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U.S. COMMISSION ON CIVIL RIGHTS

- - -
MEETING

- - -
Friday, June 14, 1996

The Commission convened in Room 540, YWCA Building, 624 9th Street, NW, Washington, D.C. 20425, at 9:30 a.m., Mary Frances Berry, Chairperson, presiding.

PRESENT:

- MARY FRANCES BERRY, CHAIRPERSON
- CRUZ REYNOSO, VICE CHAIRPERSON
- CARL A. ANDERSON, COMMISSIONER
- ROBERT P. GEORGE, COMMISSIONER
- A. LEON HIGGINBOTHAM, JR., COMMISSIONER
- CONSTANCE HORNER, COMMISSIONER
- YVONNE Y. LEE, COMMISSIONER (via telephone)
- RUSSELL G. REDENBAUGH, COMMISSIONER
- MARY K. MATHEWS, STAFF DIRECTOR

ORIGINAL

STAFF PRESENT:

- BARBARA BROOKS
- KI TAEK CHUN
- JAMES S. CUNNINGHAM
- PAMELA A. DUNSTON

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STAFF PRESENT: (Continued)

BETTY EDMISON

GERRI HALL

GEORGE HARBISON

CAROL-LEE HURLEY

JACQUELINE L. JOHNSON

FREDERICK ISLER

WILLIAM LEE

STEPHANIE Y. MOORE, General Counsel

VERONIQUE PLUVIOSE-FENTON

CHARLES RIVERA

MIGUEL SAPP, Parliamentarian

ANTHONY K. WELLS, SR.

BARBARA J. WILKENS

AUDREY WRIGHT

COMMISSIONER ASSISTANTS PRESENT:

JOSEPH BROADUS

ADERSON FRANCOIS

DEEANA L. JANG

CHARLOTTE PONTICELLI

WILLIAM SAUNDERS, JR.

KRISHNA TOOLSIE

CYNTHIA VALENZUELA

A G E N D A

Approval of Agenda	4
Approval of Minutes of May 10, 1996, Meeting .	16
Announcements	16
Staff Director's Report	47
General Programmatic Theme - FY 1998 -	58
Briefing on Consumer Racism and Sexism	67

Panel 1

Barbara Arnwine, Executive Director, Lawyers'
Committee for Civil Rights Under Law

Ann Taylor, Research Analyst, United States Trust
Company of Boston

David A. Norford, Director, Mid-Atlantic Cleaners
and Launderers Association

Jerry V. Wilson, Crime Analyst and Security
Consultant, former Chief of Police, District of
Columbia

Panel 2

Oral Miller, Executive Director, American Council
of the Blind

Christopher R. Lynn, Chair, New York City Taxi and
Limousine Commission

Panel 3

Lajuan M. Johnson, Director of the Office of Consumer
Affairs, U.S. Department of Commerce

J. Joseph Curran, Jr., Attorney General of Maryland

P R O C E E D I N G S

1

2

9:40 a.m.

3

CHAIRPERSON BERRY: The meeting will come to

4

order.

5

Commissioner Lee, are you on the phone?

6

COMMISSIONER LEE: Yes, I'm here. Good

7

morning, everyone.

8

CHAIRPERSON BERRY: Good morning to you.

9

ALL: Good morning.

10

I. Approval of Agenda

11

CHAIRPERSON BERRY: Could we first get a

12

motion to approve the agenda?

13

VICE CHAIRPERSON REYNOSO: So moved.

14

CHAIRPERSON BERRY: Could I get a second,

15

please?

16

COMMISSIONER GEORGE: Second.

17

CHAIRPERSON BERRY: All right. Anybody want

18

to make any changes? Commissioner Anderson?

19

COMMISSIONER ANDERSON: I have a question

20

regarding two personnel matters, which we can discuss

21

either in the Staff Director's Report, but it may be

22

that there will be some question as to whether we

23

should go into Executive Session or not.

24

So, I wonder whether we can do that under the

25

Staff Director's Report or whether we should put it on

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1 a separate item on the agenda.

2 CHAIRPERSON BERRY: It depends on what other
3 Commissioners -- whether there's a motion, and people
4 wish to have it as a separate item on the agenda, and
5 it depends on whether you are talking about an extended
6 discussion or whether you're just talking about as we
7 get to the Staff Director's Report asking some
8 questions, and whether you want to reserve -- I mean I
9 don't -- it depends on whether you want a whole session
10 or how you want to handle it.

11 COMMISSIONER ANDERSON: Why don't -- then why
12 don't I -- I'm referring specifically to two letters
13 that were faxed to me this week, and I assume they were
14 faxed to other commissioners.

15 Why don't I move then that we add to the
16 agenda a session on personnel matters, and then after a
17 brief discussion, we make a determination whether we
18 want to go into Executive Session, if that's all right
19 with the Chairman?

20 CHAIRPERSON BERRY: So, the motion is --

21 COMMISSIONER ANDERSON: To -- or the request
22 is to add another item to the agenda on personnel
23 matters.

24 CHAIRPERSON BERRY: And then to determine
25 whether it would be an Executive Session later?

1 COMMISSIONER ANDERSON: Yeah. And I'd just
2 indicate that I assume other Commissioners have
3 received these letters. One is from Mr. O'Connell, and
4 one is from Ms. Youngblood.

5 COMMISSIONER HORNER: I have.

6 CHAIRPERSON BERRY: The problem is that if
7 you start saying the names of people from whom letters
8 have been received and then connect it with a session,
9 then it's obvious that the session is about the people
10 whose names you've mentioned.

11 COMMISSIONER ANDERSON: Yeah.

12 CHAIRPERSON BERRY: So, really, what you
13 should have done was just simply say you -- without
14 naming the individuals who were involved.

15 COMMISSIONER ANDERSON: Maybe, but, see, the
16 difficulty is --

17 CHAIRPERSON BERRY: I mean in public session.

18 COMMISSIONER ANDERSON: Yeah. I understand
19 what you're saying, but the difficulty is that it
20 relates to grievances that are a matter of public
21 record now, and, so, what -- what is happening, and I
22 guess we're backing into this debate or discussion or
23 information session, what is happening is there appears
24 to be no public record of Commission consideration of
25 any of these matters because we do not make any

1 reference in the public session.

2 We consider things in the Executive Session,
3 and then the public appearances that we've had, no
4 interest or no involvement or no concern about these
5 matters.

6 So, because they are a matter of public
7 record, the complaints, and now there's public -- semi-
8 public correspondence being circulated, I don't know
9 whether it's entirely appropriate to go into Executive
10 Session. That's my -- that's my concern here.

11 So, now that we've sort of moved into this,
12 all I meant to do was -- was indicate that I wanted to
13 address this at some point in the meeting, but not
14 necessarily right now.

15 CHAIRPERSON BERRY: Well, Commissioner
16 Anderson, you know this, that matters having to do with
17 personnel and staff personnel are under the authority
18 of the staff director, as delegated by the Commission,
19 and these are not matters that the Commission is
20 supposed to get involved in.

21 We've discussed this on numerous occasions,
22 and, so, that if the public record shows that the
23 Commission has not decided individual staff matters,
24 that is the way the regulations and the delegation of
25 authority is written.

1 We are not supposed to consider individual
2 staff matters, unless the Commission wishes to cancel
3 the delegation of authority and assume authority for
4 personnel matters itself, and I was not aware that the
5 Commission wished to do that.

6 However, what I'm prepared to do in the
7 interest of time, since I don't know want us to get
8 bogged down in discussing whether we're going to
9 discuss something, which we'll take up all day
10 discussing whether we're going to discuss it, why don't
11 you see if Commissioners are interested in having a
12 discussion of this matter in Executive Session.

13 I am not prepared to rule that we can discuss
14 sensitive personnel matters in open public session,
15 unless the Commission decides that we must do so, and
16 there's a motion that is seconded and at least a
17 majority vote to discuss these matters in public.

18 Therefore, if you wish to have an Executive
19 Session, I wish you would move to have an Executive
20 Session to discuss personnel matters which are
21 pertaining to various memos to which you've referred,
22 and if it gets second, and if it gets voted on by a
23 majority, then we'll have an Executive Session and get
24 it over with.

25 Commissioner Anderson, I'm asking first

1 whether he wishes to do that.

2 COMMISSIONER HORNER: Well, perhaps I could
3 contribute to his decision.

4 CHAIRPERSON BERRY: Oh, okay.

5 COMMISSIONER HORNER: I would like to say
6 something.

7 CHAIRPERSON BERRY: Well, if he doesn't want
8 to say anything else, since he's the one who made the
9 suggestion.

10 COMMISSIONER ANDERSON: I defer to
11 Commissioner Horner.

12 CHAIRPERSON BERRY: All right. Go right
13 ahead.

14 COMMISSIONER HORNER: In one of the two
15 letters, and I won't any name names, but in one of the
16 two letters, there's a sentence, "In the interest of
17 having an open discussion on this issue, I" the writer
18 of the letter, "wish to suspend any privacy interests I
19 might have which would require a discussion of this
20 matter to take place in Executive Session."

21 I don't know what the legal bearing of that -
22 -

23 CHAIRPERSON BERRY: I am not prepared to
24 rule, despite that statement, that we are to discuss
25 personnel matters as a matter of our authority and our

1 discretion in a public forum and naming individuals and
2 discussing them in a public forum.

3 Whether the individuals wish us to engage in
4 a full-range discussion of their issue or not, that's a
5 different issue from whether we as a Commission want to
6 establish a practice of discussing personnel matters in
7 public sessions. I'm not prepared to make that ruling.

8 Yes, Commissioner Anderson?

9 COMMISSIONER ANDERSON: Thank you. Then I
10 think I would move that we go into Executive Session to
11 discuss two personnel matters.

12 CHAIRPERSON BERRY: All right. We would then
13 modify the agenda, the motion in substance would,
14 modify the agenda to add an Executive Session to
15 discuss sensitive personnel matters by virtue of the
16 motion of Commissioner Anderson.

17 Could I have a second?

18 COMMISSIONER HORNER: Second.

19 CHAIRPERSON BERRY: Any discussion of the
20 motion?

21 VICE CHAIRPERSON REYNOSO: On that, I have a
22 question. Would -- would the discussion lead -- I
23 didn't get the materials. Would the discuss lead to
24 some potential policy change on our side, other than
25 our serving as sort of an appellate body for what the

1 staff director's doing?

2 I sort of hate to get into a position of
3 simply being a personnel appellate board, if you will.

4 CHAIRPERSON BERRY: Point of information.
5 How many Commissioners have received and read these
6 materials which are referred to by Commissioner
7 Anderson?

8 (Show of hands)

9 CHAIRPERSON BERRY: Are there any
10 Commissioners who have not read them?

11 COMMISSIONER LEE: Madam Chairman?

12 CHAIRPERSON BERRY: Yes?

13 COMMISSIONER LEE: Yvonne Lee.

14 CHAIRPERSON BERRY: Yes.

15 COMMISSIONER LEE: I have to apologize. I
16 have not been in my office the whole week as I've been
17 hanging out in the hospital with my mom. So, I have
18 not been in contact with my assistant. I have not gone
19 to the office. I have no idea what these letters are.

20 CHAIRPERSON BERRY: Okay. Commissioner --
21 Vice Chair, do you have -- have you -- when did receive
22 those letters?

23 VICE CHAIRPERSON REYNOSO: I did -- I did
24 not. I understand that we just got them Thursday, and
25 I was gone already traveling.

