelmingly testify to the fact that
11 the focus and their impact and their effectiveness
12 in that area has been severely curtailed of late
13 and a large part of that reason is because of a
14 lack of resources, a misuse of the resources that
15 are being appropriated to the Department. I know
16 myself personally my case load went from the
17 neighborhood, and again this is over a five years
18 period ending in roughly May of '94, I went from a
19 neighborhood of about 40 cases to, active cases on
20 my case load, to upwards of 80 to 90 cases in my
21 case load. And in addition to that increase, I
22 had a significant increase in duties I was
23 assigned to for each case. During that five year

1 period we had a change in the Department's
2 processing procedures whereas at the beginning
3 part of that each case had two investigators, one
4 investigator would do some of the initial duties
5 and then pass the file onto a second investigator
6 who would then would complete the investigation,
7 those initial duties having been done. That
8 changed to where those initial duties were no
9 longer being done prior to it going into the hands
10 of an investigator. So not only did my case load
11 increase by a hundred percent, but the amount of
12 things I was required to do on each case, the
13 number of duties I was required to do increased
14 dramatically as well. And the impact of that is
15 the inability of individuals in my position to
16 effectively investigate alleged violations of the
17 Human Rights Act.

18 I left the Department voluntarily
19 due to that frustration. Due to my growing belief
20 and final conviction that the Department was not
21 effectively enforcing the Human Rights Act. I
22 would point to, and it's a rather current -- I
23 don't know, I'm sorry, I'm not familiar with any

1 of you personally on the panel, I don't know if
2 you're from the area, if you're aware of the
3 recent passing of Gleason Glover. Mr. Glover came
4 to our Department about two and a half years ago
5 to give us a talk to just kind of issues with
6 regard to black society within Minnesota; how they
7 perceived what was going on in the area of
8 discrimination in the community here, and nearly
9 everyone from the Department attended. In fact it
10 was required to attend. I think the Commissioner
11 was the only person that I'm aware of that did not
12 attend this meeting with Mr. Glover and he was
13 very informative and at the end of the meeting one
14 of the individuals there, one of the enforcement
15 officers asked him to respond honestly and frankly
16 to us as to what the perspective was of the black
17 community with regard to the Department of Human
18 Rights. And Mr. Glover, I believe not wanting to
19 offend anyone, but wanting to be honest with us
20 and frank with us told us verbatim that he
21 realized and recognized the difficulties that our
22 Department worked under and the difficulties in
23 trying to enforce this law and resource questions,

1 but that the bottom line was that the black
2 community no longer looked to the Minnesota
3 Department of Human Rights for assistance in the
4 struggle of enforcing the Human Right Act and
5 having an impact in this area of discrimination.
6 That we were no longer a player in this as far as
7 the black community was concerned. Now this
8 disturbed me greatly to hear and this disturbed a
9 lot of other people in the room to hear this, and
10 it didn't seem to disturb the administration too
11 much. And I questioned the administration several
12 times with regard to this, with regard to this
13 very issue as to, you know, what was your reaction
14 to hearing this from a person who is recognized
15 and noted as being an authority within the Twin
16 Cities regarding issues of discrimination and
17 their impact in this society and this person's
18 honest evaluation that our Department is no longer
19 having an impact in this area, is no longer viewed
20 or looked to for assistance in this struggle?
21 What is your reaction to this? And I was told
22 specifically by Delores Fridge, who was the
23 enforcement division director at the time, I was

1 told that she was fully aware that this was the
2 sentiment of the black community. Her being a
3 black female from the Twin Cities, she was fully
4 aware that this was a sentiment and it was an
5 accepted part of life there at the Department. I
6 heard it from other people. I heard it from the
7 leader, Mr. Ray Garza who is the head of the
8 Spanish Speaking Affairs Council as also often
9 expressed to members within the Department,
10 including supervisory people within the
11 Department, his perspective that the Department is
12 no longer able to have any impact and is not
13 effective in their role here in the state of
14 trying to champion this cause and enforce this law
15 and, in fact, you may want to look into this
16 Department. Just recently there was a commission
17 that the Department had a large hand in forming
18 that gathered testimony from all over the state
19 from the Hispanic community and that commission
20 largely supported in essence what Mr. Garza had
21 been telling us before, that we aren't doing the
22 job, that we're not viewed to be doing the job by
23 the community and that this community has given up

1 on the Minnesota Department of Human Rights and
2 they no longer view us as being an effective
3 agency for enforcing the law.

