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UNITED STATES COMMISSION  
ON  
CIVIL RIGHTS

IN THE MATTER OF:  
FACTFINDING MEETING OF  
THE INDIANA ADVISORY  
COMMITTEE TO THE UNITED  
STATES COMMISSION ON CIVIL  
RIGHTS:

"THE ENFORCEMENT OF AFFIRMATIVE ACTION  
COMPLIANCE IN INDIANA UNDER  
EXECUTIVE ORDER 11246"

REPORT OF PROCEEDINGS taken in the  
above-entitled matter, taken before the Indiana  
Advisory Committee to the United States Commission on  
Civil Rights, commencing on the 27th day of April,  
A.D., 1995 at the St. Joseph County Public Library,  
304 S. Main Street, South Bend, Indiana, at  
approximately 9:00 a.m.

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U.S. COMMISSION ON CIVIL RIGHTS

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CCR 3 Meet. 373
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APPEARANCES:

CHAIRPERSON:

MR. PAUL CHASE

MEMBERS:

MS. DORTHEA GREEN

MR. JOHN NORMAN

MS. SONDR A MATTHEWS

MR. JAMES MC ADAMS

MR.<sup>31</sup> MICHAEL GRADISON

MR HOLLIS HUGHES

MS. SHEILA KENNEDY

MR. SIDNEY TAYLOR

MS.<sup>31</sup> JUDITH HAWLEY-CONLEY

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1                   CHAIRMAN CHASE: Good morning. This meeting  
2 of the Indiana Advisory Committee to the United  
3 States Commission on Civil Rights shall come to  
4 order. For the benefit of those in our audience, I  
5 shall introduce myself and my fellow committee  
6 members. My name is Paul Chase, and I'm the  
7 Chairperson of the Indiana Advisory Committee. The  
8 other committee members are John Norman, Sondra  
9 Matthews, Michael Gradison, Hollis Hughes, Sidney  
10 Taylor, Judith Hawley-Conley, Sheila Kennedy and  
11 James McAdams. Not with us right now are Dorthea  
12 Green, Kathyn Banks and Kathleen Brita.

13                   We're here today to conduct a factfinding  
14 meeting for the purpose of hearing about the  
15 enforcement of affirmative action compliance under  
16 Executive Order 11246, which was signed into law 30  
17 years ago.

18                   The Indiana Advisory Committee is  
19 established to advise the Commission on matters  
20 pertaining to discrimination or denials of equal  
21 protection of the law because of race, color,  
22 religion, sex, sexual orientation, national origin,  
23 age, disability or in the administration of justice,

1 and to aid the Commission in its statutory obligation  
2 to serve as a national clearinghouse for information  
3 on those subjects.

4 The proceedings of this meeting are public  
5 and are being recorded by a court stenographer. A  
6 report of these proceedings will be sent to the  
7 Commission for its advice and consideration.

8 At the outset, I want to remind everyone  
9 present of the groundrules. This is a public meeting  
10 open to the media and the general public. We have a  
11 very full schedule of people who will be making  
12 presentations within the limited time we have  
13 available. The time allotted for each panel will be  
14 strictly adhered to. This will include a presentation  
15 by each participant followed by questions from  
16 committee members. Presenters may enter information  
17 into the record as exhibits. To accommodate persons  
18 who have not been invited but wish to make  
19 statements, we have scheduled an open session today  
20 at 12:00 o'clock noon. In addition, written  
21 statements on this topic may be submitted to  
22 committee members or by mail to the Midwestern  
23 Regional Office, U.S. Commission on Civil Rights, the

1 address being 55 West Monroe, Suite 410, Chicago,  
2 Illinois, 60603. The record of this meeting will  
3 close on May 20th, 1995. In order to insure that all  
4 aspects of the issues are represented, knowledgeable  
5 persons with a wide variety of expertise and  
6 viewpoints have been invited to make presentations,  
7 including the United States Department of Labor, law  
8 firms, employers, community agencies and selected  
9 individuals.

10 Some of the statements made today may be  
11 controversial. To insure that persons and  
12 organizations are not defamed by testimony received  
13 here today, any person or organization that feels  
14 defamed or degraded by statements made in these  
15 proceedings should contact our staff during the  
16 meeting so that we can provide an opportunity for  
17 public response. Alternately, such persons or  
18 organizations can file written statements for  
19 inclusion in the record. I urge all persons making  
20 presentations to be judicious in their remarks.

21 The Advisory Committee appreciates the  
22 willingness of all participants to share their views  
23 and expertise with the committee.

1                   Our first presenter today is Aladean DeRose  
2           who is Deputy Attorney for the City of South Bend  
3           and is here today to speak on behalf of the Mayor's  
4           office.

5                                   ALADEAN DE ROSE,  
6                                   CITY OF SOUTH BEND

7                   Thank you very much. The Mayor could not be  
8           here, but he welcomes you all to the City. Contrary  
9           to what you see outside, we do have springtime  
10          sometime, not today, unfortunately, for you. The City  
11          of South Bend is an aggressive equal opportunity  
12          employer. The City of South Bend is also an  
13          aggressive equal opportunity contractor within the  
14          spirit and intent of the law and as we, our efforts  
15          in affirmative action with respect to the City  
16          Contract has been tempered by the recent Supreme  
17          Court case in Crosson versus City of Richmond. But  
18          notwithstanding that decision, the City is engaged in  
19          doing whatever it can to open contracts, public  
20          contracts to minorities. We do this through an  
21          education process, completing pamphlets and public  
22          information brochures explaining the contract process  
23          with the city.

1           We're also looking toward eliminating some  
2 financial barriers to minorities in terms of bonding  
3 requirements, some of which are imposed by law by the  
4 state. But, to the extent that these can be softened  
5 to accommodate minorities and all persons actually  
6 who would fit within the scope of the intent of  
7 bringing everyone to the City who has services to  
8 render, giving them the opportunity to serve the  
9 City.

10           The mayor has also implemented a program  
11 making all of the department heads aware that small  
12 purchases by vendors should be made among minority  
13 vendors, familiarizing the department heads with all  
14 of the minority vendors that are within the city and  
15 requesting that all things being equal, that the  
16 department heads look to using minority vendors in  
17 the service of their small items within the  
18 department such as advertising, stationary, whatever,  
19 does not come within the public contracting or by,  
20 and by minorities. We mean all minorities, the full  
21 list and range that Mr. Chase read to us, it's not  
22 limited to any, to certain minorities. We believe  
23 that we've done an adequate job. We believe that



1 we've been sensitive to the needs of all persons,  
2 that by equal opportunity, we mean everyone and that  
3 persons of all race, color, creed, have an  
4 opportunity to do business with the City and to be  
5 hired by the City as employees of the City. Our  
6 staff, we believe in all of our departments is  
7 racially balanced, is as balanced as possible. And,  
8 we believe that we also have the best employees that  
9 we can possibly have.

10 So, we welcome you here again and thank you  
11 for being here again. Sorry for the weather, but in  
12 this environment, I think you'll be protected from  
13 it. Thank you.

14 CHAIRMAN CHASE: Thank you. Our first  
15 speaker on the panel today is Sandra Hueneman.  
16 Ms. Hueneman is Chicago Assistant District Director  
17 for the U.S. Department of Labor with the Office of  
18 Federal Contract Compliance Programs. Welcome.

19 SANDRA HUENEMAN

20 U.S. DEPARTMENT OF LABOR

21 OFFICE OF FEDERAL CONTRACT COMPLIANCE PROGRAMS

22 Thank you. It's my pleasure to meet with the  
23 organization here and to speak with you on

1 affirmative action in Indiana and to share with you  
2 exactly what the Office of Federal Contract  
3 Compliance Programs is responsible for, and how we  
4 actually measure a contractor's compliance.

5 As I indicated, I'm from the Chicago  
6 District Office. We're located in the Chicago Loop.  
7 Our office is responsible for the northern part of  
8 Indiana and the northern part of Illinois. I'm aware  
9 that last week you met with the Regional Director,  
10 Malcolm Holloman and Mr. Steptoe out of Indianapolis,  
11 and I understand they gave you a historical  
12 perspective on the program. And, I hope that I won't  
13 repeat that today. I'll try not to.

14 The regional director has asked that I share  
15 an article with you. It was actually a study on the  
16 competitiveness of management of diversity and the  
17 study's premise is that announcements of awards may  
18 be associated with competitive advantage. For  
19 example, the agency, and you'll see, and we're going  
20 to go through a little red pamphlet in a second,  
21 you'll see that the agency does recognize  
22 contractors' achievements through various awards.  
23 And publicizing those awards, contractors have been

1 found to have an advantage economically versus those  
2 contractors who have had negative announcements, such  
3 as we have findings of discrimination. So, I'll  
4 enter that into your record.

5 The Chicago District Office is staffed with  
6 1 district director, 2 assistant district directors,  
7 18 compliance officers and 4 administrative staff  
8 persons. As I indicated, our geographic area that we  
9 cover is northern part of Illinois and northern part  
10 of Indiana. We have the largest contractor universe  
11 in the country. Indiana, the northern part of  
12 Indiana represents 13% of our contracting universe.  
13 As we go through the manner in which contractors are  
14 selected for compliance review, they're selected  
15 based on their EEO-1 reporting; basically, the  
16 composition of their work force and the various job  
17 categories. Most recently, the agency has reassessed  
18 its utilization of its staff. And while there has  
19 been a downsize in the number of staffing that we  
20 have, we've re-evaluated and now we're focusing on  
21 different things. That's, we're targeting  
22 contractors who are our worse offenders, who have a  
23 history of problems with the agency or with

1 affirmative action discrimination, failure to comply  
2 with that law. Contractors who are known to be  
3 growth industries, small contractors of less than 250  
4 employees, and then initial contractors, contractors  
5 who have never been reviewed before.

6 At this time, I would like for you to open  
7 up the little red pamphlet here, What's OFCCP. I  
8 understand, I believe, that Malcolm Holloman did  
9 cover the executive order as amended, as you know,  
10 from there. There's some other action that we cover  
11 as well, but we'll try to focus on the executive  
12 order today.

13 We go down on the second end of the second  
14 page there, OFCCP's enforcement procedures. We  
15 conduct compliance reviews and complaints,  
16 investigations of federal contractors, personnel  
17 policies and procedures. Let me expand on that just  
18 a moment, please. There are two compliance type  
19 reviews that we conduct. One is a supply and service  
20 where a contractor is required to have a written  
21 affirmative action program if they have 50 or more  
22 employees and a \$50,000 contract. What's an  
23 affirmative action program? It's a set of oriented

1 procedures to correct problems that are actually  
2 identified.

3 If you will turn to Page 115 in the  
4 regulations, white book, Subpart B, Required Contents  
5 of Affirmative Action Programs. It's a set of  
6 specified and result oriented procedures in which a  
7 contractor commits to supply every good faith effort.  
8 And, I don't want to go into the specifics of the,  
9 all the requirements of the written affirmative  
10 action program because I think you want to move on  
11 with that. But, if anyone ever has any questions,  
12 they're free to contact our office. We do provide  
13 technical assistance.

14 2.15, actually on Page 118, how do we  
15 measure a contractor's compliance? And, I'll read  
16 that, "No contractor's compliance status shall be  
17 judged alone, whether or not it reaches its goals and  
18 meets its timetables. Rather, each contractor's  
19 compliance shall be reviewed and determined by  
20 reviewing the contents of the program, the extent of  
21 its adherence to the program and its good faith  
22 efforts to make its program work towards the  
23 realization of the programs, goals within the

1 timetable set for completion" and so on. So, when we  
2 measure a contractor's efforts and the success of the  
3 program, we measure their good faith efforts. What  
4 does that mean? What efforts did the company  
5 undertake to find qualified minorities and females to  
6 employ in those jobs where they are absent or there's  
7 an under-representation based on the availability of  
8 women and minorities. In the event of a reply in  
9 service compliance review, we would request a written  
10 affirmative action program be submitted within 30  
11 days. Once the affirmative action program is  
12 submitted, we conduct what's known as a desk audit.  
13 And again, there's specific requirements to be  
14 contained in that affirmative action program. Go  
15 through and do a desk audit. We find our problems,  
16 focus on those areas and we schedule an onsite --

17 MR. GRADISON: Indepth audit?

18 MS. HUENEMAN: Indepth audit, I mean, we're  
19 looking at how their work force is composed, do they  
20 have the proper departments, their job groups which  
21 is a listing of jobs having similiar wage rate  
22 content and opportunity, how they have come up with  
23 the availability for each of those job groups, have

1 they determined underutilization for each of those  
2 job groups and whether they are underutilized by one  
3 or more persons, they're required to establish a  
4 goal. They must develop an action oriented program to  
5 eliminate that underutilization, an action oriented  
6 program would be a set of procedures identifying who  
7 is responsible, what's going to be done, you know,  
8 actually what the problem is and what is going to be  
9 accomplished.

10 Contractors have been known to have violated  
11 their own written affirmative action programs. We  
12 have found contractors who if OFCCP doesn't call and  
13 request their affirmative action program, it collects  
14 dust just like books in the library might, they  
15 haven't been used over a period of time. The end  
16 result, we find either a contractor's in compliance  
17 or non-compliance. When we find a contractor in  
18 non-compliance, the contractor is required to enter  
19 into a letter of commitment generally that would be  
20 for minor technical violations or a conciliation  
21 agreement. Conciliation agreement would require  
22 there are some legal general provisions that are  
23 required to be in that document. Contractors are

1 required to submit progress reports, either if they  
2 enter into a letter of commitment or a conciliation  
3 agreement with the agency. We monitor their progress  
4 and where progress is not made, we contact the  
5 companies. We do follow up reviews and if we find  
6 them in compliance as a result of the progress  
7 reports, you know, we note that and advise them of  
8 such. I must say this last quarter, the Chicago  
9 District Office had a considerable amount of, not  
10 follow up, but progress reports that we monitored.  
11 And as a result of that, we found that there were a  
12 significant increase in minorities and females where  
13 there had previously not had that opportunity for  
14 those jobs. And, it wasn't until OFCCP conducted  
15 those reviews that made contractors aware that there  
16 were organizations out there, and that there were  
17 qualified individuals who could do the job.  
18 Affirmative action is not hiring a less qualified  
19 person. Affirmative action is not quotas, okay. We  
20 don't deal with quotas. These are goals, these are  
21 goals established by the contractors.