1 CHAIRPERSON BERRY: Okay. Commissioner
2 Anderson?

3 COMMISSIONER ANDERSON: It's very difficult
4 to address any of these concerns in public session,
5 specifically responding to your questions, because I
6 think it may end up one way or the other -- I mean you
7 may make an argument that there is a policy shift here
8 and maybe just a review of certain decisions that have
9 been made.

10 But given the box we're in in terms of not
11 really wanting to be too specific on the discussion, I
12 think if I could ask your forbearance, I would say to
13 trust in the motion, and we can get into this in
14 discussion, and then if it's -- it's not appropriate,
15 then -- then we can back out of the Executive Session
16 relatively quickly. But it's almost impossible to
17 discuss any of the specifics of it that give rise to
18 the request.

19 I don't know what to do, other than to
20 recess, and then we can talk for a few minutes off the
21 record, if you prefer.

22 CHAIRPERSON BERRY: Which we can't do if more
23 than -- if we have a quorum talking off the record.

24 The -- I am going to suggest that what we do
25 in order to get off the dime on this, my inclination is

1 simply to let a vote be taken, and I have sensed that
2 there will not be a majority to vote to have an
3 Executive Session.

4 However, I am going to say in order to get
5 off the dime on this, that I would hope that my
6 colleagues, even those who didn't get the materials and
7 who haven't seen them and don't know what this is
8 about, would agree to vote to have an Executive
9 Session, which I hope will be brief, in order that
10 those who want to say something may say it openly, and
11 then we can simply come back into regular session.

12 So, if we would only do it for that purpose,
13 then even those of you who don't know what this is
14 about, you haven't read anything -- we either do that
15 or we put it off until next month, so that you do have
16 a chance to read.

17 Let me ask first, how do you feel about that,
18 Vice Chair?

19 VICE CHAIRPERSON REYNOSO: Well, it seems to
20 be fine as -- as -- as presented by you, at least with
21 a quick education. I confess that I'm still a little
22 bit -- I'm a little bit concerned, too, about our
23 scheduling this morning.

24 So, if it appears that we're going to go into
25 -- into some potential policy decisions, then at least

1 that will be brought on the table, and then we could
2 continue that discussion for next month.

3 CHAIRPERSON BERRY: Commissioner George,
4 please.

5 COMMISSIONER GEORGE: I have a question about
6 whether it would be possible for the General Counsel to
7 attend at least part of the Executive Session. I
8 believe that question will arise about Commissioner
9 responsibility, to which I have no idea what the answer
10 is, and it would be good to get legal advice.

11 I don't know if the Solicitor would be
12 qualified, who attends Executive Sessions, would be the
13 appropriate person, but if -- if not, then I believe we
14 need the General Counsel.

15 CHAIRPERSON BERRY: Why don't we do this?
16 Let's -- I urge my colleagues now, if the -- if --
17 Miguel, is it okay for us to have an Executive Session
18 to discuss a sensitive personnel matter?

19 MR. SAPP: Yes.

20 CHAIRPERSON BERRY: And have I said the
21 appropriate mumbo-jumbo?

22 MR. SAPP: You have.

23 CHAIRPERSON BERRY: The -- I would then urge
24 my colleagues to vote to have one, and let's do it, and
25 let's take a vote on it.

1 All in favor, say aye.

2 (Chorus of ayes)

3 CHAIRPERSON BERRY: Opposed?

4 (No response)

5 CHAIRPERSON BERRY: We're going to have an
6 Executive Session. It's not going to be long, so don't
7 all you people out there run away, and the General
8 Counsel stay. Just get out as quickly as you can
9 because we don't have much time here to get this done
10 before the briefing.

11 Yes, Commissioner Anderson?

12 COMMISSIONER ANDERSON: Madam Chair, I
13 would -- I think we ought to have copies of this for
14 the other members of the Commission, if you -- I mean I
15 can read it into the record, but it might be easier if
16 people were looking at it.

17 CHAIRPERSON BERRY: I -- I think you can do
18 that. However, I think that -- and I don't know this,
19 but I have a hunch that the way this discussion is
20 going to go, is that we're not going to discuss the
21 actual substance because there isn't going to be time
22 to read -- what is it? One of them, I got, was like 10
23 pages or something or 20 pages.

24 (Whereupon, at 9:52 a.m., the Commission went
25 into Executive Session.)

P R O C E E D I N G S

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10:27 a.m.

II. Approval of Minutes of May 10, 1996, Meeting

CHAIRPERSON BERRY: Would -- get I get a motion to approve the Minutes of May 10th, 1996?

COMMISSIONER GEORGE: So moved.

CHAIRPERSON BERRY: Could I get a second?

VICE CHAIRPERSON REYNOSO: Second.

CHAIRPERSON BERRY: All in -- any -- any changes or things that people want to work on?

(No response)

CHAIRPERSON BERRY: All right. All in favor, indicate by saying aye.

(Chorus of ayes)

CHAIRPERSON BERRY: Opposed?

(No response)

CHAIRPERSON BERRY: Now we have -- Commissioner Lee, are you still there?

COMMISSIONER LEE: Yes, I'm still here.

CHAIRPERSON BERRY: Okay. Good.

III. Announcements

CHAIRPERSON BERRY: Now we have Announcements. Staff Director, may -- you have some announcements?

STAFF DIRECTOR MATHEWS: I do, Madam Chair.

1 I want to start off talking about legislative
2 updates. There was a summary that was sent around to
3 each Commissioner following up from the last commission
4 meeting. The summary was of conversations that staff
5 has had with various staff members on our Oversight
6 Subcommittees, House and Senate, both.

7 The subject was in the areas of interest that
8 members of these subcommittees may have on the
9 Commission's reauthorization.

10 In addition, since that memo was circulated,
11 staff has met just earlier this week with Senator Hank
12 Brown's staffer and had a good discussion, and it's my
13 understanding that as of today, there has still not
14 been a hearing date set in either the House or the
15 Senate for reauthorization.

16 We do expect hearings to be held in each
17 body, and it looks to me as if it will be more likely
18 the month of July than June since June is fast
19 disappearing on us.

20 Madam Chair, I'd like to move on --

21 CHAIRPERSON BERRY: Go ahead.

22 STAFF DIRECTOR MATHEWS: -- to the issue of
23 the fires of black churches, and I want to apprise the
24 Commission of some of the staff initiatives to address
25 the seriousness of this issue.

1 I've asked the regional directors in each of
2 the regions where states have had these incidents to
3 assess the situation and provide me with very frequent
4 feedback. We've had virtually daily and sometimes
5 twice-three times daily telephone conversations just
6 this week alone.

7 The state advisory committee chairpersons
8 from these respective states have discussed how they
9 would like to address the situation, and all of them
10 have indicated an interest to have community forums in
11 the state to assess the law enforcement investigation,
12 to here from community leaders, to -- to discuss the
13 matter in general and see what additional follow-up the
14 Commission and the SAC might be able to take.

15 As a result of the SAC chair interest and
16 desire to do this, there have been tentative dates set
17 for community forums in each of six states where the
18 predominance of these church fires have occurred.
19 These community forums are scheduled to occur at
20 different intervals, but within the next three-three
21 and a half weeks.

22 I've also asked staff to --

23 CHAIRPERSON BERRY: Let me say about the --

24 STAFF DIRECTOR MATHEWS: Yes.

25 CHAIRPERSON BERRY: -- forums, I talked to

1 some of the SAC chairs this past week, and I'm pleased
2 that they've decided to have these forums, and at the
3 forums, my understanding is that they will have
4 discussion about law enforcement, both state, local and
5 national.

6 There's some concerns in the local
7 communities about how the investigations are being
8 handled and what the prospects are of finding culprits
9 and things like that, as well as climate in the local
10 community and conciliation and healing in the
11 communities where these things happened.

12 I agreed with the SAC chairs that I would
13 come to as many of these as I can attend, and I would
14 say that for Commissioners, I know it's short notice
15 and people have schedules, we all do, but if any of you
16 do -- are able to find the time to go to any of them,
17 it would be very useful, I think, to show your support.

18 COMMISSIONER HORNER: When will those be?

19 CHAIRPERSON BERRY: The -- I'm going to tell
20 you right now. June 28th in Tennessee, probably
21 Knoxville. July 1st in South Carolina. July 1st in
22 South Carolina. I don't know what town. July 2nd,
23 North Carolina, probably Charlotte. July 5th and 6th
24 in Alabama, a town called Boligee, B-O-L-I-G-E-E. July
25 8th and 9th in Louisiana, Baker, Louisiana. July 10th

1 and 11th in Ruleville, Mississippi.

2 So, those are the ones -- Ruleville,
3 Mississippi.

4 COMMISSIONER HORNER: How do you spell that?

5 CHAIRPERSON BERRY: R-U-L-E Ville,
6 Mississippi.

7 Those are the ones that have been scheduled
8 to date, and if there are others, we would let you
9 know, and if, even at the last moment, you find time to
10 come for any part of it, that would show your support,
11 and I'll try to get to as many of them as I can.

12 Go ahead, Staff Director.

13 STAFF DIRECTOR MATHEWS: Madam Chair, I would
14 like to add on that point, though, that these are
15 tentative dates that were determined yesterday
16 afternoon and still need to be worked out in terms of
17 the logistics.

18 CHAIRPERSON BERRY: Oh, I see. You -- okay.
19 Tentative.

20 STAFF DIRECTOR MATHEWS: So, --

21 CHAIRPERSON BERRY: You'll let us know then?

22 STAFF DIRECTOR MATHEWS: Yes, and this is the
23 plan as of right now.

24 CHAIRPERSON BERRY: Okay.

25 STAFF DIRECTOR MATHEWS: But one or more of

1 the dates might shift a day or two.

2 I want to add on this same subject that I've
3 asked staff to draft for Commissioner consideration at
4 this meeting three different press statements that are
5 just possibilities for consideration.

6 One is a general statement on this topic.
7 Another statement is on the issue of legislation that
8 has been marked up just earlier this week in the House
9 Judiciary Committee on church arson and looking at the
10 amount of money for damage that would entail federal
11 investigation, lowering the threshold from \$10,000 to
12 \$5,000, and the third statement that has been drafted
13 discusses the cut of approximately 50 percent in the
14 funding this current fiscal year for the Community
15 Relations Service of the Department of Justice and is a
16 recommendation for increased funding given the
17 important role that their organization can and should
18 be playing in the communities affected by this type of
19 terrible situation.

20 CHAIRPERSON BERRY: So, how do you want to
21 handle that, Staff Director?

22 STAFF DIRECTOR MATHEWS: I have the
23 statements I could pass around for Commissioner
24 consideration.

25 CHAIRPERSON BERRY: Why don't you do that?

1 COMMISSIONER HORNER: Should we recess so we
2 can read them?

3 CHAIRPERSON BERRY: Yeah. We're going to do
4 that for about -- as soon as you get them, we'll recess
5 for about --

6 COMMISSIONER GEORGE: Are there additional
7 announcements about this subject, Madam Chair? Staff
8 Director?

9 CHAIRPERSON BERRY: While this is being
10 handed out, why don't you let somebody hand it out?

11 COMMISSIONER LEE: Madam Chair, since I don't
12 have a copy of it, --

13 CHAIRPERSON BERRY: I'll read it.

14 COMMISSIONER LEE: -- is it -- yes.

15 CHAIRPERSON BERRY: I'll read it. Why don't
16 we do that? I'll read it instead of recessing. You
17 guys can read it, and I'll read it to Yvonne. Noting
18 the looks on some Commissioners' faces, and we won't
19 comment on what they mean, but we all know what it
20 means.