4 I can give you one specific example
5 that might be telling and I'm going to preface
6 that I'm fully aware that the Minnesota Government
7 Data Practices Act and that way that classifies
8 information and all the information that I'll be
9 testifying to is classified as public information
10 under the Minnesota Government Data Practices Act.

11 I investigated a case of sexual
12 harrassment that involved a local establishment.
13 It was a drinking establishment, eating
14 establishment. They had three outlets here in the
15 Twin Cities. In the summer of 1989 this
16 establishment, the owner of these three
17 establishments decided that he was going to copy a
18 marketing techniques of a chain that was at that
19 point limited pretty much to the southeast of the
20 United States known as Hooters. You may have
21 heard of that chain. They have since been
22 introduced into the Twin Cities. This individual,
23 this owner in 1989 copied their marketing

1. 1 techniques in every way, shape, and form; the very
2 revealing uniforms, the blatant sexual innuendo,
3 the, you know, there were many, many instances of
4 actual sexual harrassment that were directly
5 related to the uniforms and the policies. The
6 level of innuendo was absurd. They had billboards
7 on I-94 with the pictures of the female waitresses
8 clad in these very short running shorts so that
9 their entire thighs were exposed with the words,
10 we're sassy, s-a-s-s-y, and the a-s-s-y was
11 underlined, not the S. So there wasn't a lot to
12 be left to the imagination in terms of imagery and
13 the message that was given out there.

14 When this was introduced in the
15 summer of 1985, 13 out of 15 waitresses, 13 out of
16 15 female staff at the Butler Square location who
17 were required to wear this uniform quit on the
18 spot, it was that revelaing, it was that much in
19 contrary to their own personal taste and what they
20 were comfortable with. Again, you know, there's a
21 lot of detail here and you may not want this much
22 of it, but one of the things is that the women
23 were not allowed to choose the size of a uniform,

1 they were assigned those uniforms and they only
2 ordered uniforms in small, extra small and medium.
3 And one of them said this uniform is too short, I
4 want a longer pair of shorts, my underwear shows
5 under this uniform, and the response was, don't
6 wear any underwear. And so those were very
7 blatant case of sexual harrassment I giving you,
8 so I being the case was 13 out of 15 employees who
9 voluntarily gave up their employment, their
10 livelihood because of their objection to this and
11 of those 13, six filed charges with the Department
12 of Human Rights in the summer of 1989. Those
13 cases were assigned to me. I completed my
14 investigation in January of 1991. Those cases sat
15 in review at the Department with no activity being
16 done on them, basically in limbo for 18 months
17 with nothing being done and no determination of
18 this issue. The decision was that this was
19 blatant, there was a probable cause decision of
20 blatant sexual harrassment on many fronts, many
21 different issues, and that was known to the
22 Department at the time that I submitted the case
23 into review into the review process and it sat at

1 that point for 18 months with nothing being done.
2 The long or the short of the story is that those
3 cases right now as we sit here today are up at the
4 Attorney General's office waiting to go to
5 litigation. We are now in the summer of 1994.
6 Those individuals have waited five years for some,
7 and one of them settled, or five of them have not
8 received any bit of compensation, any bit of
9 satisfaction with regard to the damages that they
10 suffered. The sad part is that again if you're
11 from the community you know that Hooters's opened
12 up an establishment in the Twin Cities in August
13 of 1991, over two years after this individual
14 implemented this policy and affected these
15 employees that came to the Department. The
16 Hooter's cases, and there was the same thing,
17 there were individuals in the Hooter's cases that
18 believed that the uniforms, them as well as the
19 action surrounding the use of the uniforms
20 constitute sexual harrassment, but those
21 individuals, instead of coming to the Minnesota
22 Department of Human Rights pursued private
23 litigation and those individuals have already long

1 since settled their cases. They had legal action
2 initiated, their cases were settled before they
3 went to court and probably the span of about a
4 year.