22 So with that, as I indicated, we do monitor  
23 the progress reports in fulfilling the terms of the



1 agreement. We establish linkages, linkage agreements  
2 with community organizations with colleges,  
3 universities and such who can refer qualified  
4 minorities and females. We provide technical  
5 assistance to help contractors understand what's  
6 required by the law and who hopefully get them into  
7 compliance. There's an ultimate sanction, though, if  
8 the contractors refuse to resolve violations that  
9 were identified as a result of a compliance review,  
10 or even, in fact, as far as a complaint  
11 investigation, we will take a contractor to  
12 enforcement and have done so. For example, there's  
13 been instances where a construction contractor was,  
14 failed to submit a progress report and was found to  
15 be in violation. And, while they were not initially  
16 found to have discriminated, the ALJ, Administrative  
17 Law Judge imposed a six month debarment. The  
18 contractor could not enter into any government  
19 contracts for a period of six months. That was  
20 probably the most recent instance of termed  
21 debarment. Prior to that, a contractor could remain  
22 in non-compliance for any given period of time until  
23 they go to court. And when they go to court, they

1           come before the judge and they present their case.  
2           Okay, I'll sign it. So, after this time, they've  
3           discriminated, they've done all of these terrible  
4           things and they can go out in the afternoon and  
5           become a federal contractor. Now, the agency is  
6           taking a harder stand on that with the term  
7           debarrment. And also this particular construction  
8           contractor, while they didn't find discrimination  
9           during the compliance review, they did establish a  
10          linkage, sources that the contractor was to contact.  
11          The contractor failed to contact those organizations  
12          and as a result, the ALJ said you will contact these  
13          organizations. And if they had minorities and  
14          females who were qualified to do that job, you will  
15          now pay them back pay and you will extend a job  
16          offer. So, the initial finding was failure to take  
17          affirmative action and make good faith efforts, and  
18          that's the ultimate situation there.

19                        We have a close working relationship with  
20          other departmental agencies such as our Office of  
21          Solicitor who we deal with when we discuss our cases,  
22          Women's Bureau about the needs of working women, the  
23          Bureau of Apprenticeship Training regarding

1 recruitment and selection of apprenticeship programs.  
2 We also contact the Equal Employment Opportunity  
3 Commission for every review that we do, as well as  
4 the Department of Human Rights, be it in Indiana or  
5 Illinois.

6 If you'll turn to the back here, it's not  
7 always negative. There are some positives.  
8 Contractors who voluntarily comply with the law, the  
9 agency is looking at to award them in some fashion,  
10 by means of the Eve Award, the Epic Award or the  
11 Secretary's Opportunity 2000 Award.

12 One of our other special initiatives is the  
13 glass ceiling. And in that -- well, it's a routine  
14 compliance review. We're also looking at the  
15 advancement of minorities and females into upper  
16 management positions and how they're getting there.  
17 We're looking at how non-minority males have made it  
18 to the top while similiarly situated minorities and  
19 females have not.

20 So, I would hope that I could answer any  
21 questions that you might have. If I can't, I'll  
22 surely take those back and get that for you. Thank  
23 you.

1                   CHAIRMAN CHASE: Thank you. And, we do have  
2 some time for questions, if we have questions from  
3 committee members, Michael?

4                   MR. GRADISON: What's the experience in  
5 terms of numbers of debarments? Are you making  
6 compliance over the years in terms of compliance with  
7 the EEO?

8                   MS. HUENEMAN: I would say in 1991, there  
9 was one debarment and in 1991, it's progressed not  
10 really significantly, but we are in the process of  
11 working more closely with our solicitor. So, we're  
12 having more debarments or preparing cases for  
13 debarment.

14                   MR. GRADISON: But, during the history of  
15 this executive order, it's a much broader period of  
16 time, back 20 years or so, what has been the  
17 experience in terms of debarments, number of  
18 contracts being debarred for failure to take  
19 affirmative action, has it gone up, down, is the  
20 jagged tooth on a graph?

21                   MS. HUENEMAN: I would say prior to 1990, it  
22 was pretty stagnant at almost zero. I think from 1986  
23 to 1990, it was at zero. 1991, I believe we had our

1 first one.

2 MR. GRADISON: They must have been pretty  
3 offensive, I imagine, with a contract.

4 MS. HUENEMAN: Again, we're working with our  
5 solicitor. And so the other side of it is we're, our  
6 staff is being trained more effectively in order to  
7 do the compliance reviews.

8 MR. GRADISON: So, if your negotiation leads  
9 to settlement as opposed to having to go and follow  
10 the debarment, you're more successful negotiating  
11 settlements?

12 MS. HUENEMAN: Exactly, exactly. Because we  
13 don't take a contractor to enforcement doesn't mean  
14 we haven't found discrimination and sought back pay.  
15 I think the Chicago District Office had somewhere  
16 around \$2 million in settlements, and that was  
17 findings of discrimination.

18 MR. GRADISON: So, they'd have to be pretty  
19 obnoxious to be debarred, unwilling to negotiate with  
20 you in resolution.

21 MS. HUENEMAN: Basically, it's refusing to  
22 enter into sometimes a conciliation agreement where  
23 there's no debarment. And, at some point in the

1 future, if an agency is looking at eliminating letter  
2 of commitment, either the contractor is in compliance  
3 or not compliance. If they're not in compliance,  
4 let's not go through the process of, I don't want a  
5 letter of commitment, I want a conciliation  
6 agreement. Contractors look at as though a  
7 conciliation agreement is really harsh. But, the  
8 bottom line is if we give you a letter of commitment,  
9 we still take you to enforcement. It may take us a  
10 little longer if you don't want to comply with the  
11 law.

12 MR. GRADISON: It seems to me that the  
13 horror shows that we've heard about in the media  
14 lately with the attack on affirmative action seems  
15 that if you've only gone to debarment with one in so  
16 many years, you've been able to negotiate with some  
17 success, and putting these contractors in compliance  
18 with the EEO, that the horror shows are a little bit  
19 overdrawn. Is that, I mean, is that a safe  
20 assumption to make?

21 MS. HUENEMAN: Well, I would say. I would  
22 also say that it's rather unfortunate, many times  
23 contractors, as soon as they get our letter, they'll

1           either call a consultant and/or an attorney. And,  
2           many times we have to provide technical assistance to  
3           those folks with whom the company is actually paying  
4           large sums of money. Now, the agency will provide  
5           technical assistance to contractors in putting  
6           together their affirmative action program, and we'll  
7           provide technical assistance as far as recruitment  
8           sources and such, who would be more in a position to  
9           provide qualified individuals for the particular jobs  
10          and try to get them into compliance. Regulations  
11          don't require that a contractor go out and hire  
12          consultants and all these kinds of folks. We do  
13          provide technical assistance.

14                   MR. GRADISON: For nothing?

15                   MS. HUENEMAN: For nothing.

16                   MR. GRADISON: And, you're aggressive about  
17          that, offering to these people?

18                   MS. HUENEMAN: Yes.

19                   MR. GRADISON: It would be no expense?

20                   MS. HUENEMAN: We're not doing the program  
21          for them, but we will assist them in showing them how  
22          to understand what it is they need to do.

23                   MR. HUGHES: Based on what you've said,

1           you've said that this area, this region is the  
2           largest contracting universe in the region?

3                     MS. HUENEMAN: Right.

4                     MR. HUGHES: And, the end result of the  
5           enforcement as it relates to negative impact on the  
6           economic, on the contractors has been about \$2  
7           million.

8                     MS. HUENEMAN: Has been about \$2 million.

9                     MR. HUGHES: In terms of penalties, you were  
10          talking about penalties?

11                    MS. HUENEMAN: We've had about \$2 million  
12          and when we find discrimination, maybe I should back  
13          up a little bit. When we find a contractor's in  
14          non-compliance, all they would have to do is enter  
15          into a conciliation agreement to agree to desist.

16                    MR. HUGHES: And, that's a no cost type of  
17          thing?

18                    MS. HUENEMAN: Exactly.

19                    MR. HUGHES: Okay. I guess the number that  
20          confused me --

21                    MS. HUENEMAN: The number that I gave out  
22          was settlements of back pay.

23                    MR. HUGHES: Settlement of back pay.



1 MS. HUENEMAN: Exactly.

2 MR. HUGHES: Which are actual dollar costs  
3 to contractors in this universe?

4 MS. HUENEMAN: Who have discriminated.

5 MR. HUGHES: Exactly, who have been found  
6 guilty of wrongdoing results in \$2 million.

7 MS. HUENEMAN: And, what we have found  
8 again, this was the last year. We only seek back pay  
9 with interest and front pay, and any other benefits  
10 that individual maybe lost. That's what we're  
11 looking at when we talk about that. So, the  
12 contractor basically is responsible for, these are  
13 whole new decisions. Okay, the U.S. government is not  
14 telling companies to discriminate so that they can  
15 come out and charge you extra money. We're not  
16 telling you to go out and seek outside assistance.  
17 All those, it's not that they do, but we do provide  
18 that for them, and that contractor community has not  
19 been aggressive in that area. I guess that if it  
20 wasn't for OFCCP, they would leave the affirmative  
21 action program on the shelf and women and minorities  
22 would still be trying to find some of those jobs.

23 MR. HUGHES: Okay. But, the \$2 million

1 figure was in the last year?

2 MS. HUENEMAN: In the last year.

3 MR. HUGHES: Just trying to get a handle on  
4 enforcement is detrimental economically in terms of  
5 cost. \$2 million to the largest region is  
6 insignificant in terms of that financial cost of  
7 enforcement.

8 MR. GRADISON: Do you have a number on, the  
9 gross number of, annual number of the gross numbers  
10 of federal contracts that you supervise compliance?  
11 Do you know how many contracts?

12 MS. HUENEMAN: How many federal contracts?

13 MR. GRADISON: Yes.

14 MS. HUENEMAN: No, I cannot give that to  
15 you. We have what's known as an E & ARE system.  
16 That's basically how many contractors are selected  
17 based on their EEO-1 reporting. And, while we may,  
18 say, have \$8,000 to \$10,000 in this particular area,  
19 not all of those may be federal contractors that meet  
20 the criteria, the threshold of \$50,000, 50  
21 employees.

22 MR. GRADISON: Hollis and I both say in  
23 terms of this impact of these fines, penalties, back

1 pay against contractors, trying to put that in a  
2 larger contract, \$2 million may be a very tiny  
3 number.

4 MS. HUENEMAN: Well, it is. And again, it's  
5 nothing more than is due to someone who was denied  
6 that opportunity. You're making someone whole.  
7 We're not taking from the company. These are  
8 decisions the companies actually are responsible for.

9 MS. KENNEDY: Could you clarify one thing  
10 about that? When you talk about awards and back pay,  
11 I'm assuming from what you're saying now that these  
12 are individuals who have come to you and said we were  
13 discriminated against?

14 MS. HUENEMAN: No.

15 MS. KENNEDY: So, this is people who might  
16 have been --

17 MS. HUENEMAN: No.

18 MS. KENNEDY: -- hired but for --

19 MS. HUENEMAN: Okay.

20 MS. KENNEDY: And, how do you define those?

21 MS. HUENEMAN: Let me explain that.

22 MS. KENNEDY: Yes.

23 MS. HUENEMAN: For the most part, that's a

1 finding as a result of our compliance review process.  
2 During our compliance review, we take a look at the  
3 company's employment process, women and minorities  
4 who were denied opportunity or who were not selected.  
5 We find out reasons why they were not selected, and  
6 most of them are arbitrary and very subjective. And,  
7 that's how we find them as we go through conducting  
8 compliance reviews.

9 MS. KENNEDY: But, these are defineable  
10 applicants for particular positions?

11 MS. HUENEMAN: Exactly.

12 MS. KENNEDY: So, it's not like, well, if  
13 you had been more forthcoming, maybe somebody in this  
14 particular applicant pool would have.

15 MS. HUENEMAN: No.

16 MS. KENNEDY: It depends, I'm hearing you  
17 say that you, that that employer does then have an  
18 opportunity to demonstrate why the person chosen was  
19 arguably more qualified, and that they have been  
20 unable to make that class.

21 MS. HUENEMAN: Exactly, exactly. They're  
22 selecting; for example, non-minority males. They're  
23 continuing to seek applicants, non-minority males

1           when they have qualified female and minorities in  
2           their applicants log who are actually qualified and  
3           more qualified than those they were selected from.

4                   MS. KENNEDY: From the due process  
5           standpoint, there's an opportunity for that employer  
6           to justify that decision, and back pay is awarded  
7           when he or she's unable to do so.

8                   MS. HUENEMAN: Well, again, we negotiate that  
9           and that's the final resolution. When we find  
10          discrimination, we seek to make whole relief, which  
11          includes the back pay with interest. And, that's  
12          something that's due the individual because they were  
13          unlawfully denied that opportunity.

14                   MR. MCADAMS: I have two questions. The  
15          first one is a little philosophical. You said that  
16          the objective of your office is to measure  
17          non-fulfillment of specific goals, but instead to  
18          assess whether good faith has been present or not.  
19          And, I wonder if you could give us some specific idea  
20          of the kinds of indexes that you look for in  
21          measuring good faith, then I'll ask my second  
22          question.

23                   MS. HUENEMAN: For example, say you're a

1 contractor and you have a particular job group, let's  
2 call it professionals, and you say establish a goal  
3 of, let's say you say that your availability of  
4 minorities might be 25%. And, let us say that the  
5 job group currently consists of 100 employees. And  
6 at present, you have 1 minority somewhere around.  
7 So, if you look at the utilization there, you're  
8 underrepresenting. Your goal is 25%, yet you only  
9 have 1 incumbent. What did you do? Let's say you  
10 had 10 opportunities, new hire opportunities. What  
11 did you do to find qualified minorities for that job?  
12 Did you continue to advertise in the newspaper? Did  
13 you contact the job service? That's not adequate.  
14 First of all, you're probably not going to find  
15 qualified minorities from those sources, okay. So,  
16 that's what we're looking at.

17 MS. KENNEDY: What would be adequate?

18 MS. HUENEMAN: Okay. Your efforts to go out  
19 and seek community organizations, colleges and  
20 universities who are capable of referring qualified  
21 individuals. And with that, we would site the  
22 contractors for failure to take good faith efforts.

23 MR. MCADAMS: If a hypothetical contractor

1 would to say, look, let's continue discussing this,  
2 keep coming back to you, let's do this, let's do  
3 this, would that constitute good faith?

4 MS. HUENEMAN: You have to demonstrate--just  
5 the other day, I had a contractor tell me, I said  
6 what did you do for good faith? Well, I advertised  
7 in the newspaper and I used the EEO tag line on, and  
8 I contacted the job service. And, that's not going  
9 to get it because that's not going to get it. If  
10 those sources are capable of referring those qualified  
11 minorities for you, it's working, okay. But, there's  
12 no progress. You had 20 opportunities, you had not  
13 one minority who applied because you're not going to  
14 the right sources.

15 MR. MCADAMS: So, that's how it is. He  
16 looked at --

17 CHAIRMAN CHASE: Is the second question  
18 going to be on good faith or?

19 MR. MCADAMS: No.

20 CHAIRMAN CHASE: I have one follow up to  
21 that. When you have 18 compliance officers and it  
22 seems to me that it's somewhat of a subjective  
23 measurement. Still, I mean, how can you be sure that,

1           you know, if each compliance officer goes out, how  
2           can you be sure that they'll all come to the same  
3           conclusion, and is there any kind of discussion once  
4           they come back to the office to even, you know, to  
5           analyze, you know, what constitutes good faith or is  
6           it just officer by officer, who measures that?