21 So, the statements are, Number 1, a general
22 statement. I'm going to do the longer general one
23 first, get them in order here, and you guys can read on
24 your own. I'm reading --

25 COMMISSIONER HORNER: Could we number them

1 now for reference?

2 CHAIRPERSON BERRY: 1, 2, and 3.

3 COMMISSIONER HORNER: No, but which is 1,
4 which is 2 and which is 3? Sorry.

5 CHAIRPERSON BERRY: Number 1 is the one that
6 has three pages, whatever that is.

7 COMMISSIONER HORNER: Okay.

8 CHAIRPERSON BERRY: And Number 2 is the one
9 that has two pages, and Number 3 is the one that has
10 one page.

11 COMMISSIONER HORNER: Okay.

12 CHAIRPERSON BERRY: Okay. Let me read the
13 longest one first.

14 When there are confirmed reports of more than
15 30 churches being deliberately burned in nine Southern
16 states within the last 18 months, the destruction goes
17 beyond the sanctuaries themselves to attack the bonds
18 of community and our foundations as a nation. That is
19 especially true if the arsons are prompted by racial
20 hatred. Enshrined in our Bill of Rights as the first
21 of our protected freedoms, freedom of religion,
22 requires a tolerance of religions and shared respect
23 for houses of worship to shield them from becoming
24 targets of destruction by individuals or hate groups.

25 The anguish inflicted by the arsonists on

1 African Americans could not have been better expressed
2 than it was by our own Chairperson earlier this year.
3 'They're putting a dagger into the heart of the black
4 community', she told news media then. 'In symbolic
5 terms, there isn't anything worse than anyone could
6 do.'

7 The U.S. Commission on Civil Rights began
8 documenting the burning of black churches in the South
9 during a 1965 hearing on voting rights discrimination.
10 It is distressing to see such desecration become
11 prominent again.

12 That is why there cannot be too many voices
13 raised to condemn the wave of church burnings that the
14 nation has been experiencing or efforts too diligent to
15 halt these crimes. Therefore, we applaud the
16 investigations that are being conducted by Justice,
17 BATF, Bureau of Alcohol, Tobacco and Firearms, and
18 state and local authorities in the South and the
19 hearings in Congress.

20 We urge that every effort undertaken be
21 carried through with the concentration of purpose and
22 the commitment of resources demanded against crimes
23 abhorrent to all persons of good will. We urge that
24 Congress promptly pass the Church Arson Prevention Act,
25 which would smooth the way for federal prosecution of

1 persons accused of destroying religious property or
2 obstructing religious expression.

3 We urge that the Federal Government restore
4 full conflict resolution funding to the Justice
5 Department Community Relations Service and continue the
6 adequate funding for the next fiscal year, enabling
7 that service to fulfill its badly-needed role.

8 This Commission intends to intensify its own
9 efforts to end these oppressive crimes against places
10 of worship in the African American communities. We do
11 not enforce the law, but we have a role to play in
12 making sure it is enforced.

13 Our state advisory committees, as our
14 traditional eyes and ears in grassroots civil rights,
15 will be holding community forums to conciliate, find
16 facts and hear from communities over the next few
17 weeks. A staff report and a transcript of these forums
18 will be made available to the public within 30 to 45
19 days after each forum.

20 We will follow up on these issues and monitor
21 these events until they are resolved. Our toll-free
22 complaint line is available to anyone who might have
23 information on the burning of any church or who has
24 concerns about law enforcement efforts to find the
25 culprits.

1 Many of these church burnings are evidence of
2 racial tensions that beset our nation. The Commission
3 in a series of hearings over the past four years has
4 been investigating the resurgence of racial and ethnic
5 tensions, resulting in reports on 'Racial and Ethnic
6 Tensions in American Communities-Poverty, Inequality
7 and Discrimination'. We look to a hearing scheduled
8 for the Mississippi Delta later this year to provide
9 more insight into the situation in the rural South and
10 small towns.

11 We are mindful that the moral backbone of
12 landmark voting and other civil rights laws enacted
13 after 1957 was strengthened in many Southern rural
14 black churches. They were rallying points for many
15 galvanizing demonstrations that ushered in the modern
16 civil rights movement.

17 Black churches were not only religious
18 institutions but havens for the people who marched for
19 five days from Selma to Montgomery, shelters where
20 freedom-riders ate and slept, hosts for meetings and
21 voter registration drives, and headquarters for the
22 Montgomery bus boycott. There was retaliation.

23 As the civil rights struggle advanced in the
24 '60s, black churches in the South were set ablaze and
25 firebombed. In 1963, four small African American girls

1 attending Sunday school died when their Birmingham
2 church was firebombed.

3 It is small wonder that scenes reminiscent of
4 that 1960s can cause so much pain and concern to those
5 who remember those historic civil rights developments
6 and thought that if we had not yet reached the best of
7 times for our multi-racial society, at least we had put
8 the worst of racially divisive times behind us."

9 I think we should read the other two because
10 they're shorter and more specific, and then decide
11 whether we want the big one, one of the other two.
12 They look to me like they cover some of the same
13 ground. Am I right? Okay. That's the first one.

14 Number 2. "During the past 18 months, arson
15 has destroyed at least 30 African American churches
16 throughout the South. Whether the work of individuals
17 or a conspiracy by hate groups, these acts of terrorism
18 have serious consequences for the nation far beyond the
19 losses associated with the destruction of key spiritual
20 and social centers of the African American communities.

21 We are sure that the strong will and
22 perseverance of the members of these communities will
23 quickly restore the damaged churches, and we applaud
24 the efforts of the National Council of Churches and
25 other organizations supporting this rebuilding effort.

1 We are less sure, however, that the emotional
2 and psychological wounds, anger, fear, resentment and
3 mistrust, inflicted by these arsons will heal so
4 quickly. Most people do not perceive these incidents
5 as isolated events. Rather, as part of a wave of
6 racially-motivated violence which fits all too well
7 into our nation's long and troubled history of race
8 relations in revealing that deep-seated bigotry is far
9 from being eliminated from American society.

10 Therefore, when racially-motivated attacks on
11 African American congregations heighten racial tensions
12 within the community, they compound the losses suffered
13 by the members of the congregation, but also hurt the
14 community at large.

15 In such cases, communities may benefit from
16 outside assistance to begin the healing process. Such
17 assistance is available from the Community Relations
18 Service of the Department of Justice. Within available
19 resources, CRS will respond to invitations from
20 communities to assist in preventing and resolving
21 disputes and difficulties arising from discriminatory
22 practices based on race, color, or national origin or
23 which disrupt or threaten to disrupt peaceful relations
24 among citizens.

25 Historically, the CRS has not been able to

1 meet the demand for its services. In fiscal year 1996,
2 the budget for CRS' conflict prevention and resolution
3 was cut in half. The professional staff in CRS'
4 regional offices in Atlanta and Dallas, which serve
5 most of the Southern states, have been reduced to three
6 including the office director.

7 Under the Public Law 104-134, appropriations
8 for FY 1996, the Attorney General has the authority to
9 reprogram Department of Justice funds to support
10 conflict prevention and resolution activities of CRS,
11 should emergent circumstances require additional
12 funding. This authority applies only to 1996 funds of
13 the Department of Justice.

14 At a time when there are dozens of
15 communities across the nation that could benefit from
16 assistance in restoring peaceful race relations among
17 its citizens, it is essential that the federal agency
18 designated and uniquely qualified to perform this work
19 be adequately funded.

20 Accordingly, the U.S. Commission on Civil
21 Rights calls upon Congress to immediately pass and the
22 President to sign legislation to restore funding for
23 conflict prevention and resolution program of CRS to no
24 less than last year's level.

25 In the meantime, until such appropriations

1 are made available, the Attorney General should
2 exercise her authority to provide full financial
3 support for CRS. Further, the Commission calls upon
4 Congress and the President to support full funding for
5 the CRS."

6 The last one is just about the new statute,
7 and it starts out with, "During the past 18 months, 30
8 churches have been burned. It is also apparent that
9 each one of these incidents, even those involving minor
10 property damage, contribute to a shocking assault on
11 the constitutional rights of African Americans and
12 other racial, national origin and religious minorities.

13 In addressing this situation, the Federal
14 Government must exercise strong leadership and apply
15 the full range of powers available to prevent hate
16 crimes and to punish those who commit them.

17 Although there is no simple solution to this
18 problem, it is imperative that the perpetrators of hate
19 crimes be brought to justice.

20 Accordingly, the Commission strongly supports
21 the immediate enactment of the Church Arson Prevention
22 Act of 1996, to facilitate federal prosecutions of
23 people who damage religious property or obstruct the
24 free exercise of religious beliefs.

25 The Commission favors the version of this

1 bill reported out by the House Judiciary Committee on
2 June 11th, 1996. Under current law, the Attorney
3 General may only prosecute a case that involves
4 religious property damage or obstruction when the
5 defendant travels in interstate or foreign commerce or
6 uses a facility or instrumentality of interstate or
7 foreign commerce in interstate or foreign commerce, and
8 any case of property damage is of a religious character
9 and causes more than \$10,000 in damage.

10 The legislation introduced by Representative
11 Hyde, Chairman, and John Conyers, as amended,
12 eliminates the property damage threshold and would
13 apply generally when the offense is in or affects
14 interstate or foreign commerce.

15 In addition, the bill would extend federal
16 jurisdiction to cases in which attacks on religious
17 property of a racial or ethnic character. We strongly
18 support the amended version of the Church Arson
19 Prevention Act passed by the House Judiciary Committee
20 and urge the Senate to also adopt this version."

21 So, I guess the question is, do we want the
22 general with the description or do we want specific
23 releases about each one of these initiatives or do you
24 want some combination, and what would the Commission
25 like?

1 Yes, Commissioner Anderson? If I didn't read
2 too fast. Did I read too fast, Russell?

3 COMMISSIONER REDENBAUGH: No.

4 CHAIRPERSON BERRY: Okay.

5 COMMISSIONER REDENBAUGH: No.

6 COMMISSIONER ANDERSON: It would be my
7 intention -- well, let me put it this way. I would
8 support Draft Number 1, and it would be my intention to
9 move for its adoption, and then I would to amend it, --

10 CHAIRPERSON BERRY: Okay.

11 COMMISSIONER ANDERSON: -- and I would --
12 before I make that motion, I would say that Statement
13 Number 1, I very much like the tenor and the tone of
14 it, and I -- I like the aspect. I know the Chairperson
15 would not mention this, but I think it's good that we
16 identify the fact that the Commission has been
17 concerned about this for quite some time, and I think
18 this statement does this.

19 My reading of some of the other statements
20 strike me as using these incidents as the grounds for
21 greater funding of CRS, and what I like about the first
22 statement is that it seems to address more directly the
23 problem and then begins to discuss responses to the
24 problem rather than wanting certain initiatives at the
25 federal level and now seizing on this problem as a way

1 of doing that. That's how I -- that's sort of the
2 tenor I have of the other two statements.

3 So, I would move the adoption of the first
4 statement, and then, if I receive a second, --

5 COMMISSIONER HORNER: Second.

6 COMMISSIONER ANDERSON: -- I would -- I would
7 move the insertion from Draft 3 of the two -- last two
8 full paragraphs into Page 2, so that we discuss the
9 Church Arson Prevention Act, its need in federal law,
10 and what it would accomplish, and then I would open for
11 discussion how much we want to discuss the CRS and how
12 much level of funding we want to propose, etc.