5 Now this to anybody that has any
6 kind of information about the workings of the
7 Department, certainly these individuals had filed
8 with our Department who were fully aware of what
9 happened in the Hooter's case, fully aware because
10 it -- there was a lot of press coverage of which
11 there was none, there was no press coverage of the
12 cases that came to the Department. No press
13 releases issued, no coverage of any sorts. You
14 know it's a very clear and telling example of how
15 we have rendered ourselves ineffective and I
16 would, you know, I would posit that anybody who
17 has knowledge, and there's a lot of people who do
18 have knowledge, particularly in the legal
19 community now about the Department's
20 effectiveness, that anybody who has knowledge at
21 this point about the way the Department operates
22 and how it's addressing it's mission is not going
23 to utilize the Department, they'd be a fool to.

1 You know on the one hand you have
2 individuals who do so and wait five years and
3 still don't get anything, still haven't seen
4 anything, and what they're going to receive is
5 going to be nothing as far as I can tell compared
6 to what the people that went to private
7 litigation. My understanding is the State
8 Department of Human Rights, EEOC, these different
9 enforcement agencies were set up specifically with
10 the idea, and there was always people always had
11 prior to the implementation, the initiation of
12 these agencies, people always had the ability to
13 take their issue to private litigation. But there
14 was a clear recognition that that wasn't always a
15 suitable option for people who are suffering from
16 discrimination. Those people are often not in a
17 position financially as well as emotionally quite
18 often to pursue private litigation which takes
19 lots of personal resources. It takes a lot of
20 personal strength, it takes financial resources.
21 And the idea was to set up governmental agencies
22 to provide an avenue, an alternate avenue for
23 these individuals to have these types of concerns

1 addressed. And I think we have come full circle
2 that these individuals no longer effectively, I
3 know in my own case, in my own situation, in the
4 case load that I had that we were not effective.
5 Those cases where we did find probable cause, we
6 did so after incredibly long delays. Delays that
7 rendered the scenario moot, rendered any type of
8 remedies meaningless. The amount of time that we
9 commit into investigations and the focus of the
10 Department was such that we often did not find the
11 proper evidence when that evidence was in fact
12 there to be found or should have been, or we
13 certainly didn't find out enough to know that it
14 wasn't there before dismissing of the case. And
15 that those cases that do have merit end up taking
16 inordinately longer than other cases.

17 You may have been given statistics
18 today by the Department about the average
19 investigative time of the case. I would break
20 that down. I would look at the amount of time it
21 takes for probable cause cases to go through that
22 department as opposed to a dismissal. Because
23 there's a lot of cases that come in that gets

1 dismissed within 45 or 60 or 75 or 90 days, and
2 most of those cases should not have been taken.
3 They were not screened appropriately. There was
4 not enough evidence in the beginning. Many times
5 there's not even jurisdiction, they're too old,
6 they're out of state. It's filed against the
7 wrong company and it's not even a decision on the
8 merits, it's a jurisdictional decision. We don't
9 have jurisdiction to look at this, so we dismiss
10 the case. Well that happened in a very short
11 period of time, and if we can do that in 45 days,
12 that brings down the overall average of case
13 processing, but it doesn't give that good
14 indication that the Department is fulfilling it's
15 mission to investigate cases in a timely and
16 effective manner. When the flipside of that is
17 that those cases that do have merit wait for two
18 or three years to be investigated and that is not
19 unusual.

20 CHAIRPERSON ROGERS: I want to thank you
21 very much for your candid testimony. Thank you.

22 MR. GILBERTSON: Can I make one point?
23 He had mentioned that the great proportion of

1 charges that come before the Human Rights
2 Department are dismissed for one reason or
3 another. Now people whose cases are dismissed
4 have the right to ask for reopening. They have 60
5 days to ask that; however it's the Department's
6 policy not to let them know they have 60 days
7 because it's not statutorily required that they
8 do. So our policy is if they complain, then we
9 let them know that they have 60 days, but they, by
10 the time they complained, their time for putting
11 in an appeal may well be over with. But I think
12 that's kind of a strange deal.

13 CHAIRPERSON ROGERS: I'll take two
14 follow up questions, Lupe and then Mary.

15 MS. LOPEZ: We had some testimony and
16 I'm not going to be, you know, quote verbatim
17 because I'm not positive, but we had some
18 information that was given to us such as 60 cases
19 per staff, performance standards that were
20 initiated in the Department that more or less made
21 sure that, you know, staff was doing their job
22 properly and also giving some kind of award to the
23 staff that, you know, did more cases.