7                   MS. HUENEMAN: Well, essentially good faith  
8           is what did you do, contractor, to find qualified  
9           minorities? Okay. Let's say I'm the contractor. I  
10          contacted this organization, this organization, and  
11          this organization. Well, I'm telling you I contacted  
12          those organizations, but those organizations can only  
13          supply me with minority laborers. You have an  
14          obligation to contact sources who are capable of  
15          referring qualified individuals, and so that's how  
16          it's looked at.

17                   CHAIRMAN CHASE: And, you're suggesting it's  
18          fairly easy from the compliance officers' standpoint  
19          to come to that determination?

20                   MS. HUENEMAN: Uh huh.

21                   CHAIRMAN CHASE: Jim?

22                   MR. MCADAMS: My second question has to do  
23          with audits. One of the lessons that we learn in our



1 testimonies in Indianapolis was that audits can be  
2 nerve wracking, but also fairly expensive,  
3 particularly in terms of time and hours that have to  
4 be invested, very important. I'd be interested in  
5 hearing what, in recent years, say, within the last  
6 decade has been done in your office to make audits  
7 less expensive and easier on contractors?

8 MS. HUENEMAN: Okay. Our office, would say  
9 with the last two years before compliance officers  
10 don't want to cite with regard to services that apply  
11 to compliance review. They do case break-in with  
12 their manager and together they agree on the issues  
13 that need to be discussed, and actually investigated  
14 while they're on the site. We send an on site letter.  
15 That letter should be received within two weeks prior  
16 to the review, prior to the on site. That gives the  
17 contractors an opportunity, it's very focused. For  
18 example, if we have an area, say, of a hiring  
19 situation that we have some concerns about, we're  
20 going to ask for the 20 minority applicants who  
21 applied and the 5 non-minorities who were hired and  
22 the employment process, individuals who were involved  
23 in that process, and the reasons for non-selection of

1 minorities. It will be very, it's very focused.

2 MR. MCADAMS: Would you say that there's  
3 been a kind of a learning process here in your office  
4 on time, in making a lot of this more focused, or do  
5 you think they've always been focused?

6 MS. HUENEMAN: Over the last several years,  
7 they've probably been more focused because again, we  
8 don't want to use any more of your time, and we have  
9 a lot of contractors do, so we want to get in and get  
10 out as quick as possible, but yet do a thorough job.

11 MR. TAYLOR: What percentage of contractors  
12 do you audit every, per year?

13 MS. HUENEMAN: A contractor cannot be  
14 reviewed every year, they're generally reviewed, at  
15 least if they haven't been reviewed in the last two  
16 years, we would generally review them. But again,  
17 because we have maybe such a large universe, you have  
18 to understand that not all the contractors are being  
19 reviewed.

20 MR. TAYLOR: What percentage?

21 MS. HUENEMAN: I would probably say a rough  
22 guesstimate, probably around 10%.

23 MR. TAYLOR: So, there's 90% might be not in

1 compliance?

2 MS. HUENEMAN: But, again, they may have  
3 either currently are on reporting, from a prior  
4 review, or it has not been two years since our last  
5 review.

6 MR. TAYLOR: You review 10% this year and  
7 10% next year?

8 MS. HUENEMAN: Keep in mind, though, that of  
9 that entire universe, not all of them are federal  
10 contractors and they don't meet the threshold. And,  
11 the other thing is they have to be identified as a  
12 contractor who has been nagged, that's how we're  
13 focusing, contractors who, based on the  
14 representative minorities and females. It would not  
15 be right for us to go in and do a compliance review  
16 of a company who has significant minority and female  
17 representatives in the work force.

18 MR. HUGHES: Ms. Hueneman, we talked last  
19 time, we heard some testimony about concerns with  
20 hiring persons with disabilities in the construction  
21 contract industry. And, in thinking about this a  
22 little bit more, I'm just concerned as to what OFCCP  
23 can actually do in trying to enforce compliance with

1 the hiring of persons with disabilities, especially  
2 when under our various federal laws, employers cannot  
3 ask a person what their disabilities are in their  
4 hiring process. And, unless it's fiscally apparent,  
5 which may or may not be the case, there's no way of  
6 actually knowing if they're hiring the person for  
7 disability. They can't ask that question. So, has  
8 there been any discussion from the OFCCP about how to  
9 address that issue to insure that the people with  
10 disabilities are hired?

11 MS. HUENEMAN: Okay. You're talking about  
12 construction industry?

13 MR. HUGHES: This is actually in any of the  
14 contracts.

15 MS. HUENEMAN: The contractors also have an  
16 affirmative action program in an effort to cover  
17 persons with disabilities. There are also outreach  
18 and recruitment methods required there, and we also  
19 evaluate those when we're on site. The Chicago  
20 District Office, the middle of last year, worked with  
21 an organization and put together a listing of sources  
22 who could provide persons with various disabilities  
23 to employers. And so, yes, they could be found to

1 fill a good fit for the recruitment of persons with  
2 disabilities as well.

3 MS. KENNEDY: Hollis' point is if you're  
4 precluded from asking someone whose disability is not  
5 apparent, how do you know?

6 MS. HUENEMAN: The company can ask the  
7 individual to self-identify for affirmative action  
8 purposes, but they have to extend the offer of  
9 employment first.

10 CHAIRMAN CHASE: It's a volunteer.

11 MS. HUENEMAN: It's a voluntary thing.

12 CHAIRMAN CHASE: So, it's up to the  
13 individual on whether they want to?

14 MS. HUENEMAN: But, it cannot be done prior  
15 to the job offer. Prior to ADA, Americans with  
16 Disabilities Act, that's one of the things that we  
17 required contractors do, to invite applicants and  
18 employees to self-identify themselves. And, under  
19 ADA, no, they cannot do that until after the offer is  
20 made. But, they can't voluntarily seek that  
21 information.

22 CHAIRMAN CHASE: One last question from  
23 Michael.

1                   MR. GRADISON:  If, to clarify my  
2                   understanding about your particular audits, again,  
3                   about 10% at any given time are being audited.  What  
4                   provokes the audit; a series of complaints, a  
5                   pattern, you automatically do it, or do you  
6                   specifically with those contractors about whom you've  
7                   received a certain number of complaints?

8                   MS. HUENEMAN:  Basically, it's based on  
9                   their minority and female representation in the work  
10                  force.  As I indicated earlier, we have specific  
11                  initiatives, most specifically probably this fiscal  
12                  year, those are the contractors who are our worse  
13                  active, who have had a known problem before OFCCP  
14                  with, regarding compliance contractors who are in the  
15                  group mode, small contractors or contractors who have  
16                  less than 250 employees at a facility.

17                  MR. GRADISON:  So, it's a combination?

18                  MS. HUENEMAN:  It's a combination thing.  
19                  And then, there's the other, I would say maybe 15% of  
20                  all reviews that we would do probably would be  
21                  through other sources, let's say a complaint.  But,  
22                  the majority of the time, they're done through the  
23                  system of their representation in the work force.

1 MR. GRADISON: You look at their numbers?

2 MS. HUENEMAN: Yes.

3 CHAIRMAN CHASE: We actually do have a few  
4 more minutes, I'm looking at my watch. And, I did  
5 want to ask you also about, you know, we talked about  
6 the concerns I think the contractors have. And, you  
7 were mentioning the fact that there are actually  
8 these awards that are given which, you know, award  
9 them for taking action and hiring minorities, women.  
10 How many have been awarded over the past few years,  
11 is that on the increase?

12 MS. HUENEMAN: I would say it's on the  
13 increase. As we speak now, actually we have someone  
14 from our regional office in Washington reviewing  
15 nominations.

16 CHAIRMAN CHASE: Do we have a number?

17 MS. HUENEMAN: No, I don't have the number  
18 with me.

19 CHAIRMAN CHASE: Okay.

20 MS. HUENEMAN: But, if you'd like, I can get  
21 that for you.

22 CHAIRMAN CHASE: Yes, I'd be interested in  
23 knowing the number of awards in the last few years.

1                   MR. HUGHES: While we're talking about  
2 numbers, I would also like one. The number of new  
3 audits initiated in this region. I'm still kind of  
4 confused, it seems to me that the 10% keeps getting  
5 compressed. They say they're going to audit a  
6 percentage, but it's a percentage of a percentage.  
7 So, if you can tell me the number of new audits --

8                   MS. HUENEMAN: The number of initial reviews  
9 in this region, when you speak this region, are you  
10 speaking, Region 5 takes in a number of states. Are  
11 you speaking just in the Chicago District Office?

12                   MR. HUGHES: Well, the Chicago District  
13 Office.

14                   MS. HUENEMAN: Again, I don't have that  
15 information. But, I'll surely check that for you.

16                   MR. GRADISON: You'll provide it to all of  
17 us, then?

18                   MS. HUENEMAN: Pardon me?

19                   MR. GRADISON: You'll provide it to each of  
20 us, then?

21                   MS. HUENEMAN: Sure, I'll give it to Peter  
22 and he'll give it to you.

23                   MS. HAWLEY-CONLEY: We have received



1 testimony that indicates that the technical  
2 assistance perhaps that you mentioned is less than  
3 user friendly. That contractors are not able to have  
4 access to your office. Can you indicate whether or  
5 not the technical assistance you were speaking about  
6 is of a preventative nature, such that you actually  
7 go out to the contractor's offices and assist them  
8 before there's an allegation of a violation, or is it  
9 something that you, that your office does once an  
10 allegation has been lodged?

11 MS. HUENEMAN: No, I'm not aware of this  
12 situation that you're speaking about. I, our office  
13 has--a contractor, all they have to do is, say, call  
14 our office and say they'd like to speak with someone  
15 regarding technical assistance in putting together an  
16 affirmative action program. Or, they're having a  
17 specific problem with a particular ingredient in that  
18 program. Or, we'll turn them over to myself, the  
19 other assistant director, even the director or  
20 compliance officer.

21 MS. HAWLEY-CONLEY: Would they have to come  
22 to either the Indianapolis office or --

23 MS. HUENEMAN: Exactly.

1 MS. HAWLEY-CONLEY: You don't have an agent  
2 that can actually go on site with them to assist  
3 them?

4 MS. HUENEMAN: We have not, in the past,  
5 sent compliance officers out to do that because if we  
6 were doing that, I suppose we could probably do that,  
7 if it was a unique situation or if the compliance  
8 officer was in the area conducting the review. But,  
9 keep in mind that we're more than happy to provide  
10 technical assistance. But, if the officers are on  
11 site giving technical assistance, it's taking them  
12 away from their business as usual in conducting the  
13 complaint for you.

14 MS. HAWLEY-CONLEY: I'm just thinking about  
15 the small business that's owned, operated, and  
16 managed and supervised by one or two persons who may  
17 not have an opportunity to leave their business per  
18 se, and actually get to the Indianapolis office. Say,  
19 for example, they were in Anderson or Muncie,  
20 something that's 45 minutes away. How is that office,  
21 then, facilitated?

22 MS. HUENEMAN: I would suggest that they  
23 contact the district director in that office or

1           assistant district director and state their address,  
2           their particular situation, and see if there can't be  
3           some accommodation made for their situation. And, my  
4           other suggestion would be if they find that they're  
5           getting a policy response from a tech office, they  
6           should be contacting the regional director.

7                         CHAIRMAN CHASE: Hollis has one last  
8           question.

9                         MR. HUGHES: One last question for  
10          information. Could you supply us with the names of  
11          any Indiana award winners?

12                        MS. HUENEMAN: Again, I'll get that for you.

13                        CHAIRMAN CHASE: Ms. Hueneman, we want to  
14          thank you for coming here today and presenting  
15          testimony and answering our questions. Thank you  
16          very much.

17                        MS. HUENEMAN: Thank you. It's my pleasure.  
18          If you have any other questions, feel free to contact  
19          us.

20                        MR. GRADISON: We'll pass them through  
21          Peter.

22                        MS. HUENEMAN: Thank you.

23                        CHAIRMAN CHASE: Our next panel consists of

1 two individuals. We have Roger Mullins, who is the  
2 Director of Human Resources with the University of  
3 Notre Dame, and we also have Ms. Sue Rosander, who is  
4 the Assistant Vice President of Human Resources  
5 Manager for Society National Bank, Indiana. And, we  
6 welcome you both here today.

7 We have a little time now, we have 10 or 15  
8 minutes if you'd like to make statements.

9 SUE ROSANDER  
10 SOCIETY NATIONAL BANK, INDIANA

11 First of all, thank you for allowing the  
12 opportunity to participate in this panel. My name is  
13 Sue Rosander, and I'm the Human Resources Director  
14 for Society National Bank of Indiana, the northern  
15 area. I'm responsible for around 900 employees,  
16 positions in an organization, and also I'm the  
17 affirmative action coordinator for the State of  
18 Indiana. In the state, we employ somewhere around  
19 1600 people in the financial services industry.

20 Affirmative action as it relates to our  
21 business, I guess I view it as an instrumental tool  
22 in helping us achieve our business objectives. It's  
23 one of many tools that we use. We are, we have a

1 major focus on multi-cultural programs and  
2 initiatives throughout our organization, which focus  
3 more on diversity in the workplace.

4 Affirmative action is an instrumental tool  
5 to help us measure our effectiveness in that regard  
6 and is valuable. It does provide opportunity for the  
7 targeted groups of people that we are looking at. I  
8 review our plan quarterly. We share it with senior  
9 management, but it's one tool of many that we use.

10 We have many outreach programs, especially  
11 for the youth and I would like to kind of talk about  
12 those a little bit. First of all, we have a  
13 partnership with the middle school, Jackson Middle  
14 School where we mentor 12 to 15 targeted kids who are  
15 on the fence of going right or left and could use a  
16 positive influence in their life. Bank professionals  
17 integrate with those kinds. It's not a human  
18 resources by any means. It's a culture within our  
19 organization that we promote. Most of those kids are  
20 of the minority and female population, come from some  
21 rough backgrounds.

22 The second thing that we do, we have a youth  
23 apprenticeship program where we reach the high

1 schools. We work with South Bend Community School  
2 System in South Bend. We work with the Elkhart  
3 Community School System in Elkhart, and we also have  
4 the same program in Indianapolis, in northern  
5 Indiana. We have the job readiness program right now  
6 where we are sending 18 students of South Bend and 15  
7 students in Elkhart through a job readiness program  
8 where we incorporate professional minority men and  
9 women from the community to help us facilitate those  
10 sessions. There are Saturday sessions between four  
11 and five weeks, and they can lead to employment with  
12 our organization. We'll employ 10 kids between the  
13 South Bend and Elkhart area for summer internship  
14 with us.

15 In addition to that, we are very strong  
16 promoters of the Inroads Program. I was in Fort Wayne  
17 just last Saturday interviewing some top notch  
18 candidates. And, they work with internship with us,  
19 and we hope to have them with us their entire four  
20 years of college and then employ them in professional  
21 positions in our organization.

22 Along with all that goes training. The  
23 pre-job training, the readiness training is

1 instrumental, the orientation to our company and  
2 culture is instrumental in their success. Commitment  
3 by senior management has been phenomenal, and the  
4 support of middle management in recognizing the value  
5 of all of these programs has really made it work.