13 But that would be my motion, to move the
14 adoption of Statement 1, and then to move to amend it
15 with a more full discussion of the Arson Prevention Act
16 as found in Statement 3.

17 CHAIRPERSON BERRY: It was moved and
18 seconded. Yes -- just a second. It was moved and
19 seconded, right? Okay. And then you had an amend --
20 your motion included the amendment, and the seconder
21 accepts it, right?

22 COMMISSIONER HORNER: Yes.

23 CHAIRPERSON BERRY: Okay. Yes, Staff
24 Director?

25 STAFF DIRECTOR MATHEWS: I have a copy of the

1 Church Arson Prevention Act of 1996, if that would be
2 helpful to Commissioners, and a short summary. I also
3 have a copy of a Senate Resolution introduced even more
4 recently.

5 CHAIRPERSON BERRY: Okay. Because we're all
6 speed readers, you know. Now, now, Commissioner
7 Horner.

8 COMMISSIONER HORNER: That would be extremely
9 helpful, although it's my understanding that
10 discussions continue as -- as we speak, --

11 CHAIRPERSON BERRY: As we speak.

12 COMMISSIONER HORNER: -- and therefore I'm a
13 little reluctant to, although this is helpful, to
14 assume this is the last word on the legislation. So,
15 it seems to me broad statements are preferable to
16 narrow ones in that environment.

17 CHAIRPERSON BERRY: Right. Which is why this
18 -- the two paragraphs that Commissioner Anderson
19 suggests we put in are broad enough, because we know
20 that's in it. We don't know what else is -- what else
21 is in it.

22 So, we've got a motion on the floor. Anybody
23 want to speak to the motion? Do you want to speak to
24 your own motion or do you want others to speak? Yes,
25 Vice Chair?

1 VICE CHAIRPERSON REYNOSO: Madam Chair, I
2 support the motion. My observation goes to that
3 portion included in the other two documents pertaining
4 to the funding of the Justice Department unit that
5 deals with these matters, and I personally think that
6 it's a good recommendation, but that should not go in
7 the general statement.

8 I would move this past us, that we -- that we
9 authorize the Chair to send such a letter. That would
10 be separate.

11 CHAIRPERSON BERRY: Now we got -- CRS is
12 mentioned in the other one, too, in the general. It's
13 just that we don't have a whole thing about CRS --

14 VICE CHAIRPERSON REYNOSO: Right,

15 CHAIRPERSON BERRY: -- in this other one.
16 Yes, on Page 2, Vice Chair, right at the point where
17 Commissioner Anderson was suggesting inserting his two
18 paragraphs, right after that.

19 Yes, Commissioner Anderson?

20 COMMISSIONER ANDERSON: I have -- I have two
21 more comments.

22 One would be directed to the Vice Chair's
23 comment. I think we have quite clear grounds on the
24 federal enforcement and prosecution issue because I
25 think it's quite clear at the federal level that the

1 enforcement personnel are saying we need a better tool
2 here or we need an enhanced tool. I think we have a
3 pretty clear record there.

4 I'm not so sure we have such a clear record
5 on the CRS matter. What I would prefer to do is go to
6 these forums, and I would -- I'm going to try to go to
7 one or more of them, and get a sense actually having
8 been there in these communities, and see exactly what
9 their needs are, and to the extent there is this kind
10 of situation.

11 I think our credibility would be much
12 stronger if we came back after these forums and said,
13 look, we think X based on our personal engagement here,
14 and we ought to increase or maybe not, but I think
15 we're just in a better position a month from now coming
16 back.

17 VICE CHAIRPERSON REYNOSO: That makes sense
18 to me, Madam Chair.

19 CHAIRPERSON BERRY: Okay.

20 COMMISSIONER ANDERSON: And -- and the other
21 comment I would have is on Page 3 of the statement,
22 where we say, "black churches are not only religious
23 institutions but havens for the people who marched for
24 five days from Selma to Montgomery", etc.

25 I would -- I would prefer to see that read,

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1 "as religious institutions, black churches were havens
2 for the people who marched".

3 CHAIRPERSON BERRY: I think that's great.
4 That's right. That's why they were havens, because
5 they were religious institutions.

6 COMMISSIONER ANDERSON: So, maybe if there's
7 no objection, --

8 CHAIRPERSON BERRY: Just change that around.

9 COMMISSIONER ANDERSON: Yeah.

10 CHAIRPERSON BERRY: Yeah. Right. Okay.
11 Anybody else want to speak to the motion? Yes, Judge
12 Higginbotham?

13 COMMISSIONER HIGGINBOTHAM: I join with
14 enthusiasm on the consolidation, but I see no necessity
15 for the deletion of the reference on Document 2, and
16 that we delay supporting a budget increase.

17 If you look at the second paragraph, --

18 COMMISSIONER GEORGE: Document 2?

19 COMMISSIONER HIGGINBOTHAM: Yes, it was a
20 two-page document. I'm following Commissioner Horner's
21 helpful annotation. We -- we called it --

22 COMMISSIONER GEORGE: Right. I just didn't
23 know that we had deleted anything on 2.

24 CHAIRPERSON BERRY: 2 is the one on --

25 COMMISSIONER HIGGINBOTHAM: 2 is the one

1 which is not incorporated in terms of the -- by
2 Commissioner Anderson's comments, and that's what I
3 have concern about.

4 The next-to-last paragraph on Page 1, says,
5 "The professional staff in CRS' regional offices in
6 Atlanta and Dallas, which serve most of the Southern
7 states, have been reduced to three, including the
8 office director."

9 Now, if we are seriously interested in
10 resolution of these problems, how can anyone think that
11 it can be handled, if CRS is important, with that small
12 a staff?

13 I really think that we're at the stage now
14 where people need more than mere prayers. They need
15 some funding, and for us to -- to not even take a
16 position on funding means that we are willing to not --
17 that we close our eyes to the providing of the muscle
18 to be the deterrent to what's happened.

19 CHAIRPERSON BERRY: Well, can I query,
20 though, first? I'm confused now.

21 Commissioner Anderson, did your motion
22 include deleting the material on Page 2 of the
23 statement that you have -- the first statement that I
24 read?

25 As I understood your motion, your motion was

1 that we -- you endorsed that statement with it being
2 amended by inserting the last -- the two paragraphs you
3 referenced on the legislation on the Hill, which would
4 be put in at the area where the Church Arson Prevention
5 Act is mentioned, if I understood your motion
6 correctly.

7 Did I misunderstand it?

8 COMMISSIONER ANDERSON: No.

9 CHAIRPERSON BERRY: Which means that, unless
10 somebody did something that I didn't notice, on Page 2
11 of the longer statement, that is the one that's on the
12 table, the motion's on the table, there is still a
13 statement there concerning CRS, which no one yet has
14 suggested we excise.

15 COMMISSIONER HIGGINBOTHAM: No, no.

16 CHAIRPERSON BERRY: The difference is --

17 COMMISSIONER HIGGINBOTHAM: It doesn't talk
18 about money.

19 CHAIRPERSON BERRY: Right.

20 COMMISSIONER HIGGINBOTHAM: It talks about
21 adequate funding.

22 CHAIRPERSON BERRY: Right. The difference --

23 COMMISSIONER HIGGINBOTHAM: And that's the
24 problem, --

25 CHAIRPERSON BERRY: Right.

1 COMMISSIONER HIGGINBOTHAM: -- Madam Chair.

2 CHAIRPERSON BERRY: Right. The difference is
3 that there's no detail in it. But I just wanted to be
4 clear that at least I saw this language still there. I
5 mean I was confused.

6 Yes, Commissioner Anderson?

7 COMMISSIONER ANDERSON: Well, if I could say,
8 and I understand, I take the point, as I understand it,
9 the House is going to try to get through the
10 appropriations bills by the July 4th recess. So, there
11 will be House action.

12 That means there won't be Senate action on
13 these matters, I don't believe, until after there --
14 for some time after they get back from their July 4th
15 recess.

16 So, I would think we'd have plenty of time to
17 come back from our forum visits and say, look, we've
18 been out there. We've seen it, and therefore we think
19 X, and still get in the -- and I think we'd have the
20 process, and we'd have better credibility, my point.

21 The federal enforcement issue, I think
22 they're going to move very quickly, and, so, what I
23 would hope is we could vote on a statement today, get
24 it printed, and have some people take it up to the Hill
25 today and get it around, so it would be -- you know,

1 the Chairman of the House Committee will have it and be
2 able to insert it into the record in the discussion and
3 debate on the Floor.

4 So, that -- that would be how I'd come down
5 on it, but it would still -- the statement is -- I
6 would hope as it would be adopted by the Commission,
7 still has that language in it.

8 CHAIRPERSON BERRY: Okay. So, what we are
9 debating here is whether we go with the statement as it
10 is or whether we have the second statement on CRS or
11 whether we take language from the second statement on
12 CRS, which has specific information about dollars and
13 staff, and insert it, too. Is that what we're
14 debating? Okay.

15 Any other comments? Anybody else want to --
16 yes, Commissioner Redenbaugh?

17 COMMISSIONER REDENBAUGH: Yeah. I -- my view
18 is -- is, I think, equivalent to Commissioner Anderson.
19 We have a much stronger position to take in three weeks
20 than we have today, particularly since the mission of
21 CRS, as I understand it, is conflict resolution, but we
22 haven't found the other side of the, you know, the
23 other party, on the other side of the conflict, you
24 know. So, I don't -- I don't see how to move there.

25 I -- I -- I would like to learn much more

1 about what's actually occurring, and then we can make a
2 more precise and, I think, more powerful
3 recommendation.

4 COMMISSIONER HIGGINBOTHAM: Madam Chair?

5 CHAIRPERSON BERRY: Yes?

6 COMMISSIONER HIGGINBOTHAM: If there's a
7 consensus, at the next meeting, we will discuss money
8 and not merely concept problems.

9 CHAIRPERSON BERRY: All right. Commissioner
10 George?

11 COMMISSIONER GEORGE: Yes, Madam Chairman.
12 Thank you. I have been studying and following very
13 closely the developments regarding the Todd-Kennedy
14 Bill, and I think that this is very promising, and
15 we'll probably all be able to join around that.

16 I myself don't know but will try to prepare
17 myself about the history and successes or failures of
18 the CRS. I don't know, you know, whether I think it's
19 a good idea, and that this is a promising line or not,
20 but in preparation for the next meeting, I -- I will
21 study that.

22 I wanted to ask Commissioner Anderson if he
23 would accept further amendment. One feature of the
24 third letter, I believe, which I thought was good and
25 should go into whatever we say, --

1 CHAIRPERSON BERRY: The third one is on the
2 Arson Prevention Act. It has one page.

3 COMMISSIONER GEORGE: Well, no. I'm sorry.
4 The second letter. Excuse me. Which I think should go
5 into whatever statement we put out, is applauding the
6 efforts of private groups and particularly religious
7 groups to remedy and come to the aid of those
8 congregations who have been the victims of -- of this
9 -- of this violence.

10 I note that it's Flag Day today, and that the
11 flag has always been a rallying point for Americans of
12 different races, religions, ethnic backgrounds and --
13 and so forth, particularly in war time, but I think
14 throughout the period of our history, and I do think
15 that what is happening out there on the ground by
16 private organizations, and I think it's very noteworthy
17 and very positive, that both conservative and liberal
18 religious organizations, the Christian Coalition
19 joining together with the National Council of Churches,
20 for example, not to pontificate and -- and express
21 outrage. We should do that. We -- we -- we are doing
22 that. They are doing that.