1 MR. GILBERTSON: Those awards, in fact
2 I'm a representative of the union and the agency
3 decided not to follow through with giving any
4 awards to people unless they just changed their
5 minds very recently. We've got a grievance over
6 that because they had these awards set up for, but
7 the focus again there is case production, it's how
8 many cases. A person could go years without ever
9 finding a probable cause on a case and it wouldn't
10 be a problem, people do that. So the focus is on
11 how many cases can we get out the door and that's
12 the focus. And if you'll look at the staffing, I
13 don't know how you can decrease by at least 40
14 percent the main people doing the main work for
15 the Department and not know what you're doing? I
16 really think that it's part of the philosophy of
17 the current state government, and we were told by
18 the end of our four years you're probably not
19 going to be doing the same kind of work that
20 you're doing. They don't like case investigation.
21 They're not giving it the resources it needs.
22 They're letting it leave people hanging out in the
23 wind.

1 MS. LOPEZ: Which leads me to my
2 question that in your second page you have a lot
3 of people that have quit.

4 MR. GILBERTSON: Yes.

5 MS. LOPEZ: Is that due to non
6 performance?

7 MR. GILBERTSON: They weren't fired,
8 they quit because of the case load, and we had a
9 person in as a consultant that described the
10 atmosphere of the Human Rights Department as toxic
11 in terms of employee management relations.

12 MS. LOPEZ: I know sometimes you can say
13 you quit rather than be fired, I just wanted to --

14 MR. GILBERTSON: No, these people quit
15 and quite often some of these people have quit and
16 not even had another job to go to.

17 MR. JOHNSON: Every one of those
18 individuals quit in good standing and was not
19 facing any kind of disciplinary action or threats
20 of determination.

21 MR. FAHEY: I have something I think I
22 can add to that in this area and that was when the
23 first year that I was investigating cases, I had a

1 50 percent probable cause rate, but I was only
2 closing 6 cases a month, and I was having to work
3 10, 12 hours a day just to get that done, and my
4 probable cause rate was 2 and a half times greater
5 than the Department's, and I got an inferior
6 rating on my performance review and I felt that I
7 had to get -- I could not perform the way I want,
8 the way I wanted to and still be able to hold on
9 to my job. So I moved into contract compliance
10 and eventually into intake. I was an active union
11 member, so I know about this. I don't know if Ted
12 wants me to tell it or not, so I'll tell it
13 anyway. Ted Johnson, the first year he ran about
14 50 percent probable cause rate and he didn't even
15 get a raise because of the high number of cases he
16 closed during his first year. There was no room
17 there for people, there's no way to survive if you
18 do a thorough investigation. Two people who got
19 outstanding awards that I'm aware of performance
20 that had got a thousand dollar award at the end of
21 the year because they closed a lot of cases, when
22 I reviewed their case history after they had been
23 with the Department for two or three years, one

2
1 had a three percent probable cause rate and the
2 other had a five percent probable cause rate. But
3 they're rewarded with financial rewards because
4 they closed a lot of cases. And that's just
5 that's going on now, seems to be worse than it
6 used to be, but since 84 it's been a problem and
7 they've never had -- they have never had a
8 measurement of your performance that had anything
9 to do with the quality of your investigation. The
10 performance has always been a number of cases
11 closed. It's got to say they don't have quality
12 goals. They may talk about quality, but it was
13 never a numerical thing. So in their mind closing
14 8 cases a month should be expected. Your probable
15 cause rate has no bearing on anything else and
16 that's the way it's always been.

17 MS. LOPEZ: There was one statement,
18 Madam Chair, that I considered to be very serious
19 and that was misuse of allocation.

20 MR. GILBERTSON: I think it's a serious
21 misuse of allocation.

22 MS. LOPEZ: In what respect?

23 MR. GILBERTSON: In the staffing. In

1 the staffing. What it says right here, cutting
2 the staff from 27 investigators to what we have
3 right now which will be 15 next week, two of those
4 are half time investigation load. I mean the
5 cases we're getting into the Department haven't
6 decreased, they probably went up over the last few
7 year.

8 MS. LOPEZ: But if they didn't have the
9 funds -- what they have functioned --

10 MR. GILBERTSON: Management has
11 increased 40 percent. The Commissioner's office
12 used to be three people and two secretaries, now
13 it's six people and two secretaries. The business
14 office went from three to five people. We've got
15 an additional human resources person. So we have
16 more people to manage less people doing the work.