6 I guess that would conclude my opening  
7 statements.

8 CHAIRMAN CHASE: Thank you very much. We'll  
9 now hear from Mr. Mullins, and then we'll have time  
10 for questions.

11 ROGER MULLINS

12 UNIVERSITY OF NOTRE DAME

13 Thank you. Thanks for asking me to be with  
14 you this morning. Let me give you just a little  
15 background on Notre Dame. We're the largest employer  
16 in the South Bend area, probably one of the largest  
17 ones in the northern half of Indiana. We employ 3500  
18 regular, full time people. That does not count part  
19 time and exempt kinds of workers. We receive annually  
20 approximately \$29 million in grants and contracts  
21 from the federal government. That accounts for about  
22 9% of our overall revenue. So, you can see it's a  
23 fairly significant source of revenue for us.

1           As Sue indicated, we participate in many of  
2           the same programs that she outlined that Society is  
3           involved in. We have many outreach programs in the  
4           community, and we're really committed to trying to  
5           get focus on youth and get them into our employment  
6           environment.

7           There's one aspect that I'd like to touch on  
8           as it relates to Notre Dame, and that's the issue of  
9           compliance versus the issue of intent, the spirit of  
10          the law. We certainly recognize our obligation to  
11          comply with the numbers that are necessary and the  
12          normal affirmative action plans and documents, and we  
13          spend a lot of effort and energy to make sure that we  
14          certainly are in compliance.

15          We have found the OFCCP to be helpful in  
16          that regard. We have been audited a number of times  
17          over the years, obviously, and we found them to be of  
18          help to us during the audit. We have not sought help  
19          outside of the actual auditing process. More  
20          important to us, however, is the spirit of what we're  
21          trying to do. I'm not trying to minimize the  
22          importance of compliance because that's the important  
23          part of doing business. But, it's much more



1 important to us to comply with the spirit of the  
2 regulation to achieve a diversity mix. In our  
3 environment, that's consistent with that spirit. We  
4 have placed a lot of effort over the past several  
5 years in making sure that our student body is  
6 representative of the demographic groups in the  
7 United States, and that requires us to have  
8 representative faculty and staff and administrators  
9 also, so that they can see that Notre Dame's  
10 commitment is true to the spirit of the law.

11 So, with just those brief opening comments,  
12 I would just suggest that the spirit to us is more  
13 important than compliance.

14 CHAIRMAN CHASE: Thank you very much.  
15 Michael?

16 MR. GRADISON: With regard to the internship  
17 program that you have at your bank for, is it both  
18 high school and college kids that are employed during  
19 the summer, and how are they compensated?

20 MS. ROSANDER: We employ students from  
21 Jackson. We employ students from the college group.  
22 We employ students from the Inroads Program and we do  
23 employ students through the youth apprenticeship

1 program, the high schools. They are compensated at  
2 the clerical entry level, according to our job grade  
3 and our, the job duty.

4 MR. GRADISON: And, there's a commitment  
5 that they stay with the program and meet the  
6 standards and, you know, achieve the standards, that  
7 you'd like to offer them a position of employment  
8 within Society Bank.

9 MS. ROSANDER: Every year we revisit the  
10 internship program. We invite all the prior  
11 participants to come back. Sometimes we have  
12 openings, you know, college kids graduate, they move  
13 on, they get married, they may find other employment,  
14 they may find that the financial services industry  
15 really isn't for them. But, whether they are  
16 employed by our organization or not, they have gained  
17 valuable skills, expertise and cultural learning in  
18 the business environment.

19 MR. GRADISON: But, if they stay with their  
20 program, they indicate they want to become employed  
21 with Society Bank, are they guaranteed a position  
22 with Society Bank?

23 MS. ROSANDER: There's no guaranteed

1 positions with an organization. They have inside  
2 opportunity at our internal position to apply for  
3 those positions.

4 MR. TAYLOR: How many black managers, branch  
5 managers and vice presidents do you have in northern  
6 Indiana?

7 MS. ROSANDER: Vice Presidents and branch  
8 managers, four or five, probably.

9 MR. TAYLOR: That covers from what part of  
10 Indiana north?

11 MS. ROSANDER: Ranging from Winnie (ph) back  
12 to South Bend to Angola.

13 MR. TAYLOR: Do they include Hammond, East  
14 Chicago?

15 MS. ROSANDER: No, they don't, no.

16 MR. GRADISON: How many branches are in that  
17 number there?

18 MS. ROSANDER: 45, about.

19 MS. HAWLEY-CONLEY: Does your bank have a  
20 program with regard to the Community Reinvestment  
21 Act?

22 MS. ROSANDER: Oh, yes, yes.

23 MS. HAWLEY-CONLEY: Can you give me some

1 information about that?

2 MS. ROSANDER: We received outstanding  
3 ratings at our CRA efforts the past couple of years.  
4 We're very much committed to community reinvestment  
5 with products as well as services. We have a  
6 department that's dedicated toward that, but it's not  
7 the department's, again, it's the cultural initiative  
8 that may be coordinated in some of the administration  
9 work. But, it's everyone's responsibility for CRA.

10 MS. HAWLEY-CONLEY: Sure it is, thank you.

11 CHAIRMAN CHASE: I would assume or well,  
12 maybe I shouldn't assume, I wonder if both of your  
13 organizations have gone through compliance  
14 investigations by OFCCP. And, if you could, if  
15 that's true, if you could elaborate on your  
16 experiences over time.

17 MS. ROSANDER: I think the last time we were  
18 audited was more than seven years ago. So, I have  
19 not, with this organization, been through an audit.  
20 I know there are parts in our national organization  
21 that are audited and to lead on, for instance, was a  
22 very, it was a very positive experience. It was no,  
23 it was informational. It was, we were in compliance.

1           There were no problems. I think back in 1992,  
2           Society Bank was honored with the Eve Award, and that  
3           was a, that was quite an honor.

4                   MR. MULLINS: We were audited in the late  
5           '80's, I think '88, '89 was the last time we were  
6           audited. Again, we found the experience to be  
7           positive. One, I must admit I guess that there was a  
8           lot of emphasis on the format of the report and the  
9           display of the information. It seems to be important  
10          how the information is shown. And, the  
11          recommendations related to our audit were primarily  
12          related to formatting and display.

13                   CHAIRMAN CHASE: I think, did you indicate  
14          that you sought assistance, technical assistance from  
15          the office? Did you mention that?

16                   MR. MULLINS: At the time of the audit, yes,  
17          that we found them to be very helpful to us in terms  
18          of helping. Not only did they point out certain  
19          deficiencies to us, but they had suggestions on how  
20          to correct them. We have not used an outside auditor  
21          in the process.

22                   MS. MATTHEWS: Mr. Mullins, I would just be  
23          interested to know how do you translate, what does

1           the spirit of the law translate into at the  
2           University of Notre Dame?

3                   MR. MULLINS: I guess one of the best  
4           examples I can give you is the, we have what we call  
5           a cultural diversity committee, which is made up of a  
6           multi-disciplinary group at Notre Dame. And, the  
7           purpose of that committee is to evaluate and offer  
8           recommendations for change in every aspect of the  
9           academic community. It reviews and audits the  
10          students admission process, it reviews and audits the  
11          quality of student life or once the student arrives,  
12          we look, obviously, at the numbers of faculty that we  
13          have, both traditional minority and women, and we  
14          look at creating programs that we have in place to  
15          attract and retain those faculty members. We also do  
16          the same thing on the staff side of the university  
17          where we're looking at not only what kind of programs  
18          are we using to recruit, but what's the quality of  
19          the work like once they arrive at Notre Dame. What's  
20          the quality of student life that we have at Notre  
21          Dame? We integrate cultural diversity training in  
22          our leadership development program. We have, for  
23          our, for people that are in leadership positions at

1 the University, to help them understand that perhaps  
2 cultural differences do matter, and they're important  
3 and it can't have any influence on how we lead and  
4 manage people.

5 MS. MATTHEWS: Does that extend to  
6 scholarships outside of athletic scholarships?

7 MR. MULLINS: Yes, yes, there's a very  
8 strong commitment to financial aid for minority  
9 students. It's, in fact, a priority of the university  
10 and is strongly recommended in our most recent long  
11 range plan.

12 MS. MATTHEWS: I was just interested, both  
13 your organizations, did you ever have an affirmative  
14 action officer or affirmative action committee prior  
15 to you being human resources --

16 MR. MULLINS: We have never had a separate  
17 affirmative action person at the University, and  
18 that's a conscious decision. We've discussed it at  
19 great length. We feel like that accountability is  
20 critical to success, and when we're talking about  
21 accountability, we're talking about accountability of  
22 the people making the hiring decisions and how it's  
23 integrated into the operation and organization of the

1 university. It's our observation that if we  
2 establish a separate affirmative action office or  
3 person, then it becomes very easy for, everybody says  
4 it's not my job for affirmative action, it's this  
5 officer's job, it's this person's job. We want  
6 everybody to understand that it's your responsibility  
7 if you're in a hiring position, it's your  
8 responsibility to make sure that your recruiting and  
9 your retention programs are effective.

10 MS. MATTHEWS: So, is there a committee or a  
11 group that comes together at a period of time to  
12 review that as a whole to see if that's been  
13 accomplished?

14 MR. MULLINS: Yes, we meet, there are three  
15 primary groups that would be involved in reviewing  
16 the success of the program. One is there's a staff  
17 affirmative action committee, there's an academic  
18 faculty affirmative action committee, and then those,  
19 the input from those groups are merged at the  
20 cultural diversity committee, which I referred to  
21 earlier. The academic departments are required to  
22 make reports on a regular basis in terms of their  
23 recruitment efforts as are the non-academic



1 departments. Again, our observation is that if you  
2 don't integrate it into the accountability structure  
3 of the organization, your chances of really meeting  
4 the spirit or intent of the law will be compromised.

5 MS. MATTHEWS: You don't have one, you  
6 haven't had, to your knowledge?

7 MS. ROSANDER: That's true, we have not had.  
8 It's as he could have almost spoken for us. It's  
9 really the accountability of the hiring managers and  
10 the administrative piece of it is the statistical  
11 analysis and the information gathering or  
12 dissemination is supported through human resources to  
13 the CEO and disseminated to the operating committee.  
14 And, that's our measure for progress.

15 MR. MULLINS: If I can just add one comment.  
16 We did do extensive research; of course, we're  
17 academia, so we research everything. We did do  
18 extensive research. We visited our peer institutions  
19 that had affirmative action offices and individuals,  
20 and those that didn't. And, we carefully evaluated  
21 the outcomes and successes of both of those. We  
22 found very little difference. There's hardly any  
23 distinction between the actual results of whether you

1 have an office or whether you do not have an office.

2 MR. HUGHES: Yes, being somewhat familiar  
3 with Society's operations, Ms. Rosander, you say that  
4 you have about 40 banking facilities in this northern  
5 Indiana area. How many of those are located in Lake  
6 Elkhart, St. Joe and LaPorte Counties?

7 MS. ROSANDER: I'll have to get back with  
8 you on that. We have most of our branching offices  
9 in Elkhart County and St. Joe County. That's the  
10 primary grouping of our branch system. Now, our  
11 branches are very different. There may be a branch in  
12 Columbia City that houses three and a half FTE, and  
13 we have a branch in St. Joe Bay or the old St. Joe  
14 Bank. Society Bank is right here in South Bend that  
15 has over, you know, a couple hundred employees in  
16 there and there are multi-facets of our organization  
17 represented. So, when I talk about the branch  
18 system, I don't want to just narrow on one segment of  
19 retail banking. We really want to talk about  
20 commercial trust investments and all of that. And,  
21 we are all travelling more and all doing business in  
22 a little different way than traditional banking.

23 MR. HUGHES: Could you also, if you talked a

1 great deal about outreach types of activities or  
2 activities that occur where the bank is reaching out  
3 to the community. Could you speak a bit more about  
4 internal procedures and internal culture?

5 MS. ROSANDER: Sure. We are committed to  
6 promoting from within. And, we also have a multi  
7 cultural committee that's comprised of different  
8 backgrounds of people in northern Indiana that's  
9 focused on three or four initiatives. One of those  
10 initiatives is career development and one of them is  
11 networking and finding the opportunity for people who  
12 are entering the work force and experiencing maybe, I  
13 don't know if I want to use the term ignorance in our  
14 career pathing, but our organization has changed so  
15 rapidly that there are a lot of new opportunities  
16 that people are not aware of, plus a lot of new skill  
17 sets that we're demanding of people today to hold  
18 positions such as maybe certifications in four  
19 different positions. Maybe a certified financial  
20 planner where four or five years ago bankers didn't  
21 need to be certified in that kind of thing. Maybe  
22 we're looking for people who have knowledge of  
23 investments and that's where we can bring our

1 training into this committee and get it disseminated  
2 to the right kind of people who can further their  
3 careers. And, if we didn't do it that way, then it  
4 may not happen because everyone is so busy doing  
5 their own thing and trying to out-out their own jobs,  
6 a lot of time you don't think about the future. And,  
7 what this committee really is focused to do is to  
8 help minorities and females, especially, see things  
9 from a big picture. So, that's one of the  
10 instrumental initiatives that happened. And, it's  
11 much different probably than the traditional banking.  
12 Human resources has a very strong committee to the  
13 mix of candidates that we present to hiring managers  
14 for their selection. We have a screening process and,  
15 with an eye on affirmative action goals, and we have  
16 a voice in the business, which enables us to  
17 influence towards diversity in our organization in  
18 those kinds of decisions. And, that can only happen  
19 through the support of senior management. So, all of  
20 these things could have happened in concert, and has  
21 so far proven fairly successful. We're not there by  
22 any stretch of the imagination. I don't think we'll  
23 ever get there, but all of that stuff, especially if

1 we can bring the youth in, that also promotes other  
2 decisions.

3 MR. TAYLOR: Could you tell me what type of  
4 program you have for minority owned businesses,  
5 especially a small business that might not have the  
6 credentials to get the regular type of loan?

7 MS. ROSANDER: I can get you the specific  
8 products that we have for that, but home assist is  
9 one of the big things that we have for the low to  
10 moderate income people so that they can become  
11 homeowners. We have a small business initiative  
12 that's very successful in their CRA efforts with  
13 different structures for financing. I'm not real  
14 familiar with all of the various products that we  
15 have, but we try to be responsive and use best  
16 practices in our business decisions. And, as those  
17 evolve and change, we target the various communities  
18 and it translates back to our extending CRA efforts.  
19 And, if you're interested, I can get you the listing.

20 MR. TAYLOR: I'd like that.

21 CHAIRMAN CHASE: Ms. Matthews, you have a  
22 question?

23 MS. MATTHEWS: Ms. Rosander, speaking of

1           your branches in the areas that you would identify as  
2           low to middle income minority communities, can you  
3           tell us how many branches you have in those areas and  
4           if they are full service or not?

5                       MS. ROSANDER: Branches in low to moderate  
6           income, as according to the definitions by the  
7           government, is that what you're talking about?