23 But they're actually raising money to rebuild
24 those churches. They're actually making other churches
25 available for these congregations to meet in the

1 meantime while those churches are being built. They're
2 putting up money for rewards, for information leading
3 to the arrest and conviction of the arsonists, and I
4 think this is the sort of thing we ought to -- we ought
5 to applaud that.

6 So, if we could move a sentence, perhaps the
7 sentence, "We are sure that the strong will and
8 perseverance of the members of these communities will
9 quickly restore the damaged churches, and we applaud
10 the efforts of the National Council of Churches and
11 other organizations supporting this rebuilding effort",
12 I -- I think that is the sort of thing we ought to be
13 saying.

14 I would prefer, if we're to single out the
15 National Council of Churches, that we add an additional
16 group on the political other side or perhaps it would
17 be better just to say we applaud the efforts of
18 religious and other organizations supporting this
19 rebuilding effort, but I think we should have a
20 statement of -- of recognition and congratulations to -
21 - and encouragement of those efforts.

22 CHAIRPERSON BERRY: Commissioner Anderson?

23 COMMISSIONER ANDERSON: Well, I would concur,
24 although I -- I would not -- I think it would be better
25 if we were to say churches of a variety of

1 denominations or something like that because you have
2 -- you have Catholics, you have Southern Baptists, you
3 have Evangelicals, and, in addition, National Council
4 of Churches. You have lots of -- lots of different
5 denominations involved, and I think we shouldn't just
6 maybe take two polarities in our statement.

7 I think a variety of churches or something
8 like that or faith communities or however you want to
9 word it.

10 COMMISSIONER GEORGE: Oh, yeah. That's true.
11 We should avoid that. I mean because the Jewish
12 community, too, has been coming to the aid of --

13 CHAIRPERSON BERRY: Can we mention -- can we
14 mention the Primitive Baptists?

15 COMMISSIONER GEORGE: Absolutely. They will
16 definitely take the -- they're not -- they're not
17 mentioned, Madam Chair, in the document with the credit
18 they deserve.

19 CHAIRPERSON BERRY: Absolutely. So, we will
20 make this a variety of religious organizations or
21 something that --

22 COMMISSIONER ANDERSON: Maybe faith
23 communities might be good.

24 CHAIRPERSON BERRY: Faith communities or
25 something.

1 COMMISSIONER GEORGE: And other
2 organizations.

3 CHAIRPERSON BERRY: So that it's broader, and
4 we will insert that in the statement at an appropriate
5 place.

6 All right. Any further discussion of the
7 statement?

8 (No response)

9 CHAIRPERSON BERRY: Okay. Ready for the
10 question. Then all in favor of the statement as
11 amended by our discussion, indicate by saying aye.

12 (Chorus of ayes)

13 CHAIRPERSON BERRY: Opposed?

14 (No response)

15 CHAIRPERSON BERRY: The statement is endorsed
16 by the Commission.

17 Staff Director, if you would get somebody to
18 redo that and get it up to the Hill and out post-haste,
19 so that as Commissioner Anderson said, it can be
20 included in the debate in the Congress that's on-going.

21 All right. Any other announcement -- I guess
22 that was announcements. Any other announcements or
23 should we move to the Staff Director's Report?

24 STAFF DIRECTOR MATHEWS: I have no further
25 announcements.

1 IV. Staff Director's Report

2 CHAIRPERSON BERRY: All right. Staff
3 Directors Report.

4 Anybody have any questions on the Staff
5 Director's Report?

6 COMMISSIONER LEE: Madam --

7 CHAIRPERSON BERRY: If not, --

8 COMMISSIONER LEE: -- Chair?

9 CHAIRPERSON BERRY: Yes, Commissioner Lee?

10 COMMISSIONER LEE: I just want to thank the
11 Staff Director and the staff for putting together a
12 very detailed and informative report on the civil
13 rights and legislative activities. It was really
14 helpful to me.

15 CHAIRPERSON BERRY: Well, good. That was Kim
16 Cunningham's office. So, we'll thank Kim and the Staff
17 Director, and we expect to see you continue to do this.
18 It was very useful, telling us about the legislation
19 that's out there.

20 Now we go to the General Programmatic. You
21 have some papers -- yes, oh, I'm sorry.

22 COMMISSIONER HORNER: We haven't finished the
23 Staff Director's Report.

24 CHAIRPERSON BERRY: Oh, I'm so sorry.

25 COMMISSIONER HORNER: We have not yet

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1 received the California hearing tentative witness list,
2 and, so, we haven't had the opportunity to give final
3 approval to that hearing, and I note time is passing.

4 Can you tell us anything on that?

5 STAFF DIRECTOR MATHEWS: We are working
6 diligently, as you would imagine, on the preparations
7 for that hearing. We do not have a tentative witness
8 list at this point in time.

9 CHAIRPERSON BERRY: Could we ask the General
10 Counsel -- General Counsel, could you come up, please?

11 Could you just briefly, real briefly now,
12 answer -- tell Commissioner Horner whatever information
13 -- whatever you can tell us about the Los Angeles
14 hearing? Are you interviewing witnesses or what stage
15 is the witness preparation? Do you have a potential
16 list? What's going on with the witness list? That was
17 the question.

18 MS. MOORE: Excuse me. At this stage, we are
19 -- the staff has identified some persons that they wish
20 to interview and are submitting lists to me for review
21 and approval to start the process.

22 CHAIRPERSON BERRY: Now, as far as
23 Commissioners are concerned, normally what you do is we
24 get a list after you have interviewed them, but you --
25 what -- right now, what there are is potential

1 witnesses? Is that the --

2 MS. MOORE: They are potential interviewees.

3 CHAIRPERSON BERRY: I see.

4 MS. MOORE: And I guess as well potential
5 witnesses, yes.

6 CHAIRPERSON BERRY: Okay. But as soon as you
7 are finished with interviewing them, then you'll put
8 together a list -- I mean decide who will be --

9 MS. MOORE: Right. Yes.

10 CHAIRPERSON BERRY: Does that --

11 MS. MOORE: We welcome any suggestions.

12 COMMISSIONER HORNER: Well, we can make a
13 suggestion perhaps after we've seen your design. Until
14 we see a design, I mean we wouldn't presume to design
15 the whole hearing from scratch, but we need to see what
16 your design for it is, whom you wish to call, what
17 kinds of people, so that we can then perhaps make some
18 suggestions to you, or decide we don't like the -- the
19 thrust or design or do like it, but we need to
20 something to which we can react.

21 CHAIRPERSON BERRY: Now, we got an agenda for
22 the hearing. We got that -- we had that last month, I
23 think.

24 STAFF DIRECTOR MATHEWS: That's correct,
25 Madam Chair.

1 CHAIRPERSON BERRY: So, we have an agenda.
2 We just don't have the names of the witnesses, and, so,
3 what you're saying is that after you folks interview
4 them, you'll come up with a list, and we'll have it
5 then. Is that basically it?

6 MS. MOORE: Right. That we -- we've -- yes,
7 in short.

8 CHAIRPERSON BERRY: All right. So, that
9 answers the question. Thank you.

10 Anybody else have any questions on the Staff
11 Director's Report? Okay.

12 COMMISSIONER HORNER: Madam Chair, just one
13 other quick question. I know we're under pressure of
14 time, but we had also asked that the agenda be
15 compressed; that is, that we had indicated at the last
16 meeting there were too many items on the agenda, and we
17 wanted to see a revised agenda, and I would ask also
18 that we receive that as soon as possible.

19 CHAIRPERSON BERRY: Staff Director, do you
20 know anything about that?

21 COMMISSIONER REDENBAUGH: You mean the
22 project proposal?

23 COMMISSIONER HORNER: No. The agenda for the
24 hearing. There were multiple issues. We felt there
25 were too many issues to be handled in the time

1 allotted, and the Commission decided at the last
2 meeting, I believe, that we wanted to see a shorter
3 agenda to give time for fuller exploration of the
4 issues remaining.

5 CHAIRPERSON BERRY: Are you aware of -- I'm
6 not -- I don't remember any of this.

7 MS. MOORE: Well, I'm aware --

8 CHAIRPERSON BERRY: Somebody remind me.

9 MS. MOORE: -- of the discussion, and I can
10 review the transcript, but I -- it was my understanding
11 that it was left at that the staff would indeed
12 organize the hearing, and the Vice Chair made the
13 suggestion that in order to accommodate your concerns,
14 that we limit the number of witnesses on each panel,
15 which is how we were pursuing it.

16 CHAIRPERSON BERRY: So, the Commission would
17 have plenty of time to ask questions.

18 MS. MOORE: Right.

19 CHAIRPERSON BERRY: And that's how it was
20 resolved.

21 COMMISSIONER HORNER: Thank you.

22 CHAIRPERSON BERRY: Okay. Anybody else have
23 any questions?

24 (No response)

25 CHAIRPERSON BERRY: Okay. Were you about to

1 say something, Staff Director?

2 STAFF DIRECTOR MATHEWS: No.

3 CHAIRPERSON BERRY: Oh, the Mississippi Delta
4 hearing. We have a small problem, and for those who
5 come to the briefing, we won't be long here. We're
6 just about finished.

7 The site for the Mississippi Delta hearing.
8 We keep having problems. This town has only one hotel
9 apparently. It's a one-hotel town, and they have a
10 jazz festival on the weekend that we have scheduled the
11 hearing for, and, so, they want to -- they will have
12 the jazz festival there on Friday. So, we can have it
13 Wednesday and Thursday, but we cannot have it Friday.

14 Query. The staff has already identified
15 witnesses, interviewed witnesses, and has witnesses,
16 you know, interviewing people and doing all that sort
17 of stuff, and we know what the hearing is about, but if
18 we try to move it to some other site, some other place,
19 then we'd have to start all over with that.

20 Is there any possibility of doing it Tuesday
21 through Thursday instead of Wednesday through Friday or
22 is there a possibility of doing it in a tent on Friday
23 or does anybody have any suggestions?

24 COMMISSIONER HORNER: Could you give us the
25 date of that Tuesday? I don't have my calendar, but

1 the date might jog something.

2 COMMISSIONER ANDERSON: The 17th.

3 CHAIRPERSON BERRY: September 17th. Anybody
4 know anything about their calendars on that day, and
5 whether we could consider -- let's leave it this way.
6 Why don't you consider urgently? Are there any of you
7 who know you are not free on that day, and you know you
8 cannot do it, absolutely?

9 COMMISSIONER GEORGE: When's the date?

10 CHAIRPERSON BERRY: The 17th.

11 COMMISSIONER HORNER: That would be the 17th
12 and 18th, rather than the --

13 CHAIRPERSON BERRY: It would be Tuesday,
14 Wednesday and Thursday instead of Wednesday, Thursday
15 and Friday.

16 COMMISSIONER ANDERSON: But then you have to
17 travel on the 16th.

18 CHAIRPERSON BERRY: Yes. So, you have to
19 know what your schedule is.

20 COMMISSIONER HIGGINBOTHAM: Lose the whole
21 week.

22 CHAIRPERSON BERRY: You basically would lose
23 the week or it may end up that all of us will not be
24 there on some particular time.