17 MR. JOHNSON: In fact on two separate
18 occasions the administration of the Department
19 went to the Minnesota legislature and asked for an
20 increase in funding specifically to increase the
21 number of enforcement officers and made specific
22 requests, we need more people investigating cases;
23 therefore we need this amount more money, and they

1 were given that money and on both occasions that
2 money was not used to increase the enforcement
3 staff, it was used to increase the administrative
4 staff, the management.

5 CHAIRPERSON ROGERS: Mary Ryland?

6 MS. RYLAND: I wanted to ask what
7 specific state offices influence policy here?
8 Does the Attorney General's office not have
9 anything to do with it? The Governor, you've said
10 in the second paragraph you don't feel that
11 there's heavy instruction from the top. They're
12 buying into the philosophy of --

13 MR. GILBERTSON: They claim that the
14 Governor's office is actively involved in the
15 operation of our department and that to -- I don't
16 know. I don't know how you could have this kind
17 of decrease over a three year period and not know
18 what you're doing either. They don't know hat
19 they're doing or they're not aware of it or that's
20 what they intend to do.

21 MS. RYLAND: And you're not aware that
22 there's anything to do with the Attorney General's
23 office in this?

1 MR. GILBERTSON: I don't think the
2 Attorney General's office has any oversight over
3 what we do. It's primarily the Governor hires
4 someone to do the job and they organize the
5 Department and, you know, do.

6 MS. RYLAND: And it's hands off at
7 that point.

8 MR. FAHEY: I was going to mention that
9 the legislative auditors just did a review of the
10 Human Rights Department based on them turning on
11 their performance record and they came out with a
12 very poor, poor report. Not based on what their
13 performance was, but based on the fact there was
14 no data to support what they had or hadn't done.
15 We don't even know what, really know what the
16 percent of probable cause rate or -- and they
17 blame the computer for this. But when I started
18 there there used to be an annual report at least
19 every two years that came out that listed all the
20 detail of all the incoming cases and what the
21 findings were and all the other data that went
22 along with it. That just has not been available
23 for several years now, and so it's hard for anyone

3
1 to see what's really gone on there. But I would
2 imagine that what they call backlog, which was the
3 term that was used in '84 when they got into real
4 trouble in the backlog. I would imagine if you
5 call it a backlog of cases, the number of cases
6 that are waiting there to be written up for
7 initial intake cases, the number of cases that
8 each enforcement officer has gotten, the numbers
9 people are telling me are 80 to 90 a piece and the
10 number of cases of all the various agencies, I
11 don't think anyone has seen that number. And I
12 think in the legislature ever since it and those
13 that especially when you recall the problem that
14 we had in the 1984 with backlog, I think they
15 would be very -- they would be deeply concerned.

16 MS. RYLAND: Can you name any
17 legislators that you know, one specifically
18 interested or empowered on something like this?

19 MR. FAHEY: I think one of them that's
20 running for governor right now has been always
21 very interested in the human rights area and
22 that's John Marty. I'm sure there are others. I
23 would -- is Jefferson still a legislator? I

1 believe he should -- he's from North Minneapolis.

2 MS. LOPEZ: Yes.

3 MR. GILBERTSON: I brought this issue up
4 in some of the other committees and organizations
5 that I belong in and I was speaking with Clell
6 Hemphill yesterday who is the Director of the
7 Disability Council and he said he had brought this
8 issue up in a government cluster meeting and they
9 just denied that this was true, it's not true that
10 these staffing things are not true. But this
11 little thing I've got right here, and if something
12 is wrong with this, I'd like to know what it is.
13 They are the people that were here. This is where
14 they are now. This is the extra people we've got.
15 That's the way it is and --

16 MR. JOHNSON: I'd like to address one
17 last comment and it has to do with the question
18 that Ms. Lopez raised initially with regard to the
19 closure and the standards with regard to closure
20 because that rate, that opens the door to a very
21 important conceptual issue that I think is
22 critical for other individuals assessing not only
23 other departments, but other departments that do

1 similar work, assessing their performance.