8                       MS. MATTHEWS: It doesn't matter what  
9           definition you want to use.

10                      MS. ROSANDER: I can get those specific  
11           branches for you. I hesitate to even venture a guess.  
12           I do not know. And, when we talk about full service  
13           branches, if you're referring to is there a branch  
14           where we have an on-site trust person, investment  
15           person, commercial lender and all of that, we  
16           probably don't have very many. But, we do have a  
17           referral system throughout our network that they're  
18           there daily, if need be. If there's a business need,  
19           they're there. For instance, say I have a branch in  
20           Howe, Indiana which we do. There's like 800 people in  
21           the community and we have over 2000 accounts there.  
22           And so, we're pulling people in from the Sturgess  
23           grouping from other outlying areas. That's not a full

1 service branch, but we do very good investment  
2 business there. We secure small business loans  
3 there. We secure commercial business there, and  
4 trust business there through our referral network.  
5 So, we're not, we're really moving away from the  
6 brick and border definition of branch banking to more  
7 of the relationship building and the referral network  
8 in our unit in your organization.

9 MS. MATTHEWS: I just asked the question  
10 because I was just wondering how far people in rural  
11 areas and people who live in the low to moderate  
12 communities have to travel to actually do banking  
13 business.

14 MS. ROSANDER: I see. I can give you a  
15 listing of all the places that we're in and maybe  
16 that will --

17 MR. TAYLOR: No, in Elkhart, I know pretty  
18 well where the low and moderate income area is, and I  
19 don't remember seeing a Society Bank in that area or  
20 any bank.

21 MS. ROSANDER: I'll be happy to provide a  
22 listing of all our branches.

23 CHAIRMAN CHASE: I have a question. When I

1           was speaking here, asking Ms. Hueneman earlier about  
2           the issue of employing persons with disabilities. I  
3           think you were both present at the time, and I was  
4           just curious what, you know, what kinds of steps are  
5           set forth in your affirmative action plans regarding  
6           the hiring of persons with disabilities in terms of  
7           goals or, you know, objectives to obtain that. And  
8           then also, have you encountered any practical  
9           problems with the fact that persons under the law are  
10          not required to reveal their disability, and that an  
11          employer might actually violate the law by asking  
12          those kinds of questions?

13                       MR. MULLINS: Currently, we do not have a  
14          specific goal or objective in terms of at least  
15          numbers of what we're trying to do in terms of  
16          employing the disabled. It obviously is an integral  
17          part of our plan, but we really haven't reduced it to  
18          a specific number. We do have very close working  
19          relationships with the local services in South Bend,  
20          and we place a lot of emphasis on hiring disabled  
21          persons of all sorts. I must admit that I feel like  
22          the most recent legislation, the ADA is a most  
23          challenging piece of law for employers to comply



1 with. In fact, I would suggest that it's almost, it  
2 would be almost impossible for most employers to  
3 comply with that because it sets forth so many  
4 avenues and remedies in terms of reasonable  
5 accommodations, but doesn't adequately define for the  
6 employer what it is. Your question, your point  
7 earlier was we can't ask the questions that we need  
8 to, but we're expected to employ and hire these  
9 individuals. So, we find ourselves in a Catch-22 as  
10 it relates to the ADA requirements. When it comes to  
11 the fiscal changes, the renovations that we have to  
12 make, that's easy. I mean, it's expensive but it's  
13 clear what we have to do there. But, in terms of  
14 scraping our culture, trying to, in fact, make  
15 reasonable accommodation to get an understanding of  
16 what does, people suffering from stress and  
17 depression, how does that relate, I mean, that those  
18 kinds of aspects become very, very challenging from  
19 our perspective.

20 MS. ROSANDER: And, I would agree the ADA is  
21 very challenging for employers. If you'd focus on  
22 ability to perform a set of job functions, I think  
23 that's the only safe thing that we can do

1 pre-employment and ask them those types of questions.  
2 And, if we're assigned this, do we have the insurance  
3 we can, therefore, monitor their performance. The  
4 Act's way, we monitor a person's performance and if  
5 not, what are the reasonable accommodations that we  
6 can make, and then what becomes unreasonable and  
7 really serves as an injustice to everyone else, to  
8 the point where maybe we have to add staff to help  
9 that person do their job. It's frustrating to figure  
10 that out. And, we do not have specific goals,  
11 either.

12 MR. GRADISON: What about your specific  
13 experiences, though, with disabled employees that  
14 you've retained. How comfortable are you with your  
15 employment record and the performance of those  
16 disabled employees in the various positions which you  
17 placed them? I ask that of both of you, actually.

18 MS. ROSANDER: We've made several  
19 accommodations that were very easy. I think that it  
20 does facilitate the communication that helps people  
21 ask for accommodation, and it helps us to understand  
22 how we can help them do their job better.

23 MR. GRADISON: Customers better, too.

1                   MS. ROSANDER: Oh, yes. And, our customers  
2                   much better, that's true. We employ disabled  
3                   regularly, I mean. We have them, we have disabled  
4                   people in our work force and it works well, as long  
5                   as they can perform the essential job functions. We  
6                   had, even before ADA came into law, at the bank one  
7                   of our senior people in trust was blind, and it  
8                   didn't prevent him from conducting his business. He  
9                   ran a very successful trust operation. And, I think  
10                  helped us understand, too, the difficulties that are  
11                  associated with the disability. So, I think this is  
12                  happening, but I don't know if ADA does a lot of  
13                  justice to really capturing, as my colleague says,  
14                  the spirit of the law. It's mostly right, but, and  
15                  that's frustrating.

16                 MR. MULLINS: We've had just outstanding  
17                 success with the employees that we have that are  
18                 disadvantaged in some degree. We find them to be  
19                 generally better employees than most of our other  
20                 employees. They stay with us longer, they work  
21                 harder, and they're just very, very strong  
22                 contributors. In fact, this year, just by way of  
23                 anecdotal story, one of our disadvantaged employees

1 will receive a presidential award from the  
2 University. He doesn't know that yet, but it's the  
3 highest award that we can give to the staff  
4 employees. This person cannot hear or speak, but he  
5 has not missed a day of work in 8 years, not one day  
6 in 8 years. And so, we find them to be just very,  
7 very strong contributors.

8 One area that I, again, we look at specific  
9 areas is the area of depression and stress. Just to  
10 give you an idea of the complexity or the demands we  
11 have to comply with accommodating depression, but we  
12 don't really necessarily know that the person is  
13 suffering from depression. We cannot ask if the  
14 person is suffering from depression. So, if we have,  
15 if the person's performance falls off and we have to  
16 take some kind of disciplinary action, we could find  
17 ourselves in non-compliance because of certain  
18 protections like ADA. Again, I just offer those as  
19 stories to give you an idea of the challenges which  
20 we face in terms of really complying again with the  
21 spirit, the intent of what we want to do with this  
22 law.

23 MR. GRADISON: Well, in the spirit of Father

1 Hessberg, I think you have significant enough  
2 challenge anyway at Notre Dame, of all places.

3 MR. MULLINS: We again, as I said earlier,  
4 with Father Hessberg's leadership and commitment,  
5 compliance is really a secondary issue for us.

6 CHAIRMAN CHASE: Hollis?

7 MR. HUGHES: Could, if both of you would  
8 attempt to answer this, what are the specific costs  
9 associated with your affirmative action efforts and  
10 any compliance? Are there specific costs that you  
11 see associated with this kind of an effort?

12 MR. MULLINS: Hollis, I'll give you a guess  
13 in terms of annual cost would be really not, if I  
14 factor everything in, less than \$100,000 a year.  
15 \$100,000 sounds like a lot of money, but on a budget  
16 of \$370 million, it's, you know, not burdensome. Now,  
17 there are some one-time expenses which we're  
18 committed in doing. Obviously, that number I gave  
19 you did not include physical renovations, which we're  
20 required to make under the ADA. It would not include;  
21 for example, a recent purchase which my office made  
22 of an applicant tracking system that allows us to be  
23 more responsive in terms of identifying different

1 minority groups. That would, you know, just to give  
2 you an example, that piece would be in the area of  
3 \$60,000. So, it doesn't include those kinds of  
4 expenses, but the \$100,000 would be an ongoing annual  
5 cost that would be built into the budget.

6 MR. HUGHES: What kinds of activities, this  
7 is what I'm trying to get a handle on.

8 MR. MULLINS: Some of the \$100,000 would be  
9 a soft dollar, what I would call soft dollar in terms  
10 of team people. You know, just personnel account  
11 people involved in the activity in somewhat the time  
12 involved in meetings that we're doing different  
13 aspects of it. Since we don't really, since we're  
14 not employing a specific person or office, most of  
15 that responsibility is distributed out across the  
16 organization. I said my best guess because most of  
17 it's soft dollar as opposed to an absolute dollar  
18 figures I can give you that are qualified.

19 MS. ROSANDER: Our costs are covered by,  
20 it's really in the reasons from belonging to a \$67  
21 billion corporation where you have a corporate  
22 multi-cultural division, which absorbs all of those  
23 costs and then reallocates it throughout all the

1 banks across the country. So, for the banks such as  
2 our bank, there are no hard dollar costs. It's part  
3 of a management fee in servicing that the management  
4 company provides. I'm not aware of what the  
5 multi-cultural budget is on an annual basis, but I'm  
6 sure it's in our annual report. I can get that.

7 MS. KENNEDY: Can I ask a follow up to that,  
8 particularly from the banking standpoint? How much  
9 of whatever that cost may be represents cost of doing  
10 something that you've determined to be good business  
11 anyway, and you would do irrespective of the legal  
12 requirements?

13 MS. ROSANDER: With today's changing economy  
14 and our global focus and the economics of our  
15 demographics, we would probably do most of what we're  
16 doing anyway because it's just good business.

17 MR. GRADISON: We like to hear that.

18 CHAIRMAN CHASE: Yes, we have one more  
19 question, then we'll --

20 MR. HUGHES: Maybe this is not, I guess I  
21 would like an answer to the question. Does it appear  
22 that the real challenge and the real fear associated  
23 with ADA and other affirmative action kinds of issues

1 is not so much the actual dealing with problems, but  
2 fear of the unknown? That depression case, that  
3 hasn't hit you or that crossing the bridges between  
4 what's reasonable, it just appears to me there's a  
5 lot of anxiety associated with something, and it's  
6 about something that's totally unknown, sort of a  
7 fear of what if, which is a game that's just  
8 astronomical.

9 MR. MULLINS: Yes, I would agree, Hollis,  
10 with your comment. I would say it's typical of most  
11 new legislation which employers are forced to comply  
12 with. It usually is written in a manner that leaves  
13 it up to the court to decide what is reasonable  
14 accommodations. So, it's just a matter for sufficient  
15 court cases to be determined. Then, we'll start  
16 having a better idea of what it is exactly that we're  
17 expecting to do. But, it's fairly typical of all  
18 kinds of laws. There's a lot of confusion and it's  
19 not clear and all this kind of thing. Over the  
20 course of time, it gets settled down.

21 I had one thing I should mention, I failed  
22 to mention earlier, and it related to your question  
23 of costs. We had recently established an office for



1 disabled students, and that will be a hard dollar  
2 cost. And, we're in the process right now of  
3 recruiting a director for that position. So, that  
4 will have a specific budget. I believe we're talking  
5 about that department's budget will be about a couple  
6 hundred thousand dollars a year. So, that's our first  
7 major commitment that would deal with the student  
8 aspect of ADA. And that, again, that's a bigger  
9 issue, renovating rooms and all that.

10 MR. GRADISON: Would it be in the  
11 administration building?

12 MR. MULLINS: Well, we don't know. There's  
13 a major debate, everybody wants to be in the  
14 administration building. We can't do that. But, it  
15 will be an integral part of the power structure. It's  
16 going to report to the officers of the University.  
17 So, again, it demonstrates a clear commitment to be  
18 responsible to what we need to do, then.

19 MS. KENNEDY: Will you have established the  
20 program in the absence of the ADA?

21 MR. MULLINS: Yes, yes. It really just  
22 serves as a good example of the ADA question, but it  
23 really, again, speaks to the intent of what we're

1           trying to do. Most of what we do would happen  
2           irregardless of compliance issues.

3                       CHAIRMAN CHASE: Well, I'd like to, on  
4           behalf of the Commission, thank both of you.

5                       MR. HUGHES: Now that the griling is over, I  
6           would really like to, as someone from St. Joseph  
7           County, express appreciation to Roger and Sue,  
8           representatives of two really fine organizations in  
9           our community that I believe to take the spirit of  
10          affirmative action to heart and to most impressively  
11          struggle with trying to make, take a working reality.  
12          It's indeed a struggle because it's something that  
13          whenever you have organizations filled with human  
14          beings, you have to work with it. But, two fine  
15          institutions that struggled to create right outcomes  
16          for right people, and we appreciate you being here.

17                      MR. GRADISON: You get our Father Hessberg  
18          award.

19                               (WHEREUPON, a short recess was taken.)

20                                       AFTER RECESS

21                      CHAIRMAN CHASE: Okay. We're back in session  
22          and we have as our next group of panelists Ms.  
23          Cynthia Love-Bush, who is Senior Investigator for the

1 South Bend Human Rights Commission. Ms. Rikki  
2 Goldstein, who is Director of Client Services for the  
3 Fort Wayne Womens Bureau. And also, Debra Pinnyei,  
4 who is Director of Employment Services for Career  
5 Directions. And, we have 45 minutes or so. So, if  
6 each of you want to take five minutes or ten minutes  
7 to make statements, and then we'll have a period of  
8 time for questions. And, why don't we start with you,  
9 Ms. Love-Bush?

10 CYNTHIA LOVE-BUSH

11 SOUTH BEND HUMAN RIGHTS COMMISSION

12 Thank you. Affirmative Action, and I start  
13 off this morning with affirmative action under fire.  
14 And, you may be asking yourself, why is she starting  
15 in this direction? When affirmative action was  
16 designed originally, the purpose was to dismantle the  
17 process of discrimination by removing unfair  
18 advantages that white males have enjoyed as a class  
19 due to past discriminatory practices. To enforce  
20 Title 7, the Equal Employment Opportunity Commission  
21 was created and given the authority to investigate  
22 complaints of discrimination. EEOC has extended its  
23 jurisdiction to state and local agencies. And this

1 morning, South Bend Human Rights Commission is one of  
2 those agencies who have gained what we call 706  
3 status. And, what that is is an agreement between the  
4 Equal Employment Opportunity Commission and the local  
5 commission to accept charges of discrimination and to  
6 investigate those complaints that we have  
7 jurisdiction over. Those complaints that we do not  
8 have jurisdiction over, we forward them to the Equal  
9 Employment Opportunity Commission. However, a person  
10 still has the luxury to file the complaint with our  
11 agency.

12 For the period 1993 through 1995, a total of  
13 597 complaints were filed with the South Bend Human  
14 Rights Commission. Of the 597 complaints, 301 were  
15 EEOC only, which meant we lacked jurisdiction in  
16 those complaints. Also, of the 597, 304 complaints  
17 were dual filed, which meant the South Bend Human  
18 Rights Commission would be the processing agency. Of  
19 the 597 complaints filed, 304 of those complaints  
20 were based on race alone. And, I repeat that number  
21 to you. Of the 597 complaints filed, 304 were based  
22 on race alone. And, we're talking for the period  
23 1993 through 1995. That's an alarming number of race

1           complaints walking through that door. And, we're  
2           talking about the issues such as hiring, promotions,  
3           and discharge.