25 COMMISSIONER ANDERSON: And -- and I would

1 just say if we're traveling to Mississippi on the 16th,
2 we're returning from California on the 14th.

3 CHAIRPERSON BERRY: That's -- yes.

4 Commissioner Anderson --

5 COMMISSIONER REDENBAUGH: Just stop right
6 off.

7 CHAIRPERSON BERRY: Stop by the house and say
8 hi.

9 COMMISSIONER ANDERSON: Is this -- this town
10 isn't near another town that might have another hotel?

11 COMMISSIONER HORNER: A Days Inn or something
12 out on a highway somewhere?

13 STAFF DIRECTOR MATHEWS: Staff has this
14 morning spent a couple hours here telephoning to see if
15 we have any other options in any other nearby town. I
16 do not have a report back of any success stories yet on
17 that, but that is an on-going research area and may
18 yield some other options for us, but at -- as of now,
19 there is in Greenville, which was selected because it
20 is centrally located in -- in a lot of areas that, you
21 know, in terms of our hundred-mile radius for our
22 subpoena power. So, it would make for an extremely
23 important hearing location.

24 CHAIRPERSON BERRY: Well, I would -- I would
25 advise you then to just say the staff should urgently

1 try to find some other site, even if we have to move on
2 the third day or something, so because it just is too
3 disruptive. People's schedules are set by now. I know
4 mine is, and I'm sure other people's, and, so, it would
5 just be very difficult and difficult for those who are
6 coming back from L.A., and, so, let's just leave it at
7 that, and let the staff grapple with this problem.

8 Commissioner Higginbotham?

9 COMMISSIONER HIGGINBOTHAM: The other option
10 is we compress it in Wednesday and Thursday.

11 CHAIRPERSON BERRY: And just have fewer
12 sessions. That's not desirable, but we may have to do
13 that.

14 Yes, Commissioner Redenbaugh?

15 COMMISSIONER REDENBAUGH: There is another
16 option, to move it out a month.

17 CHAIRPERSON BERRY: Move it out a month? No.
18 We are determined to finish these hearings in this
19 fiscal year, if it kills us.

20 COMMISSIONER REDENBAUGH: I think it may.

21 CHAIRPERSON BERRY: So, we'll leave that like
22 that.

23 COMMISSIONER ANDERSON: If I could just say,
24 my preference would be to stay where it is on the
25 dates, and if it means compressing it to two days,

1 let's compress it to two days, but that's just my
2 preference.

3 CHAIRPERSON BERRY: All right. Let's leave
4 it -- let's leave it at that, and let them work with
5 it.

6 V. General Programmatic Theme - FY 1998 -

7 CHAIRPERSON BERRY: The General Programmatic
8 Theme. Let's see if this goes quickly. If it does, we
9 can do it.

10 You have three proposals that were developed
11 as a result of our discussion during the two meetings.
12 One is on our Children At Risk. This is under Tab
13 Number 5. The other one is Civil Rights Enforcement
14 Through Litigation. The other one is Administration of
15 Justice for Targets of Hate Crime.

16 Could I have someone move some one of these
17 or -- and then we can discuss it? Is there anyone who
18 has any preference or has thought about -- yes,
19 Commissioner Horner?

20 COMMISSIONER HORNER: Madam Chair, I suspect
21 this might, since it's a long-range serious
22 deliberation, might take some time, and I wonder if it
23 would be possible to defer it until the next meeting,
24 and to have our briefing occur now.

25 I am very reluctant to keep people waiting

1 who have come in to testify.

2 CHAIRPERSON BERRY: Well, the reason why we
3 can't is because you have to submit something to
4 somebody. What is it you have to submit?

5 STAFF DIRECTOR MATHEWS: The -- September 1
6 is my understanding of the due date to the Office of
7 Management and Budget for the Commission's Fiscal Year
8 1998 Budget Request.

9 So, if Commissioners want to have any one of
10 these themes -- in other words, if you choose a theme,
11 and, secondly, if you want a theme to begin fiscal
12 1996, the staff has to know this at this meeting in
13 order to prepare all of the documents, charts, etc.,
14 and get them back to Commissioners again for
15 consideration and approval before the September 1
16 deadline, and I say that with recognition that we will
17 not be able to consider it at a September meeting
18 because that's after September 1, and we do not have an
19 August meeting.

20 So, this would be the last opportunity for
21 Commissioner consideration for fiscal 1998.

22 CHAIRPERSON BERRY: Well, let me just do
23 this. Let's see if there's any sense of some one
24 proposal that everybody already thinks they want, and
25 if not, then unfortunately despite what the Staff

1 Director said, we're going to have to defer it anyway,
2 I mean even if it bolloxes up, whatever.

3 Yes? Was someone saying something?
4 Commissioner Redenbaugh?

5 COMMISSIONER REDENBAUGH: I'm just confused
6 again. Are we talking about these projects or --

7 CHAIRPERSON BERRY: No, no, no. This is a
8 programmatic theme, such as we did with the National --

9 COMMISSIONER REDENBAUGH: Oh, okay.

10 CHAIRPERSON BERRY: That's what it is.

11 COMMISSIONER REDENBAUGH: All right.

12 CHAIRPERSON BERRY: And last time, we sort of
13 settled on three, and we couldn't pick between three,
14 and one is our Children At Risk, and the other one is
15 Civil Rights Enforcement Through Litigation, and the
16 other one is the Administration of Justice for Targets
17 of Hate Crime, and we sort of couldn't settle which
18 one. So, we asked the staff to do some more work and
19 give us these three proposed, and then we would pick
20 from among them. That's basically what happened.

21 Yes, Commissioner Horner?

22 COMMISSIONER HORNER: Madam Chair, having
23 read all three, I found my enthusiasm somewhat waning
24 compared with the enthusiasm we felt when we -- when we
25 had the discussion, especially the enthusiasm for

1 Children At Risk, and although I still think it is very
2 worthwhile for us to have a programmatic theme, and
3 that Children At Risk is a good one, I have so many
4 differences with the perspective brought to bear by the
5 paper that I can't at this point say, yes, I want to
6 adopt this as a theme.

7 Although I would think that since what we're
8 talking about is very thematic here by its nature, that
9 it probably isn't necessary for us to tell OMB that we
10 intend to do it, and it seems to me that this is a
11 perspective we can decide to adopt and bring to bear at
12 any point, and that what OMB really needs is our
13 program particular project listings and decisions
14 rather than a thematic approach.

15 So, at this point, I would -- I would not
16 want to adopt any of these themes as outlined.

17 CHAIRPERSON BERRY: Vice Chair?

18 VICE CHAIRPERSON REYNOSO: Well, Madam Chair,
19 I, too, went over them, but based on our discussion
20 last time, and on the summaries given to us, I was
21 still enthused about our Children At Risk option, and I
22 would assume that there will be time for us to make
23 changes on -- on -- on the subsets of it, if you will,
24 but -- but the major theme of looking at Children and
25 what problems they encounter with respect to civil

1 rights and our hope for them still seems to me like a
2 proper -- a proper theme to go forward with.

3 I think some of the -- some of the details in
4 our approaches, that we'd be able to modify it as we --
5 as we decide on the hearings or decide on the specific
6 theme.

7 CHAIRPERSON BERRY: Commissioner Horner?

8 COMMISSIONER HORNER: I would like to agree
9 with you, and -- and perhaps I can, and this is my
10 concern. My concern is that when we talk about
11 modifying, what we're talking about is mounting five
12 votes to vote against something the staff has proposed,
13 and I'm not confident I could get five votes against
14 the, say, eight or 10 items here that I find not -- not
15 useful, and, therefore, I feel compelled not to provide
16 my vote for the overall concept on that basis.

17 If we were to say we want to address Children
18 At Risk and not use this paper as the basis but assert
19 that as a theme and leave our decisions as to what
20 constitutes fulfillment of that theme to later, that
21 would be okay with me.

22 CHAIRPERSON BERRY: Do you have problems with
23 the discussion of the -- the fact that there are
24 Children At Risk or just certain nuances? You don't
25 mind us describing, you know, how many children and --

1 and that sort of thing?

2 COMMISSIONER HORNER: It is not the listing
3 of -- it's not the characterization. It's not the
4 scope of the problem.

5 CHAIRPERSON BERRY: Okay.

6 COMMISSIONER HORNER: What it is is frankly
7 the incredible bias in here against juvenile curfews,
8 for instance.

9 CHAIRPERSON BERRY: Oh, I see.

10 COMMISSIONER HORNER: Issues of infants and
11 AIDS, questions of handling of incarcerated juveniles
12 and so on. These are all, seems to me, presented here
13 with the preferences pre-judged, and I don't want to
14 buy into that because I don't accept in many cases the
15 preferences expressed or implied by the -- by the
16 paper, and, therefore, I have a problem.

17 If we could have a completely rewritten
18 paper, I would be very happy to sign on to it.

19 CHAIRPERSON BERRY: In other words, if, for
20 the Staff Director's purposes, we were to agree that
21 Children at Risk was a theme, and then described the
22 characteristics of the children who are at risk,
23 without the rest of the paper, which describes various
24 things, and then later on figure out what to do with
25 the rest of the paper and how to rewrite it, had a

1 longer discussion of the matters, then you would still,
2 from among the three themes, think that Children At
3 Risk made more sense? Am I reading you rightly or
4 wrongly?

5 COMMISSIONER HORNER: I would think that,
6 yes, although I find, for instance, the
7 characterization of children as not receiving
8 sufficient government funding prejudices the assessment
9 of the cause of the problem. It doesn't say in here
10 these children don't go to church every Sunday, and we
11 should look at that, and, yet, I think that's an
12 important component of the problem. So.

13 CHAIRPERSON BERRY: Well, then I think, Staff
14 Director, it sounds like we're not going to be able to
15 do this today because it's going to require a longer
16 discussion of the details.

17 Is there any way you could figure out how to
18 do what you need to do with OMB, anyway, or we could
19 just tell them we were late?

20 STAFF DIRECTOR MATHEWS: Well, --

21 CHAIRPERSON BERRY: Commissioner Horner used
22 the word --

23 COMMISSIONER HORNER: I used to be an
24 associate director at OMB, --

25 CHAIRPERSON BERRY: She can say that it's all

1 right. Just tell them she said.

2 COMMISSIONER HORNER: -- and --

3 STAFF DIRECTOR MATHEWS: I'm going to be
4 quoting that then, Madam Chair.

5 COMMISSIONER HORNER: Mary, I'm going to pull
6 rank on you because it's a new OMB, I'm sure, and I
7 wouldn't -- I'm reluctant to say that.

8 Frankly, I don't think it matters at all to
9 OMB. They're going to give us the money that they --
10 they're going to concur in a request for money based on
11 budgetary considerations, is my guess, without too much
12 stuff on programmatic preferences at this point, as
13 long as we comply with a certain responsible discussion
14 our intent to do something in these arenas.

15 CHAIRPERSON BERRY: So, what we'll do is
16 discuss this in July. The panel is going to take
17 place, but if you want to make a comment, Commissioner
18 Higginbotham, you can.

19 COMMISSIONER HIGGINBOTHAM: Well, briefly.
20 One, I favor the concept of -- of Children At Risk, and
21 I understand what Commissioner Horner is saying.

22 It seems to me, Commissioner Horner, that
23 what we have to do is to -- when you have highlighted
24 deficiencies or any of us, we've got to transmit those
25 to the staff so that they can cast it in a way under

1 which there's a possibility of our -- of their meeting
2 our concerns.