2 MR. GILBERTSON: What the Department has
3 told you is true in that the Department has
4 implemented some standards and there were
5 standards prior to this, but they've worked on
6 implementing standards with regard to the number
7 of cases closed by the investigators and I will
8 testify, as the others here have, that since the
9 time I've been at the Department the only factor,
10 the only evaluative factor that has been used by
11 the Department to assess their effectiveness or
12 their performance in cases in enforcement is the
13 total number of cases closed, both on a
14 departmental level and on an individual level. If
15 you can look back into the legislative record, I'm
16 confident that you will find that for years the
17 only statistics the department reported back to
18 the legislature were the numbers of cases they
19 closed, not the types of dispositions, not what
20 happened with those cases, but simply the number
21 of cases they closed. And I know personally and
22 can provide documentation to show that through
23 that period with regard to individual enforcement

1 officers the only feedback we received, the only
2 factors that was used to evaluate our performance
3 was the number of cases that we closed, not what
4 we did with those cases.

5 Now it's very important to realize
6 that and the reason being is that that standard,
7 although it may have the appearance of propriety
8 of being appropriate, and there is some level of
9 appropriateness to it, when it's used in such an
10 extreme level as in the only measure of
11 performance, it becomes, in fact, counter
12 productive to the enforcement of the Human Rights
13 Act, and the reason is fairly clear. Cases of
14 discrimination are often complex. They require a
15 fair amount of investigation to establish a case
16 of discrimination. Even if it's a very blatant
17 case of discrimination, usually a fair amount of
18 work is going to go into it to uncover the full
19 breadth and depth of that discrimination. So it's
20 clear that to investigate a case where there is
21 actual discrimination is going to take more time
22 and is going to take more work. Now again you may
23 have a case that comes across your desk where

4

1 there's no jurisdiction, it's filed in the wrong
2 jurisdiction. All you have to do is establish
3 that the company doesn't reside in Minnesota, they
4 reside in Wisconsin. That takes all of five
5 minutes to establish. If the only factor that I'm
6 being evaluated on is the number of cases I close,
7 not what I do with those cases, and I have on the
8 one hand the case of discrimination where there's
9 a large amount of evidence already looking at me
10 saying there's something going on here, there may
11 be discrimination here, there's a lot to be looked
12 into, this is a complex issue. On the other hand,
13 I have a case that's a lack of jurisdiction or
14 clearly dismissability cases and the only thing
15 that I'm being evaluated on is how many of these
16 cases I close, how often am I going to choose the
17 case that's going to take three, four, five times
18 longer to close as opposed to that case I'm going
19 to close in five minutes? At the end of month
20 where I close 4 cases, maybe 3 of them have been
21 probable cause cases and the person sitting next
22 to me has closed ten cases, none of which have
23 been probable cause cases and that person gets a

1 pat on the back and I get reprimanded and how long
2 am I going to continue to investigate those
3 probable cause cases? And that's the crux of
4 failure of the Department to enforce the
5 Department of Human Rights.

6 CHAIRPERSON ROGERS: Again I want to
7 thank you very much for your honest and forthright
8 testimony and we will look into this.

9 MR. JOHNSON: Thank you.

10 CHAIRPERSON ROGERS: We need you to sign
11 in and please state your name and spell your name?

12 MS. KNOX: I'm Jean Knox, J-e-a-n
13 K-n-o-x and I'm representing Workplace For
14 Justice.

15 MS. FOURTE: Margaret Fourte F-o-u-r-t-e
16 and I'm here representing Workplace Justice.

17 CHAIRPERSON ROGERS: Margaret, your last
18 name?

19 MS. FOURTE: F-o-u-r-t-e and I have hand
20 outs to give you today, if you don't mind.

21 JEAN KNOX

22 WORKPLACE JUSTICE

23 Workplace Justice is developed out

1 of a need for women who are experiencing
2 harrassment discrimination in the workplace, and
3 especially retailation. When this happened to me
4 back in 1989, I had absolutely nowhere to go and
5 it's happening to so many women in this community
6 that we have gotten together. We began in 1993
7 with Margaret Fourte spearheading the effort to
8 bring the women together to collectively find
9 solutions to these problems. And it's my
10 contention personally that this is an very serious
11 problem. It happened to me more than once. It's
12 happened to most of my friends and a number of
13 women that I know in the community which has
14 brought us together. I think this problem is a
15 community problem, a national problem. I think
16 it affects us long term financially and I think it
17 affects the way this country competes globally. I
18 think it's that serious.