4                        When I get a case and I look at a race case  
5           and I see clearly a black and a white potential  
6           applicant, however the white applicant was selected  
7           and the black applicant was clearly more qualified,  
8           it raises the question, have we eliminated  
9           discrimination. And, the answer is obvious. We're  
10          making some strides to the inroad, but we have not  
11          reached that goal of eradicating discrimination  
12          totally. The remainder of those complaints were  
13          based on other protected class statuses.

14                      The South Bend Human Rights Commission, in  
15          our contractual relationship with EEOC, those cases  
16          that we investigate, we see a large number of  
17          probable cause findings as well. And, in those  
18          probable cause findings, we still have employers who  
19          deny that they have discriminated against an employee  
20          or potential applicant. And, it's alarming to see an  
21          employer walk into a public hearing at this stage,  
22          this last and final stage of the process and continue  
23          to deny discrimination when the evidence has been

1 presented before them. That still happens in the  
2 1990's. Based on the number of complaints received  
3 by the South Bend Human Rights Commission, it's  
4 evident that affirmative action is needed to continue  
5 to eradicate past discriminatory practices to insure  
6 equality for all. And, that's why I say affirmative  
7 action is under fire, and we need to continue to do  
8 all the work in this area to insure that affirmative  
9 action, to insure discrimination has been eradicated.  
10 And, as an investigator, when I see those cases cross  
11 my desk, I have to say to myself, am I living in the  
12 '60's or is this really the '90's? It's alarming.  
13 Thank you.

14 CHAIRMAN CHASE: Thank you, Ms. Love-Bush.  
15 We'll next hear from Ms. Goldstein.

16 RIKKI GOLDSTEIN

17 FORT WAYNE WOMENS BUREAU, INC.

18 From where I come is a not for profit social  
19 service agency, so our perspective is from the  
20 perspective in the view of the client, and I believe  
21 that I bring another way of looking at this problem.

22 Affirmative action from the perspective of  
23 what we see as a client directed organization

1           happening to our clients or not happening to our  
2           clients. Another piece that I, as I listened to the  
3           people who preceded us, I just want to insert a  
4           comment before I read my prepared comment that there  
5           are ways, and I would like to go into them later of  
6           overcoming the fears that you alluded to of ADA, and  
7           things like that. For example, when someone  
8           mentioned depression and not being able to ask about  
9           that, Fort Wayne Women's Bureau offers services like  
10          employment assistance plans. And, if a human  
11          resources person sees behaviors that are changed and  
12          inappropriate in their employees, I have an  
13          arrangement with two employers in the community and  
14          the employer calls and says I offered your services  
15          to one of our employees and he or she will set up her  
16          own appointment. There's no communication between me  
17          and the employer, but I'm in a position where I can,  
18          as a counsellor, I can help the client and then  
19          recommend treatment if she's or he's in depression.  
20          So, there are those kinds of things that help. And,  
21          I think affirmative action needs to recognize is  
22          available and there are ways to overcome difficulties  
23          of dealing with the law.

1                   Now, I'll go into my prepared comments. As  
2                   an agency, which is dedicated to promoting equity and  
3                   opportunity, Fort Wayne Womens' Bureau receives a  
4                   plethora of affirmative action letters from area  
5                   employers, many of them from the rural communities  
6                   surrounding Fort Wayne. Most simply state the policy  
7                   with the caveat that should they need employees in  
8                   the future, they will notify us. In most cases,  
9                   that's the last I hear. And, from January to April,  
10                  I get stacks of letters. In a few cases, I have  
11                  received calls, follow up calls from the EEOC in  
12                  Indianapolis inquiring if I received a notice from a  
13                  specific employer. And then, on one occasion last  
14                  year, I received a letter asking me to contact an  
15                  employer that they were observing and offer my  
16                  services. Needless to say, I wrote a letter and said  
17                  this is a not-for-profit. I don't have the kind of  
18                  staff to do what they are supposed to be doing.

19                  From the perspective of the Womens' Bureau,  
20                  there's a compelling need for enforcement of  
21                  affirmative action. In meetings I have suggested  
22                  that employers who are located; for example, in rural  
23                  communities of northeastern Indiana provide bus



1 service or van service at their times of each, what  
2 do you call it, the committee shift, so that people  
3 from Fort Wayne, they claim they can't recruit enough  
4 women and or minorities in the small rural  
5 communities, that they don't apply. But, our clients  
6 either don't have serviceable automobiles or if they  
7 do have automobiles, they can't afford the commuting,  
8 the additional cost of paying for gasoline to go to  
9 work and come home every day. And, I've suggested a  
10 van to pick up 10 people at each shift. The better  
11 paying positions which are traditionally held by  
12 males are still more attractive to males. Unless a  
13 company offers an orientation and some training as  
14 part of affirmative action, women continue to be  
15 discouraged from applying for typically male  
16 occupations for which they probably could do well  
17 with some on the job training. I've received only  
18 one letter of these affirmative action letters which  
19 even alluded to offering on the job training, and I  
20 have not received any job offers. They stated that  
21 they do offer on the job training, but we haven't  
22 gotten any job listings from them. In addition to  
23 monitoring whether contracts go to minority owned

1 businesses, and I have no intimate knowledge of that.  
2 I have not been intimately involved with that. But, I  
3 do believe that that's the process that OFCCP usually  
4 does.

5 I would further suggest that hiring  
6 practices be observed, paying particular attention to  
7 what kind of affirmative action procedures and  
8 activities are in place to promote application and  
9 hiring of females. Until companies are compelled to  
10 deal with issues which are perceived to be women's  
11 issues, affirmative action exists only in policy  
12 statements. I believe compliance needs to be closely  
13 monitored with factors such as sexual harassment,  
14 child care, health benefits, full time employment,  
15 and training for new hires being viewed as crucial  
16 and critical to affirmative action.

17 CHAIRMAN CHASE: Thank you. Now, we'll hear  
18 from Ms. Pinnyei.

19 DEBRA PINNYEI

20 CAREER DIRECTIONS

21 To clarify a little bit where I'm coming  
22 from, I'm the Director of Employment Services of a  
23 large rehab facility in Elkhart County. Our purpose

1 is to assist persons with disabilities in obtaining  
2 community employment. So, I'm fortunate in that I do  
3 have a staff that can go out and develop directly  
4 with employers to explain our program and to provide  
5 assistance, be it through a reasonable accommodation  
6 of being there and providing the person with the  
7 disability and finding employment in the community.  
8 If it's purchasing and helping the employer be aware  
9 of what type of accommodations they can provide to be  
10 able to employ a person with a disability, we're able  
11 to do that. By that, it has increased our  
12 opportunities of placing persons in employment. But  
13 with implementation of the ADA, there was a major  
14 fear of employers. It hampered us for a good year in  
15 our placement opportunities in that many businesses  
16 were scared to death. We actually, an affiliate from  
17 our agency at that point in time where we had a part  
18 of our services went out and did educational  
19 presentations to our business, arrange a mock trial  
20 with, through the Elkhart Chamber of Commerce where  
21 we were allowed, where we got businesses in there and  
22 we showed them how a trial would go if they were  
23 filed against, discrimination for not hiring or not

1           employing a person with a disability. Those type of  
2           things have been most beneficial. They've also, we've  
3           seen other presentations done where we've went and  
4           they've really scared businesses again. So, we must  
5           go in, I often prepare a lot of facts when I'm going  
6           in, in order to let the employer know a reasonable  
7           accommodation may be as simple as allowing them to  
8           take a break earlier or we've done a lot of job  
9           sharing. And, again, it's been education. We still  
10          face a battle and if a person's job changes after  
11          we've faded off the scene and they do have a  
12          disability, the businessman wants us to come back and  
13          do the retraining at that point in time. They need to  
14          start taking on the responsibility. They retrain any  
15          other employee, why is it necessary just because the  
16          person has a disability we be involved?

17                        We do get some letters, as she talked about,  
18          from companies saying they're interested and again,  
19          they're cursatory. they're telling us if you have  
20          anyone who might be interested, go down to the local  
21          work force development where we do all our hiring.  
22          Our person would never get a job if we sent them down  
23          through those steps. We also have companies that we

1           have made approaches with that are thrilled. They are  
2           interested in working with and increasing their work  
3           force, but did not know how to go about doing it, and  
4           have been willing to make some real accommodations.  
5           We have to also educate co-workers what that means,  
6           and become accepting in this.

7                        I still feel we have a long battle to go,  
8           but the ADA is making some strides, but businesses  
9           need to be educated that this is a positive, that  
10          this is a source that gives, allows them to make, to  
11          tap into a previously untapped resource of employees,  
12          that the government is not out to penalize them, but  
13          to let them know there are employees out there and  
14          there's tax advantages if you're willing to make the  
15          accommodations, that you can realize those.

16                      CHAIRMAN CHASE: Thank you. We have some  
17          time for questions. Michael, would you like to start?  
18          I'm sorry, John?

19                      MR. NORMAN: I'm very interested in the  
20          comment, the statement from Cynthia. In the example,  
21          Cynthia, that you used where the black male was more  
22          qualified than the white male, and yet the white male  
23          gained the position. This is in front of a board or

1           whatever, a commission, your particular example.  
2           Could you, I'm not sure I'm asking the question  
3           properly, but my, the point I want to get to is if  
4           the verdict still rests with the white male getting  
5           the position, was there any recourse, any complaint  
6           or any procedure that you could pursue to object to  
7           that finding?

8                        MS. LOVE-BUSH: Are you asking about our  
9           process, more or less?

10                      MR. NORMAN: Yes.

11                      MS. LOVE-BUSH: The way our process works, if  
12           we find probable cause, which 9 members, our  
13           commission consists of 9 members, basically they  
14           receive our commission packets and they have no  
15           knowledge of what employer we're talking about  
16           because it could be one of their employers. So, it's  
17           all anonymous. But, they have the facts and they  
18           review those facts and they sign off on the  
19           recommendation that our executive director makes to  
20           them, which comes from the staff investigators of  
21           probable cause. Now, once probable cause has been  
22           rendered, the employer is given the opportunity to  
23           make the parties whole through what we call our

1           conciliation process. At that point, they can  
2           either simply find a job for the person and make that  
3           person whole, and give them some benefits in terms of  
4           monetary reward. Now, most often we see that just  
5           doesn't happen, okay. So then, the case goes on to  
6           public hearing. During the public hearing stage, all  
7           parties enter the room of what we call an  
8           Administrative Law Judge, who is an attorney, who  
9           will hear all of the facts, okay. Now, if that  
10          attorney or the Administrative Law Judge finds that  
11          there's sufficient evidence, because what we're  
12          saying to the hearing officer is look, we believe  
13          there's probable cause that discrimination has  
14          occurred here, and we want you to look into it more.  
15          And, through the public hearing process, that's what  
16          happens. Now, if the hearing officer substantiates  
17          the Commission finding, then the hearing officer at  
18          that point can impose a monetary relief on the  
19          company that they will pay the employee X amount of  
20          dollars. What we've found in a lot of cases, the  
21          employee simply does not want the job, you know, they  
22          don't want to work there for the fear of probably it  
23          would, they wouldn't be promoted. Chances are

1           whatever opportunity they get to get rid of that  
2           employee, 1, 2, 3, they're out. I mean, the policy  
3           would more likely be implemented, I mean, by the, I  
4           mean, to the letter for that particular employee.  
5           So, the hearing officer can impose a monetary damage  
6           and it could be substantially high.

7                   MR. NORMAN: Okay. If that happens, that's  
8           an easy way out. What's, what are some of your  
9           thoughts in terms of how do you get this thing on the  
10          right track?

11                   MS. LOVE-BUSH: If I were a king, I call my  
12          little if I were a king list --

13                   MR. GRADISON: What about queens?

14                   MS. LOVE-BUSH: Or queens, I would say look,  
15          what we need to do is restore that person rightfully,  
16          what we need to do is to restore that person, put  
17          that person into the position if he wants that  
18          position, and you treat him or her just as you treat  
19          the other employees. You give him the same  
20          opportunities that they would have had had you hired  
21          them. By that time, the person that they hired  
22          probably received several promotions, could have  
23          received a lot of on the job training, which could



1           have enhanced that person on their next job  
2           assignment. Afford that person that opportunity and  
3           then I'd say pay them their due back pay.

4                   MS. MATTHEWS: His question, as I heard it,  
5           was that if when you get to the Administrative Law  
6           Judge and he finds not for what you recommended or  
7           what you all found, but said that the employer was  
8           correct, even though the black employee had, you felt  
9           that the black employee had been discriminated  
10          against, and even though he was more qualified than  
11          the one that was hired, the white man was hired. What  
12          recourse does the black employee in this case have or  
13          you have as representing him when the Administrative  
14          Law Judge finds with the employer?

15                   MS. LOVE-BUSH: They have to go to court.  
16          They have to file the case in court. They actually  
17          need to--see, the way I understood his question  
18          was--but anyway, what they would have to do at that  
19          point is they really would need to obtain an  
20          attorney, okay, to file in court and also at that  
21          point they can obtain a right to sue notice from  
22          EEOC. And, they still need to file in court.

23                   MS. KENNEDY: But, that brings up the

1 question that may be more fundamental. People can  
2 argue about this case or that case, but what I find,  
3 and I'm the Executive Director of the Indiana Civil  
4 Liberties Union. We get a number of calls that have  
5 nothing to do with the civil liberties, but they  
6 don't know where do you go. You referred to how many  
7 complaints come to you and you refer to the EEOC.  
8 There's such as, of course, we've got the Civil  
9 Rights Commission. Is there no way, what if you were  
10 king or queen again, would there not be some way? I  
11 don't know if it's a 911 number for discrimination  
12 complaints, but there's not, for people who feel  
13 they've been discriminated against, there's not a  
14 user friendly system. How does your agency or any  
15 other agency go about getting the word out? The  
16 people who are most likely to be discriminated  
17 against, in my experience, are those who are least  
18 likely to know what their rights are, what their  
19 remedies are, where the agencies are, you know, what  
20 any of the jargon we hear in these hearings is all  
21 about. So, how do we go about reaching people and  
22 simplifying this system, just at the very inception,  
23 not worrying right now about some of the quirks of

1 the law, by just the intake process for all this  
2 multiplicity of agencies.