3 I wouldn't want it to go back to them and
4 tell them to rewrite it because it may have the same
5 pathology which you, from your lens, see in it. So, I
6 would hope that all of us will look at this carefully,
7 and if we have some individual concerns, we convey
8 them, and in that way, the staff can react to a
9 specificity.

10 COMMISSIONER HORNER: Commissioner
11 Higginbotham, when I have done that in the past and
12 asked for a rewritten option for consideration by the
13 Commission, I've been told that the staff does not
14 rewrite at the request of an individual Commissioner
15 but only pursuant to a Commission-wide decision.

16 I personally think it would be very useful
17 for the staff to provide us with multiple options,
18 written to different requirements. I recognize that
19 entails a fair amount of work, but I think it would be
20 useful for the discussion, and I've been discouraged
21 from doing that.

22 I agree with you. I think that would be a
23 very useful way to go.

24 CHAIRPERSON BERRY: We're not going to do
25 that, simply because the idea is that the Commission

1 should instruct the staff, not individual
2 Commissioners, and that means whether you're on the
3 right, left, in the middle, up or down, and, so,
4 therefore, -- and I would have dearly loved over the
5 years to tell the staff to do X, Y and Z, and was
6 always slapped down as hard as possible whenever I
7 tried it.

8 So, that's why it isn't done, but I would --
9 what we will do next time is simply discuss this paper
10 in detail with everybody's concerns, and then we'll
11 have them write something else. So, we'll do that next
12 time, and we'll see if people -- no one has said
13 anything about the other proposals. There may be
14 people who think the others are better than this one.

15 COMMISSIONER HORNER: But there will be time
16 for that something else that's written to be reviewed
17 by the Commission before the OMB submission. I think
18 that's the problem Mary identified.

19 CHAIRPERSON BERRY: Yes, Mary? Staff
20 Director?

21 STAFF DIRECTOR MATHEWS: The other aspect to
22 this, if I could try to at least help in terms of --

23 CHAIRPERSON BERRY: But let's do it quickly,
24 so we can start the briefing.

25 STAFF DIRECTOR MATHEWS: Right. And I'm

1 going to be doing it quickly.

2 The other aspect to this from the staff
3 perspective is that the money is prepared and assembled
4 based on how many hearings and the -- just using the
5 Children At Risk, it proposes five hearings and one
6 statutory report.

7 So, if it appears not at this discussion but
8 at the next discussion, if Commissioners could agree
9 just on a general theme with five hearings and one
10 statutory report or some variation on that, then we can
11 go forward with, you know, OMB submittal.

12 CHAIRPERSON BERRY: Okay. Well, we will try
13 to accommodate all of those deeds next time.

14 Could I have a motion to -- do we adjourn
15 this part of the meeting?

16 STAFF DIRECTOR MATHEWS: Yes.

17 CHAIRPERSON BERRY: Yes, we do. Okay. So,
18 we're going to adjourn this part of the meeting. It's
19 non-debatable. So, it's adjourned.

20 (Whereupon, at 11:22 a.m., the meeting was
21 adjourned, to reconvene for the Briefing on Consumer
22 Racism and Sexism.)

23

24

25

P R O C E E D I N G S

11:23 a.m.

Briefing on Consumer Racism and Sexism

CHAIRPERSON BERRY: Now we'll go to the briefing, and I would ask the first panelists to come forward, and the first panelists are Barbara Arnwine, Executive Director of the Lawyers' Committee for Civil Rights Under Law, Ann Taylor, Research Analyst, United States Trust Company of Boston; and David Norford, Director, Mid-Atlantic Cleaners and Launderers Association. I don't have a list -- the latest list of the witnesses. Just the list of witnesses on the panel, the first panel. And Jerry Wilson, a Crime Analyst and Security Consultant.

On behalf of the Commission, I welcome all of the panelists to this briefing on questions of consumer racism and sexism, and also consumer matters related to people and persons with disabilities, and I thank each of you for appearing here today to share your information and insights with the Commission and the public.

The Commission is concerned about possible racial, ethnic, disability and gender discrimination against consumers of goods and services. In the area of public accommodations, the civil rights picture

1 certainly shows progress, although as we who are
2 members of minorities know, not too a whole. The staff
3 wrote that. I don't know what that means.

4 Anyway, in other words, it means there's
5 progress but there's still problems. I am reminded
6 that when the Commission decided to schedule its first
7 hearing in Montgomery, Alabama, in December 1958, and I
8 wasn't a member of the Commission then in 1958, I only
9 heard about it later, the staff wrote ahead for hotel
10 reservations in the City of Montgomery, and there were
11 three black lawyers -- blacks in the group,
12 Commissioner Wilkins and two staff lawyers who were all
13 black, and the Commission was not surprised to be
14 turned down by all the hotels in town because of Jim
15 Crow, but the Commission was surprised when the Maxwell
16 Air Force Base in Montgomery refused to let the blacks
17 who were government employees stay on the base.

18 The agency's appeal to the Secretary of the
19 Air Force in Washington was also turned down. He said
20 no, too, and getting some rooms for these three people,
21 the Commissioner and the two lawyers, took a phone call
22 from the Chairman, who was the President of Michigan
23 State University, John Hannon, who called President
24 Eisenhower, and President Eisenhower was furious, and
25 he wrote a scathing executive order and had it

1 dispatched right away to General Maxwell saying that
2 the people would be able to stay there.

3 The lunch counter sit-ins and bus boycotts
4 during the early days of the civil rights movement
5 galvanized the nation against legal segregation based
6 on the race or ethnicity of customers.

7 Today, we have all these laws, including the
8 Civil Rights Act of '64, and the Americans With
9 Disabilities Act, banning discrimination in places of
10 public accommodation, yet there are continuing reports
11 about racial and ethnic minorities being singled out
12 for poor service, rude treatment, suspicion of theft in
13 stores and retail establishments.

14 We also hear of discrimination in pricing
15 against female customers in automobile showrooms and at
16 laundries and dry cleaners. Hailing a taxicab can be
17 frustrating for anyone, but apparently more so if
18 you're an African American or a person with
19 disabilities.

20 I do wish we had here a panelist to provide
21 information and perspectives from the standpoint of
22 restaurants, retail stores and automobile dealerships.
23 Our staff tried to secure participation in this
24 briefing by owners and managers of these businesses and
25 their representatives and trade associations, and for

1 one reason or another, they refused.

2 This is an example of how the Commission
3 needs to have its subpoena power and to hold hearings,
4 if we can receive information from recalcitrant
5 witnesses.

6 But we're grateful to all of you panelists
7 who did agree to appear, and we're confident that your
8 contributions will make this a success, and, so, now, I
9 want to first call on the distinguished lawyer and
10 sister in the struggle, who I'm sure is busy, busy,
11 busy, with what came down on us yesterday, and who is
12 the Executive Director of the Washington, D.C.-based
13 Lawyers' Committee for Civil Rights Under Law.

14 Barbara Arnwine, before she became the
15 Executive Director nationally, ran the Lawyers'
16 Committee in Boston, and she has had a distinguished
17 career in legal representation and civil rights
18 mobilization, and thank you for appearing, and would
19 you please proceed?

20 MS. ARNWINE: Yes, thank you very much for
21 that kind introduction. It's so good to see the
22 members of the Commission here today.

23 My discussion is going to be limited to the
24 issue of African American women, and, of course,
25 African American men in consumerism and economics.

1 I want to thank you, Chairperson Mary Frances
2 Berry, and the Commissioners, for this opportunity to
3 address this very important subject, specialized
4 discrimination against African American women in
5 consumerism and economics, and I want to commend you
6 for holding these hearings. This is a very important
7 issue that will have a lot of impact on African
8 Americans and their ability to be full participants in
9 American society in the future.

10 This discussion will detail the barriers
11 faced by African American women in consumer matters and
12 capital accumulation. Research indicates that compound
13 discrimination in the form of race and gender
14 discrimination against African American women continues
15 to limit their ability to participate fully in consumer
16 markets within the United States.

17 Minorities as a group suffer inequities and
18 degradation. However, African American women are
19 disproportionately affected by the nexus of specialized
20 gender and racial discrimination in consumer affairs.

21 Throughout this discussion, you will hear of
22 many awful incidents of discrimination that has
23 occurred against African American people and women in
24 particular, and you will also see and hear statistics,
25 but I want to emphasize that the most tragic result of

1 all of the discrimination that we will be discussing is
2 the capital drain that occurs on the ability and the
3 resources of African Americans to really be full and
4 active participants in our economy, and to become equal
5 participants in our economy.

6 I open with two recent incidents which
7 illustrate economic discrimination against African
8 Americans in general, and especially African American
9 women.

10 The most notorious example is one that we all
11 heard about a few months ago, and that is the case of
12 Cynthia Williams. She's a young -- she was a young
13 black woman from Buffalo, New York. She lived across
14 town from her job, which was at Galleria Mall. The
15 only bus running from her neighborhood across town was
16 the Number 6 bus, and the Number 6 bus was not allowed
17 to stop at Galleria. The closest stop was across a
18 six-lane highway.

19 The Bus Station Transit Authority requested
20 that they be able to place a stop at the Galleria Mall,
21 but the management refused, stating that they did not
22 want blacks in their premise -- on their premises.

23 On a cold winter day, Cynthia Williams took
24 the Number 6 bus to Galleria and got off at a stop in
25 the midst of six lanes of traffic. There was no

1 sidewalk, no crosswalk, no pedestrian walk signal.
2 When the light turned red for traffic, the bus
3 passengers started across.

4 However, because the signal was not time
5 adjusted for pedestrians, it quickly changed to green,
6 and Cynthia was hit and killed by a truck.

7 The reality for Cynthia Williams is the
8 reality that is common to many African Americans.
9 There were no employment opportunities in her
10 neighborhood, no retail establishments for her to shop
11 at, no grocery stores, no banks. All the businesses
12 had moved out of her neighborhood to supposedly more
13 attractive or lucrative markets, and it was the
14 departure of these enterprises from the city that
15 hastened the demise of her neighborhood.

16 Because there were no businesses there to
17 employ her, she had to seek outside employment, and
18 there was no place for residents of her neighborhood to
19 shop without a 20-minute bus ride.

20 In situations like this, African Americans
21 are reminded of the many ways in which they are treated
22 as second-class financial citizens outside the main-
23 stream of economic activity.

24 The Galleria Mall's reluctance to allow the
25 Number 6 bus to embark at its premises shows the

1 difficulty of African American consumers in gaining
2 equal treatment.

3 The only reason that the bus route did not
4 pass the mall directly was because mall management did
5 not want African Americans to shop there.
6 Unfortunately, I wish I could say that this was an
7 isolated pattern, but it is instead part of an emerging
8 pattern of mall exclusionary practices and harassment
9 techniques to keep African Americans from shopping at
10 their establishments, based on the belief that more --
11 that the more African Americans shop at these premises,
12 the less likely white Americans will want to shop
13 there.

14 Even here in the Washington, D.C., area,
15 there is a disparity between the types of enterprises
16 that are prevalent in white and black communities.
17 Sadly, contrary to prevalent theories, that racial
18 discrimination is an outflow of class, discrimination
19 is not in fact based solely on the basis of poverty,
20 instead race seems to be the operative pattern, and if
21 we look even here in the D.C. area, at Prince George's
22 County, the most affluent black county in the nation,
23 predominantly black county in the nation, you will find
24 there are no upscale retail centers, and no other
25 upscale restaurants, less banks than in any other

1 county in the Washington, D.C., area, and less other
2 services that are associated with upscale and affluent
3 communities.