19 As it becomes more and more an
20 employer's market, I think we're going to continue
21 to see more and more of this. Our objective at
22 Workplace Justice is to change the workplace
23 environment and to work on legislation, passing

1 legislation that helps in the situation so that
2 people can go to work and do a good job and they
3 can keep their jobs because they're doing a good
4 job, not because of the color of their skin, will
5 they have problems or not? They won't receive a
6 constructive discharge because maybe they're
7 making too much money. We've had several meetings
8 and the group is really more concerned about
9 retaliation than the initial harrassment and when
10 I went through this problem in 1989, I was told
11 forget the EEOC, forget Human Rights Department,
12 they're useless and I did not go through those
13 agencies.

14 So the things that we help people do
15 in Workplace Justice, we help women write
16 documents to their employers, documents on how to
17 put together pertinent information so that they'll
18 be able to use that information, how to work
19 through complicated process if they do want to go
20 through EEOC or to an attorney. To help them
21 recognize, through identification, the different
22 types of discrimination and what's happening to
23 them is not so unusual and it's not their fault.

1 Things such as a sudden persecution and loss,
2 inequity in pay and promotion, constructive
3 discharge. There are a lot of people who are
4 victims to really just less things that are
5 happening in the workplace.

6 Some of the changes that we would
7 like to see are better partnership between the
8 Human Rights Department and the EEOC and the
9 charging party and Margaret's going to talk a
10 little bit more about how we've specifically
11 focused on things that need to be done in those
12 areas as we see it.

13 MARGARET FOURTE

14 WORKPLACE JUSTICE

15 Thank you, Jean. Good afternoon and
16 thank you. To the Minnesota Advisory Committee to
17 the U.S. Commission on Human Rights, we are
18 pleased to have this opportunity to introduce
19 Worklace Justice to you and present to you efforts
20 that we are making to help our community address
21 employee's complaints of discrimination,
22 harrassment, and retailation in the workplace. We
23 thank you for allowing us to present to you three

1 concerns that we have with the current EEOC
2 investigatal process.

3 In November, 1993 as Jean mentioned,
4 several women began meeting to offer each other
5 mutual support and exchange information on
6 workplace abuses that they had either experienced
7 directly or seen perpetuated on others. Out of
8 these informal meeting has grown a social action
9 group, Workplace Justice, which works to promote
10 community awareness of the serious problems of
11 employer retaliation, which is designed to silence
12 those who would speak out against abuses in the
13 workplace. In addition, we offer mutual support
14 to other employees who have similar experiences.

15 From our efforts we have identified
16 the EEOC guidelines that we believe need to be
17 strengthened to prod a more level playing field
18 for the charging party as well as the respondent
19 company. And I'll read to you specifically our
20 three concerns are that; 1, the charging party and
21 the charging party's witnesses are held to a
22 higher level of accountability, such as sworn
23 affidavits of truth than is the Respondent

1 company. This creates an unequal playing field
2 and allows a determination to be influenced by
3 half truths, untruths, and advantageously
4 presented positions which have no demonstrable
5 support of fact. We're concerned that people who
6 submit charges of discrimination, retaliation, or
7 harrassment do not have the legal backgrounds or
8 the human resource experience and knowledge to
9 adequately present those complaints or understand
10 the situation in the workplace. Not only is there
11 no requirement of truth and completeness from the
12 Respondent company, if a discrepancy is later
13 pointed out, there usually is no detrimental
14 effect to the Respondent company. So to resolve
15 this disparity, we propose that both sides and
16 their witnesses are held to the same high level of
17 accountability.

18 The second concern is that the
19 unsworn position statements and any supporting
20 data presented to the Respondent company by the
21 Respondent company are neither provided to nor
22 made available to the charging party during the
23 investigational process. Once a decision has been

6
1 rendered by the agency, the charging party can
2 seek access to information submitted during the
3 investigation through the Freedom of Information
4 Act and at which point it's too late for the
5 agency to render a decision that is based on
6 truth. It's too late for the agency to benefit
7 from any comments, any reputation, any
8 clarification or any exposition by the charging
9 party. We propose that a photocopy of all
10 materials submitted by the Respondent company be
11 forwarded in a timely manner for this charging
12 party's review and input. We find that charging
13 parties will come to our meetings and talked about
14 their situation can tell you that they get
15 statements back from their investigators saying
16 that this happened, and on the surface it looks
17 true, but usually the perspective has been
18 twisted, the facts have been misrepresented.