3 MS. LOVE-BUSH: Education and outreach, I  
4 always say that's the best tool is that we have to  
5 come from behind that desk and go out into the  
6 community and educate. And, it's interesting that you  
7 brought that up because we always look at the  
8 grassroots persons because they're the ones who  
9 actually have no knowledge of what they're supposed  
10 to do. Here in South Bend, we have a lot of  
11 neighborhood centers and recently our mayor has  
12 started what we call neighborhood partner centers, so  
13 we can capitalize on their night out and go out into  
14 the different communities because we have a center on  
15 each side of town which, I believe it's about four or  
16 five centers, and we can go out and train them, okay,  
17 just merely educate them as to what we do at the  
18 commission. And, we explain the investigative process  
19 as well as the intake. We explain the no probable  
20 cause. And, at the same time, we let them know  
21 because there are a lot of people out there who try  
22 to use us as a weapon, you know, it's like I'll go to  
23 the Human Rights Commission, you know, and they will

1 get you. Well, no, no, no, we don't operate like  
2 that. If we find probable cause, okay, then the  
3 system will work. But, if there's no probable cause,  
4 then there's just no probable cause that an act of  
5 discrimination has occurred. So, here in South Bend,  
6 we really try to get out there and educate.

7 MR. GRADISON: The other two, answer the  
8 same question; Rikki, Debra, answer Sheila's  
9 question.

10 MS. GOLDSTEIN As a social service agency,  
11 we incorporate those kinds of answers to every class  
12 we do. We have contracts with the Department of  
13 Public Welfare, now known as the Department of Family  
14 and Children. All the classes that we provide for all  
15 the people who are being trained to enter the work  
16 force are given tools, told about if you're  
17 discriminated against, what the ordinance in Fort  
18 Wayne is about, what it covers, how to proceed and if  
19 in doubt, call the peer counseling office of Women's  
20 Bureau and they will explain it to you more  
21 thoroughly.

22 We also have now in Fort Wayne a domestic  
23 violence, rape, and sexual harassment commission.

1           And, that is our focus for the next three years, to  
2           educate, educate, educate. And, we have posted  
3           telephone numbers to call. Sometimes going to Metro  
4           in Fort Wayne or the South Bend Human Rights  
5           Commission is scary to people who have not been  
6           involved with government or even they're afraid to go  
7           in the City-County building. So, a place like the  
8           Women's Bureau or in other communities, YWCA's and  
9           agencies like that have counsellors, Urban League in  
10          Fort Wayne, the Benito Juarez Center, we all share  
11          the kind of information on these legal issues of  
12          discrimination. We've put together just a one sheet  
13          that says what to do if you feel you are, if you  
14          think you're being sexually harassed, just to hand  
15          out to anybody and everybody who thinks they are.  
16          They don't have to give their name to get it. They  
17          can just kind of mull it over before they get  
18          involved in the legal system, which I think is what's  
19          scary to lots of people.

20                   MS. PINNYEI: I agree, to follow up, you  
21                   know, the people that are linked up to our agency  
22                   that are there, we can give them that number. But,  
23                   the ones that are out there and just have no idea,

1           and if you've ever tried to look up a government  
2           number or a state number in the phone book, it's, I  
3           mean, I don't know how many calls a day I look up the  
4           number for people because it's impossible to find  
5           that. I think public service announcements, if you  
6           feel like you've ever been taken advantage of, please  
7           call. And as you said, it's an 800 number, it's no  
8           big deal to make the call, but finding that 800  
9           number is astronomically impossible, especially if  
10          you're talking about a person that may have limited  
11          intellectual abilities. So, I think some public  
12          service announcements would be very beneficial to  
13          television, radio, so that it's just if you feel you  
14          have been discriminated against or taken advantage  
15          of, you know, call this number, someone will advise  
16          you. And then, they can take steps from there.

17                   MR. GRADISON: Debra, the question I have  
18                   for you, you mentioned earlier at one point the  
19                   Department of Work Force Development and your  
20                   relationship thereto. As I said last week to our  
21                   hearing we had in Indianapolis, I work for Work Force  
22                   Development in Indianapolis in the State Office, and  
23                   as being an employee of the state as well, how

1           extraordinarily, I mean, I delight in the fact that  
2           there's an extraordinary number of disabled people  
3           with every conceivable disability, I happen to be one  
4           myself, working for state government. And, it's so  
5           easy, they're in the flow, it's just amazing how  
6           hundreds of employees pouring, there's that office  
7           building, and it's a wonderful thing to see.

8                         What has been your experience working with  
9           the Department of Work Force Development? I couldn't  
10          tell whether it was negative, you know, tinge or  
11          remark, I couldn't figure out if you had problems or  
12          not because simply, you ought to address them.

13                        MS. PINNYEI: When working with Work Force  
14          Development, again, their counsellors are very aware  
15          they don't have the skills necessary to work with  
16          persons with more severe disabilities and placement,  
17          that if they were just to refer to so many companies,  
18          come there and can store referrals for employees and  
19          our employees would be initially screened out if they  
20          had a disability because they'd say they can't do  
21          that. They're missing one arm, whatever. With a  
22          modification, they could very well do that. So, the  
23          Work Force has worked very closely with the state

1           vocational rehab agencies in referring persons that  
2           have disabilities that would cause limitations to  
3           them to the VR office so they can work through that  
4           system and get the extra assistance they may need in  
5           order to secure employment that's realistic or is  
6           within what they want, be it some further training,  
7           do a lot with, you know, working with them and on the  
8           same committee. So, they're aware that we're out  
9           there so if they get someone that walks into their  
10          office that they don't feel like they can provide  
11          adequate services to, they can, referring them on to  
12          our office so that we can work with them and help  
13          them in their area. So, it's been a --

14                   MR. GRADISON: I want to talk to you about  
15          that outside the meeting because that's something we  
16          should be working very aggressively with. That's part  
17          of my job description, so I would like to talk to you  
18          about that.

19                   CHAIRMAN CHASE: You have a question, Mr.  
20          Taylor?

21                   MR. TAYLOR: Yes. To the lady with the Human  
22          Rights Commission, in Evansville, the Human Rights  
23          Commission, by ordinance of the City Council, cannot



1 take a discrimination case within city or county  
2 government. Can you do that in South Bend?

3 MS. LOVE-BUSH: We can. Let me tell you the  
4 way we avoid what we call "conflict of interest". We  
5 will merely take the charge and forward it to EEOC  
6 for processing, okay, as far as the investigation.  
7 They will conduct the investigation. So, actually,  
8 the City of South Bend, I should say the Human Rights  
9 Commission, we have no knowledge of what the response  
10 was, what type of documentation was sent, unless  
11 somebody over in the city legal department come over  
12 and tell us, and they don't operate like that. They  
13 have never come over and tell us what has happened  
14 with a case, okay. So, that's how we get around the  
15 issue of conflict of interest because we do have a  
16 lot of employees who say, you know, well, I don't  
17 want to go to the Human Rights Commission because  
18 they work for the City, too. So, they have that  
19 feeling, you know, that they don't get justice. So,  
20 we let them know their options.

21 Option number one, we can take the charge or  
22 forward it to EEOC, or we can give them Judith's  
23 direct 1-800 telephone number and have them to call

1 the Indiana Civil Rights Commission, where they will  
2 take the charge.

3 MR. TAYLOR: In Evansville, I don't think  
4 they can even take the charge because I've told them,  
5 people that call me, I tell them to call the Indiana  
6 Civil Rights Commission.

7 MS. LOVE-BUSH: Our ordinance, it says  
8 specifically that we are to investigate cases within  
9 the city limits of South Bend. Now, the only way we  
10 can really get out of that is unless, let's say the  
11 employee -- well, first of all, they have to work and  
12 live in the City of South Bend. So, if they work in  
13 the City but live in Mishawaka, where we lack  
14 jurisdiction anyway, so the most we could do for that  
15 person is take the charge and forward it to EEOC.

16 Now, if some person who lives and works,  
17 like I said, we give them the 1-800 number and they  
18 call down to the ICRC, and they will take it.

19 MR. TAYLOR: The reason I was saying that in  
20 Evansville or wherever in the state, it's sort of  
21 ludicrous to have a Human Rights Commission and they  
22 can run out to Bristol-Meyer, Squib or Whirlpool  
23 Corporation and tell those people that they're

1 discriminating, but next door to them, they cannot  
2 investigate a complaint.

3 MS. GOLDSTEIN: I was in the Commission in  
4 Fort Wayne. I was a commissioner for 8 years and our  
5 ordinance does allow us to investigate city  
6 employees. So, the Metropolitan Human Relations  
7 Commission has many times received complaints and  
8 filed for city employees.

9 MS. MTTHEWS: I just heard that the people  
10 on staff don't extend the interpretation to that to  
11 the same as you do.

12 MS. GOLDSTEIN: Ours states it because we're  
13 not technically a city commission. We are termed a  
14 Mayor's commission.

15 MS. MATTHEWS: Ours is, too, and I think the  
16 ordinance reads the same, but they just don't  
17 interpret it broadly.

18 MR. GRADISON: You were created by a city  
19 ordinance, the Fort Wayne Commission?

20 MS. GOLDSTEIN: Yes, but we do accept  
21 complaints against the city government.

22 CHARIMAN CHASE: I had a question about the  
23 OFCCP, you know, they've presented testimony both

1 here and down in Indianapolis and about working with  
2 communities as part of a community outreach effort on  
3 their part to provide these linkages. Have any of  
4 you been contacted or do any of you work with OFCCP?  
5 What's your relationship, if any, with that office?

6 MS. PINNYEI: I have no relationship.

7 MS. GOLDSTEIN: I have not heard from them.  
8 I think I did get one telephone call asking if I had  
9 received a letter from a rural manufacturer. But that  
10 was, and I did not have it on record and that was --  
11 but, I've worked there for 19 years and I got one  
12 contact from OFCCP that I recall.

13 MS. LOVE-BUSH: I haven't heard of any.

14 CHAIRMAN CHASE: Do you think that, do you  
15 have any recommendations regarding that? I mean, do  
16 you feel that if we are to establish or if they, on  
17 the other hand, were to establish a better working  
18 relationship with your agencies, would that, do you  
19 see that that would have any positive affect on  
20 employing minorities, women in agencies in the area  
21 that you serve?

22 MS. GOLDSTEIN: I think it would because one  
23 of the things we do, and I think we do well is to

1 train more companies. So, if the OFCCP were to find  
2 someone in non-compliance, we're in a position we  
3 would have to be paid for it. But, I don't think  
4 there's anything wrong with a company paying to learn  
5 something they don't know. And, we offer training in  
6 the cultural diversity in sexual harassment and have  
7 performed that. Amex Coal Mines had us come in and  
8 work with all of the supervisors that they employ to  
9 train them to supervise women when they had just  
10 began hiring women in the mines. And so, we're  
11 available and OFCCP could use us, but they don't.

12 MR. GRADISON: And, no for you and no for  
13 you, no contact with either one of you, either?

14 MS. LOVE-BUSH: No.

15 MS. PINNEYI: Not that I'm aware of.

16 MS. LOVE-BUSH: But, that doesn't say, in my  
17 case, that they didn't contact city personnel. So, I  
18 really can't address that because I don't know. But,  
19 in answer to Paul's question, I mean it would be a  
20 good working relationship, but I think given the  
21 dynamics of how we work, I think they would be more  
22 inclined to refer directly to EEOC and then EEOC,  
23 because we're a 706 agency, have the authority to

1 kick it down to us to investigate a given company.

2 MR. GRADISON: But, that hasn't happened in  
3 your experience?

4 MS. LOVE-BUSH: No.

5 MS. MATTHEWS: I was interested in linkages.  
6 The two previous panelists, Society Bank, University  
7 of Notre Dame. Have you had any relationship with  
8 them in terms of their programs? They seem to have  
9 very good programs and; of course, Society Bank, she  
10 mentioned a number of programs that they have. Are  
11 there any linkages established between --

12 MS. PINNYEI: I mean, they hired persons  
13 through our program.

14 MS. MATTHEWS: They know you exist?

15 MS. PINNYEI: They know I exist. It was our  
16 approach out to them.

17 MR. GRADISON: They're using you?

18 MS. PINNYEI: They're using us.

19 MR. GRADISON: You're based out in South  
20 Bend?

21 MS. PINNYEI: I'm based in South Bend.

22 MS. MATTHEWS: And you?

23 MS. GOLDSTEIN: I'm based in Forth Wayne,

1 but there's not a Society Bank.

2 CHAIRMAN CHASE: And, you wouldn't  
3 necessarily have a relationship with them, it would  
4 be an adverse position?

5 MS. LOVE-BUSH: For the record, it would be  
6 adverse.

7 MR. GRADISON: Do you serve Mishiana, the  
8 tri-cities, how broad is your --

9 MS. PINNYEI: I serve entire, Elkhart County  
10 and I also provide services into LaGrange County. I  
11 can come into St. Joe, but the majority of my  
12 individuals live in and service centers provide  
13 services and good will in St. Joe County.

14 MS. GOLDSTEIN: We have linkages just as a  
15 connection with IPF, with Indiana-Purdue Fort Wayne,  
16 and we have done training for them, for staff, for  
17 students and they list the Women's Bureau as a  
18 resource for legal and discrimination questions.

19 CHAIRMAN CHASE: I have another kind of  
20 question, I guess, about affirmative action. Do you  
21 feel that it has made a difference so far in what you  
22 see as far as employing people that you serve? I  
23 mean, how much of an impact, I guess is what I'm

1 asking you, it may not be easy to measure. Do you  
2 think that, I guess I suppose do you think that it's  
3 more employers are seeing that it's just good  
4 business practice to hire a diverse work force, or do  
5 you feel that they're still being driven, in large  
6 part, by adherence to requirements under affirmative  
7 action?

8 MS. LOVE-BUSH: What I'm hearing out there,  
9 the new buzz word, "diverse work force". And, I  
10 think they're being more driven diverse work force  
11 rather than affirmative action. And, affirmative  
12 action was here before diverse work force. My theory  
13 is if you hire qualified minorities and women, you  
14 automatically have a diverse work force. There's no  
15 need to have a special program to say we're going to  
16 now diversify our work force. How can we do it?  
17 That's the way I feel about it. Yes, affirmative  
18 action has, you know, done good, I have to say that.  
19 But, there's still a lot of work to be done when I go  
20 to work every day, and there's a race case that  
21 crosses my desk. The issues of hiring, promotion, and  
22 discharge, and I'm talking about those cases that we  
23 find probable cause. And, it raises the question, and



1 the answer is their need for affirmative action.  
2 Yes, and when I do those statistical analyses and I  
3 can see underutilization as whether it be a minority  
4 in terms of Hispanics, Asians, Blacks females, yes,  
5 there's a need. So, yes, affirmative action, you  
6 know, we have made some strides, but by far, we're  
7 not done.

8 CHAIRMAN CHASE: Anybody else want to tackle  
9 that one?

10 MS. GOLDSTEIN: Well, I think there's still a  
11 very, very strong need for affirmative action. I  
12 think there's reistance. Society Bank and Notre Dame  
13 really, I got a rush hearing them because of their  
14 attitudes and there are other people like them, but  
15 not enough. And, I think we need to get the message  
16 out of the benfits of a diverse workshop of hiring  
17 and the message has been out. The year 2000, there  
18 are going to be, the people who are entering the work  
19 force will be women and minorities. Those are words,  
20 but I think the messages aren't playing yet. But,  
21 there are such benefits. Our agency is one. We have  
22 always had a very, we're all females, but beyond  
23 that, we're very diverse racially, religiously, age,

1 sexual orientation. There are 53 on our staff.

2 MR. GRADISON: Disability?

3 MS. GOLDSTEIN: Yes, yes. And, because of  
4 our diversity, we have been recipients of grants  
5 because when there are pilot programs, they like to  
6 go to places that have a diverse work force in order  
7 to pilot a program. So, there have been benefits to  
8 that. And, if we can only get the message out to  
9 business that your client base, your customer base  
10 will increase because people come to a store or a  
11 whatever where they see people like themselves. If  
12 they see someone in a wheelchair, a person in a  
13 wheelchair will go there and give, for their  
14 business. If they see people of color, if they see  
15 women, they will, other people who are qualified and  
16 good workers will apply. But, until they see that  
17 mirror, they don't come and that's why I get up to  
18 here when people say well, we sent a letter to the  
19 Women's Bureau, but we don't have any women applying  
20 for our apprenticeship program. Well, it takes more  
21 than a letter.

22 CHAIRMAN CHASE: You have a stab at that  
23 last question.

1 MS. PINNYEI: I think affirmative action has  
2 made a difference. I think the statistics showing in  
3 the year 2000, 50% of the population employed will be  
4 some type of minority group. And, I think it has  
5 made a difference. I still think that the education  
6 portion is not there, and it's still a mystery and  
7 scary law to businesses in all areas. And, I think  
8 we continue, need to be educating what that law is.

9 MS. MATTHEWS: Can you have a diverse work  
10 force and the company not be an affirmative action  
11 attitudinal company? In other words, can the work  
12 force be diverse, but those people not get the  
13 promotions, not get whatever perks and different  
14 things that are accorded on a routine basis to white  
15 males?

16 MS. PINNEYI: The statistics can look good.

17 MS. GOLDSTEIN: And then you look at  
18 turnover.

19 MS. LOVE-BUSH: I was just going to say a  
20 couple of weeks ago during one of my investigations,  
21 I asked a local employer for their EEO-1 report. They  
22 did not maintain an EEO-1 report because there's no  
23 federal contract compliance. So, my next question

1 was well, provide me your statistical data. Out of a  
2 company of 150, 1 minority, 1. And, the case was race  
3 discrimination. 1. And, that's recent. And, I see  
4 those types of statistics often. What are you  
5 telling me in the 1990's? There are no qualified  
6 minorities out there? Where are you recruiting?  
7 Where are you going? Let's take a look at your  
8 application procedure, interview, your hiring  
9 practices and some of these were promotions. Let's  
10 look at your promotion practices, qualifications,  
11 what are you basing this on? And, these were recent  
12 statistics.

13 CHAIRMAN CHASE: Well, it sounds like we're  
14 going places, but obviously we still have a long way  
15 to go. And, I know we're out of time, so I want to  
16 thank all of you; Cynthia, Rikki, and Debra for being  
17 here and coming before us today.

18 We're going to take a five-minute break  
19 right now, then we're going to open the floor for  
20 public testimony and so, take five minutes right now.

21 (WHEREUPON, a short recess was taken.)

22 AFTER RECESS

23 CHAIRMAN CHASE: We're now back in session,

1 and this session is our public session where we are  
2 set up to receive testimony from the general public.  
3 And, a couple of quick groundrules. We will be  
4 adjourning at 1:00 o'clock and also, depending on the  
5 length of testimony here, we do ask that people that  
6 want to come forward, we have ten minutes per  
7 individual that would like to speak to us. You can  
8 take up that ten minutes totally in terms of your  
9 testimony, or if you'd like to spend less time and  
10 that would give us an opportunity for questions and  
11 answers, that would also be okay. But, we have a  
12 total of ten minutes per person. And, the first  
13 person that I'm aware of that would like to come  
14 forward today is Mr. Jerry Price. So, if Mr. Price  
15 would come forward and have a seat up here and we'd  
16 be happy to hear from you.

17 JERRY PRICE

18 My name is Jerry Price. I'm a student at Ivy  
19 Tech here in South Bend. I just have a question.  
20 What's being done to combat institutional racism  
21 right now? As a matter of fact, I'm doing a research  
22 paper on affirmative action with institutional racism  
23 being part of the problem, that what's being done. Is

1           there anything being done to combat it?

2                       MR. GRADISON: Tell us what your experience  
3 is, why would you ask that question?

4                       MR. PRICE: Well, in the paper that I have  
5 been researching over the last five or six months,  
6 I'm finding out that practices that were in practice,  
7 you know, like selective, put it like this, family  
8 members and friends of family members getting out the  
9 word about a position that's open. There are other  
10 type of employment practices where companies will  
11 raise the qualifications so it will almost, how would  
12 I say this, it would make it impossible that most  
13 minorities and women wouldn't be hired. There's  
14 certain things that institutions do, companies,  
15 businesses do. It seems like this is, it's not being  
16 checked, you know what I mean? The affirmative  
17 action, it's in the works, you know. Back in 1965  
18 civil rights, 1964 the Act, it's in the works, but  
19 seems like it's being deflected by almost all  
20 companies. There's only a few that I've found that  
21 are actually using, how would I say, a non-biased; of  
22 course, that's pretty, being non-biased or race  
23 neutral employment practices to bring in a work

1 force. And, it worries me that it's being, there's  
2 nothing being done about it because, you know, you  
3 look at I've coached football in South Bend, in track  
4 and I've had children and friends that go on to  
5 college and they've had to select the same thing as  
6 educational institutions, people being steered away  
7 from Harvard, Dartmouth, Brown, Cornell, people of  
8 color and some white women --

9 MR. GRADISON: Not at Brown.

10 MR. PRICE: Well, okay, that's just --

11 MR. GRADISON: Not at Brown, and I know how  
12 aggressive we are.

13 MR. PRICE: They might have just started  
14 this. I know for a fact. I've got friends, I'm 44  
15 years old, that were not admitted there and they  
16 still are trying to find out why. So, my whole thing  
17 is knowing that this is going on. People are being  
18 turned away from positions that they qualify and I,  
19 for a fact, I feel the affirmative action should stay  
20 in place. Drop the quota system. It wasn't supposed  
21 to stay in place anyhow. But, is there anything  
22 that's going to be done to equal these things out  
23 knowing that, you know, I mean, racism is the biggest

1           problem people have. Racist ideas, and they even use  
2           racist procedures and they're not even, they may not  
3           be racist, you understand what I'm saying. They may  
4           not, deep down in their heart they're not racist.  
5           But, because of the racist procedures in place, they  
6           continue to use it because it's comfortable.

7                         CHAIRMAN CHASE: Do you, you know, part of  
8           what our discussion is today is about the Office of  
9           Federal Contract Compliance Programs, which is  
10          supposed to look at whether agencies are complying  
11          with affirmative action requirements. In your  
12          research or investigation, do you see any of these  
13          kinds of agencies are helpful or more hinderance,  
14          people go to seek if they feel that they're  
15          encountering discrimination racism. Do you feel that  
16          people are availing themselves of these programs that  
17          are set up to supposedly deal with the issues or do  
18          you feel that these programs are effective at all?

19                        MR. PRICE: There may be too many programs,  
20          there may be too many doors to go into, you know.  
21          There may be too many agencies. That is, some people  
22          are confused about where to go.

23                        CHAIRMAN CHASE: That gets back to the point



1           that Sheila was making before that there are many  
2           agencies.

3                       MR. PRICE:  If there could be just, you  
4           know, people could be just funneled into a few doors  
5           instead of many doors, all the different  
6           abbreviations and numbers and orders, I've read  
7           through all of this and it's like okay, it all leads  
8           to the same order, you know.  But, like I say, what  
9           I'm seeing now is a lot of companies, school  
10          corporations, I mean, they're number one right now  
11          that are turning their back on qualified people.  My  
12          own experience right now going to Ivy Tech, I'm in  
13          catering administration trying to get a program  
14          started up here in St. Joe County, hospitality  
15          administration with the Chamber of Commerce of St.  
16          Joe County.  I work, my academic advisor get a program  
17          here.  We can't understand why there's not a program  
18          here.  Then, we kind of see what makes up the Chamber  
19          of Commerce, if I may step on some toes by saying  
20          this, but we see what makes it up, and that's why we  
21          don't have a program here, you know.  This is not  
22          educational programs, businesses that need to come  
23          that would come here that would employ people of

1 color or more white women, you know. They're turned  
2 away or they don't want to come here, you know,  
3 that's my whole thing, you know. We're actually  
4 beating ourselves, you know what I mean? The whole  
5 system is set to, it's almost set up like it's set to  
6 lose or to fail and if somewhere down the line  
7 people, you know, the group of people in power, if  
8 they don't step up right now, I can't say that, I'll  
9 rephrase that. What's happening is people are freeing  
10 themselves from bondage, you know what I mean, from  
11 being held back by going to school. And if you can  
12 go over to Ivy Tech or in South Bend, Gary, any other  
13 schools, colleges, universities, you see people are  
14 taking matters into their own hands. The classrooms  
15 are filling up with minorities, you know, and more  
16 females, you know, white women and but still though,  
17 when you get to a certain level, you run into an  
18 invisible wall, you know. You find people that are  
19 being accepted or into colleges or getting hired in  
20 on jobs that, you know, are barely qualified than you  
21 or people that, you know, but it's allowed to happen.  
22 It's, I'm really, it's going to be a backlog the year  
23 2000. I've done all those statistics about 1983 the

1 number of jobs, the executive type managerial  
2 supervisory jobs, 50% were held by white males. By  
3 the year 2000, there's about 12% that's going to be  
4 held by the same group of people. So, it's going to  
5 be some problems if people, it's going to take over,  
6 you know what I mean, the people of color, white  
7 women are, I guess one of the ladies that just said  
8 there are, they're going to move in, they're going to  
9 be in power because it's inevitable. But meanwhile,  
10 this five years ago, and there's a lot of things  
11 going wrong right now like the militia's and all  
12 these other different things that are trying to stop  
13 this from happening. There's a thing of affirmative  
14 action, people that oppose it. And, I hope I don't  
15 run over my time limit. People that are opposing it,  
16 the only reason they oppose it because they want to  
17 regain territory, power, and job loss from when the  
18 Civil Rights Act took place, when it was put into  
19 effect.

20 MR. GRADISON: And, they're bigots.

21 MS. PRICE: And, that sounds ugly, but I see  
22 it as the number one reason why, I've answered my own  
23 question, the number one reason why there's such, the

1           opposition is growing, which is sad because you know,  
2           we're going to suffer, the whole nation is going to  
3           suffer, not just minorities. There's no reverse  
4           discrimination. Who is being discriminated against,  
5           you know, the whites? Say they're being  
6           discriminated against, white men, the minorities, you  
7           all, we all are going to be discriminated against  
8           because this thing about power, political, economic  
9           power, if we don't just open the door and let it  
10          through, let it happen, then we're not going to be in  
11          power.

12                        MS. MATTHEWS: Mr. Price, it seems to me  
13           that as for doing research, you have a legitimate  
14           reason for posing your questions to institutions that  
15           you think may have racist practices. When you do  
16           research, you have primary and secondary research  
17           information, and your primary research would be where  
18           you would go and ask these people what are they doing  
19           to combat institutional racism. And, in fact, if you  
20           could review some of their files on their activities.  
21           Have you done that to any of those institutions?

22                        MR. PRICE: Yes, yes, I've gotten a lot.  
23           I've done a lot. I've talked to people from IBM,

1 Levy Strauss, a lot of the large corporations that  
2 have benefitted from affirmative action and want to  
3 know. Those are the companies that they comply and  
4 that are complying. But, there's so many others. I  
5 have, there's documents that you can get, you can  
6 read, you can call people. They will give you not  
7 necessarily an answer over the phone, but they will  
8 send you things. They will send you statistics if  
9 you really want them. I've done that.

10 MS. MATTHEWS: So, at this point in your  
11 research, would you say that, you know, there are  
12 things that are being done to combat institutional  
13 racism?

14 MR. PRICE: Yes, there are some things that  
15 are being done, but it's not, the whole box of tools  
16 aren't being used. There's just, instead of using  
17 all the tools, they're using a hammer, a chisel or a  
18 hammer and a screwdriver. They're not using the  
19 whole box.

20 MS. MATTHEWS: So, are you finding one of  
21 the tools that they have is the affirmative action  
22 program?

23 MR. PRICE: It has to be. But, there's --

1                   MS. MATTHEWS: The reason why I asked that  
2                   because we've been told like from the University of  
3                   Notre Dame that they have not had a review in 8  
4                   years, and they say they're the biggest employer in  
5                   this area. And so, if they haven't had one in 8 years  
6                   and people tend to look at what happens to the big  
7                   boy first, see what's happening to them, then the  
8                   other people start getting their ducks in a row and  
9                   start getting things right, do you find that these,  
10                  have you actually seen some affirmative action  
11                  programs from some of the other institutions?

12                 MR. PRICE: Besides University of Notre  
13                  Dame?

14                 MS. MATTHEWS: Yes.

15                 MR. PRICE: In St. Joe County?

16                 MS. MATTHEWS: Yes.

17                 MR. PRICE: Yes.

18                 MS. MATTHEWS: You actually have in your  
19                  possession for your research?

20                 MR. PRICE: Yes. There are some companies  
21                  for me, you know. As for other people, I can't speak  
22                  for other people. They're small compared to what you  
23                  would think.

1 MS. MATTHEWS: What's small?

2 MR. PRICE: Well, the results, you know, the  
3 number of people being hired trying to stay away from  
4 the quota system, you know what I mean, the qualified  
5 people being hired or being allowed to go to school,  
6 the changes are small. If you look back, I guess you  
7 want to look back years. You want to look to the  
8 '60's, not the '90's. I guess you can say the changes  
9 are vast. I don't think so. I think it's cosmetic,  
10 you know what I mean? It only go so far, then it  
11 stops.

12 CHAIRMAN CHASE: We're out of time. I do  
13 appreciate you coming forward and asking these  
14 difficult questions. And, I don't know that we can  
15 address them all fully today, but I think this does  
16 help, at least in our mind.

17 MR. GRADISON: You want to share your  
18 findings, you can get Peter's card and, you know, you  
19 can talk to the regional office.

20 MR. PRICE: This will help me with my  
21 research.

22 MR. GRADISON: Just talk to Peter.

23 CHAIRMAN CHASE: Thank you very much. Would

1           anybody else in the room like to come forward and  
2           present testimony to the Commission today? Well,  
3           nobody coming forward, then I think this meeting is  
4           adjourned.

5                       MR. TAYLOR: So moved.

6                       MS. KENNEDY: Second.

7                               (WHEREUPON, the meeting was adjourned  
8           at 1:00 p.m.)

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## CERTIFICATION

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2  
3 I, VERNETTA HALSELL, a Certified Shorthand  
4 Reporter doing business in the State of Illinois,  
5 certify that I reported in shorthand the testimony  
6 taken in the above-entitled matter, and that this  
7 constitutes a true and accurate transcription of my  
8 shorthand notes so taken as aforesaid.

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16 VERNETTA HALSELL, CSR #084-001830  
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