19 The third concern that we'd like to
20 present to this Commission is that when the
21 charging party initiates an EEOC claim. The
22 investigator rarely provides information regarding
23 which federal statute may be involved nor is this

1 information readily supplied during the
2 investigative process. Therefore, during the
3 investigation the charging party will not know
4 what information is relevant, what information is
5 extraneous. The charging party will not know what
6 additional information needs to be provided, what
7 facts are being investigated by the EEOC
8 investigator. Even after the time the agency
9 renders it's decision, no federal statute or legal
10 citations are clearly identified or given to
11 support the decision made. As a result, when a
12 charging party receives a statement of no probable
13 cause from the agency, there is usually no way for
14 the charging party to determine the basis for any
15 further action.

16 While we recognized the funding and
17 personnel constraints on which the local EEOC
18 offices operate, we propose that agency
19 investigators disclose to the charging party the
20 facts that are being investigated and the
21 criteria, the applicable laws, the court cases,
22 the federal statute, whatever guidelines or
23 standards they're using for making their decision

1 to the charging party so that person can
2 understand what information needs to be given to
3 that investigator to prove their case. The EEOC
4 investigator we believe should also be able to
5 certify that they have investigated all facts
6 presented to them by the charging party and that
7 they have interviewed all relevant witnesses that
8 the charging party has supplied.

9 We greatly appreciate as a group the
10 support that we've received for these concerns and
11 I listed them. Laurel Parrot, Co-Chair of the
12 Minnesota NOW, Aaron Dorfman, Head Organizer of
13 Acorn. We want to thank you again for taking the
14 time to hear and consider three of the many
15 concerns that we have about the investigative
16 process. We look forward to an opportunity to
17 meet with our local and regional EEOC and state
18 Human Rights representatives to discuss how these
19 major concerns can be addressed by them and us to
20 benefit our community and the EEOC investigators
21 who are overburdened. And if you have any
22 questions be these concerns, please feel free to
23 contact one of our spokesmen, Ms. Dee Dee Wilson

1 at the Minnesota Women's Consortium.

2 CHAIRPERSON ROGERS: Are there any
3 committee members that wish to ask questions at
4 this time? Lupe?

5 MS. LOPEZ: Do you have a phone number?

6 MS. FOURTE: Area code (612) 228-0338.

7 CHAIRPERSON ROGERS: I want to thank you
8 for your testimony.

9 On behalf of the committee I'd like
10 to thank all of you that are present for your
11 valuable testimony. I want to also remind you
12 that this is a fact-finding body. We are not here
13 for enforcement or compliance, but in being that
14 we are looking into the use of the resources that
15 are devoted to the local and federal civil rights
16 enforcement in Minnesota, we will look into all of
17 the things that you have said today. So again it
18 was very valuable and I thank you.

19 I would ask you to submit additional
20 information or contact Peter Minarik at the U.S.
21 Civil Rights Commission, Midwestern Regional
22 Office. Contact him at the Xerox Center, Suite
23 410, 55 West Monroe Street, Chicago, Illinois,

7

1 60603. His phone number is (312) 353-8311.

2 Peter, can you give me a fax number?

3 MR. MINARIK: Last two digits are 24
4 instead of the 11.

5 CHAIRPERSON ROGERS: Fax number (312)
6 353-8324.

7 MS. KNOX: M-i-n-a-r-i-k is the spelling
8 of the last name?

9 MR. MINARIK: Yes.

10 CHAIRPERSON ROGERS: This meeting is
11 adjourned.

12 (The meeting was adjourned at 7:20 p.m..)

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C E R T I F I C A T I O N

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3
4 I, VERNITA HALSELL-POWELL, a Certified
5 Shorthand Reporter and Notary Public within and
6 for the County of Cook, State of Illinois, hereby
7 state that I reported in shorthand the testimony
8 given in the above-entitled cause, taken on the
9 date and time aforesaid, and state that this is a
10 true and accurate transcription of my shorthand
11 notes.
12
13
14

15
16 A handwritten signature in cursive script that reads "Vernita Halsell-Powell". The signature is written in black ink and is positioned above a solid horizontal line.

17 VERNITA HALSELL-POWELL, CSR No. 084-001831

18 Notary Public, Cook County, Illinois
19
20
21
22
23