4 The second incident I would like to discuss
5 with you is the story of an African American couple
6 shopping at Home Depot Store in California. This is an
7 all-too common story.

8 They stood in line and watched the sales
9 associate pleasantly accept a check from a white woman
10 buying a similar item. When the couple reached the
11 cash register, they also tried to purchase with a
12 check. The sales associate told them she would have to
13 verify the check. She made several calls supposedly to
14 a bank, each time stating that she could not get
15 through, refusing to accept the check.

16 The black couple then went to several other
17 Home Depot stores with a white female friend and
18 repeated their experience. At each store they visited,
19 their check was refused. This is yet another example
20 of the visible ways that African Americans face
21 economic discrimination.

22 There's a lot of economic theory, pure
23 economics, etc., that says that clearly green is green,
24 why would any retailer not want to sell to African
25 American customers? Why would any lender not want to

1 lend to people who are good economic risks? Why would
2 any company not act in a profit-maximizing behavior?
3 It just doesn't make good economic sense.

4 Well, unfortunately, racism and its
5 irrationality doesn't make good economic sense. So,
6 because America does not operate on pure economic
7 theories, in reality, both past discrimination and
8 current stereotyping, based on gender and race, are the
9 foundation of current discriminatory practices.

10 Now I want to turn my attention to compound
11 discrimination in consumer affairs. That's
12 discrimination against African American women.

13 There have been many studies that have
14 demonstrated this discrimination, and you can look at
15 the studies in areas of automobile purchases, mortgage
16 lending, business and finance, health services,
17 insurance and consumer products advertising.

18 Although we have many excellent civil rights
19 laws in the United States, which were designed to
20 prohibit race and gender discrimination in employment,
21 housing and public accommodations, unfortunately, there
22 is not the same equivalent anti-discrimination regimen
23 in the area of the consumer affairs, and research has
24 presented claims of more subtle and subjective form of
25 discriminations in the area of consumption of goods.

1 A 1992 study of new car purchase negotiations
2 focused on whether sellers discriminate on the basis of
3 race and/or sex when customers negotiated in a similar
4 fashion. This was one of those tester studies.

5 It found that white women had to pay 40
6 percent higher mark-ups than white men. African
7 American men had to pay more than twice the mark-up
8 paid by white men, and African American women had to
9 pay more than three times the mark-up paid by white
10 men.

11 Studies in the areas of home mortgage lending
12 have demonstrated that discriminatory practices
13 amounted to gross divestment in the black community.
14 Race, not property value of household income, dictates
15 the lending patterns of some of the nation's largest
16 financial institutions.

17 Research has indicated that blacks with the
18 same income as whites are more than twice as likely to
19 be turned down for mortgages, even after correcting for
20 all relevant differences.

21 Some lenders claim that blacks are rejected
22 more often because of substandard property values, poor
23 credit or the lack of brokers directing minorities to
24 their institutions. However, this argument does not
25 account for the poor whites who are four times more

1 likely to have their loans approved than African
2 Americans with nearly identical financial portfolios.

3 Lending discrimination must be placed in a
4 historic context. We know that for years, it was legal
5 to discriminate against African Americans and that that
6 regimen fortunately has been changing, but we want to
7 emphasize that for minority women, they are at what we
8 would call an added disadvantage because they occupy
9 two disfavored groups in America or two disadvantaged
10 groups in America, either they are classified as black
11 or they are classified as women, and both groups are
12 disfavored.

13 Also, a lender determines which neighborhood
14 to lend in based on whether it believes other lenders
15 also will lend -- will not lend there. In less
16 attractive neighborhoods, this decreases this
17 likelihood of all loans.

18 This is of particular importance to African
19 American women who, when they are heads of household.
20 If these women reside in neighborhoods that are not
21 attractive to lenders, it may be nearly impossible for
22 them to get the necessary funds to buy a home. This is
23 especially true if a woman applies for a loan but does
24 not have a credit history.

25 Hypothetically, her situation could look as

1 follows. She is an African American woman in her late
2 twenties. She is recently divorced, never married, and
3 has moved into an apartment. She has two children.
4 She is the head of household. She is employed, and her
5 annual salary is less than 22,000. In fact, her annual
6 salary is more likely to be around \$12,000. She has no
7 outstanding debts, no credit history, and no assets.

8 If you add her profile to the fact that she
9 lives in a neighborhood that is unattractive to
10 lenders, it is highly unlikely she would receive a loan
11 to buy a home, yet every basis for economic -- for full
12 economic participation in our country is based upon
13 home ownership, and until we really solve the problems
14 of discriminatory lending, we will have a persistent
15 gap between capital accumulation and economic
16 participation between whites and blacks.

17 A recent survey conducted by the U.S. Census
18 Bureau noted the following statistics on home
19 ownership. The percentage of single African American
20 men and women who own their homes and head of the
21 household were respectively 26 percent and 32 percent.
22 They were nearly half as likely to be homeowners as
23 white men, as single white men and women, 47 percent
24 and 57 percent, respectively.

25 There are other economic disparities between

1 black and white neighborhoods. For example, higher
2 home and car insurance rates are charged in black
3 neighborhoods. Residents in Detroit are over-
4 whelmingly -- an overwhelmingly African American city
5 pay about 50 to 70 percent more than residents of the
6 mostly white suburbs surround the city.

7 As noted earlier, there are fewer retail
8 shops and grocery stores in large cities in African
9 American neighborhoods. Ironically, those
10 establishments that are located in neighborhoods where
11 consumers have lower income charge high prices, while
12 suburban grocery stores often have the lowest prices on
13 staple products, like laundry detergent and basic
14 foods, counter-intuitive economics.

15 Also banks have fewer branches in African
16 American neighborhoods. In a computer analysis done by
17 the Washington Post, it was shown that white
18 neighborhoods have more than three times as many bank
19 branches as African American neighborhoods.

20 Notably, the most profitable of the branches
21 that were in existence were -- was in an under-served
22 poor neighborhood. Once again, counter-intuitive
23 economics.

24 This practice of placing few branches in
25 black communities has serious detrimental effects on

1 the members of those communities. Because there are so
2 few branches, residents must patronize expensive check-
3 cashing services that charge as much as \$3 a check.

4 I think that the new CRA regulations that
5 were enacted in November will be helpful in curbing
6 some of the lending discrimination that we've talked
7 about, but clearly we have a long ways to go to bridge
8 this gap.

9 Lastly, in talking, I want to talk about the
10 whole issue of business accumulation, being on the
11 other side, because not only are we consumers, we
12 should be business owners.

13 I think the tragic fact is if you look at the
14 most recent Black Enterprise 100 that just came out for
15 the June edition, you will see that in all the top
16 companies, the presence of African American women is
17 very slight. In fact, you can look at the top 100 in
18 retailers, and you will find less than five African
19 American-headed companies -- women-headed companies.

20 I want to tell a story of one black business
21 woman, which is noted in the very good book done by
22 Feigan and Sykes, where black women -- a business woman
23 who was being considered by a company for participation
24 in a project, told the following story.

25 "After the evaluation panel had made a

1 decision that I had the highest points, the best
2 management program, and the track record, they
3 recommended me, and they took it back to the
4 department, and the director of the department made a
5 very racial statement, that 'they were sick and tired
6 of these niggers and these other minorities because
7 they think it is that they can come in here and run a
8 business. None of them are qualified to run a
9 business, especially the niggers'."

10 She was told this story viciously by one of
11 the competitors who was laughing at her for her
12 treatment. She took the story and threatened to sue
13 and was awarded the contract, despite the
14 discrimination.

15 I would also like to talk about -- if you
16 look at a series of legislation dealing with -- the
17 possibility of legislation dealing with gender-based
18 consumer discrimination. On January 1st, 1996, the
19 State of California enacted legislation which made it
20 illegal to offer men and women different prices for the
21 same services.

22 The law is aimed at haircutters and dry
23 cleaners, long infamous for giving men lower prices.
24 However, the law does allow businesses to charge men
25 and women a different price if they show that they

1 price is based on time, difficulty or the cost of
2 providing the service.

3 There are many cases that have been arising
4 and being filed all over the country around this issue.
5 We hope that we will see more states following the
6 California example, and we hope that we will see the
7 United States, the federal regimen, legal protections
8 doing the same.

9 CHAIRPERSON BERRY: Okay. Barbara, you have
10 to finish.

11 MS. ARNWINE: I'm finishing.
12 Recommendations. Going to Page 15, we urge the U.S.
13 Commission on Civil Rights to recommend federal
14 economic policies which will (1) regulate car dealers
15 to prohibit disparate pricing; (2) recommend the
16 enactment of legislation to prohibit gender-based
17 discrimination, particularly in consumer affairs;
18 encourage continued social awareness of discriminatory
19 pricing to provide more accurate monitoring of
20 financing and banking institutions; (4) provide
21 educational materials to the public, especially African
22 American women, so that they will be informed of their
23 rights and be self -- be good self-advocates.

24 I want to thank the Commission for this
25 opportunity to allow me to testify. We hope to

1 participate in further discussion, and I hope that you
2 will keep the record open so we can revise and extend
3 our remarks.

4 Thank you.

5 CHAIRPERSON BERRY: You can do that. Well,
6 thank you very much, Barbara. That was a very
7 interesting presentation, and we'll have some questions
8 for you after we go through the panel.

9 MS. ARNWINE: I can imagine.

10 CHAIRPERSON BERRY: The next panelist is Ann
11 Taylor, who is a Research Analyst at the United Trust -
12 - United States Trust Company of Boston since 1993, and
13 before that, she held various posts within the NAACP
14 and other -- and she is an economics graduate. So, she
15 is an economist person, and has worked in management at
16 Wall Street firms.

17 Welcome, and thank you very much for being
18 with us. Please proceed.

19 MS. TAYLOR: Thank you, Madam Chairperson,
20 and Commissioners.

21 COMMISSIONER LEE: Excuse me, Madam Chair.

22 CHAIRPERSON BERRY: Yes?

23 COMMISSIONER LEE: Could we ask the witness
24 to speak a little bit louder? I cannot hear her.

25 CHAIRPERSON BERRY: And then the other

1 microphone is next to you, too, the flat one. You need
2 both of them.

3 MS. TAYLOR: When I was first asked to
4 participate, the charge was to look at what causes
5 discrimination, and what can be done to end it.

6 Unfortunately, there are too many examples of
7 consumer discrimination in our society. What causes
8 it? What causes any kind of discrimination?
9 Individual biases which are allowed to fester,
10 particularly in companies in our country. They have
11 become a part of the policies and the programs as well
12 as the culture within these organizations.

13 Ignorance, low priority within management
14 staff, and attempts to be pro-active about issues of
15 theft, economic loss, are quickly turned into
16 harassment, particularly for blacks and other people of
17 color.

18 What can be done to end it? Many of the
19 suggestions are more easily applied to large companies,
20 public companies, government contractors, but there are
21 applications to smaller firms as well.

22 We have been doing investing for and social
23 investing for 20 years now. My part of that has been
24 about five years, and we have been working with
25 companies across the country to address this issue as

1 well as other issues of economic justice.

2 What we have seen that has been helpful in
3 addressing the issues are (1) increasing the diversity
4 of management personnel; (2) adopt a zero tolerance
5 policy, and -- excuse me -- and have some weigh behind
6 that, meaning there should be a strong statement from
7 the senior management, from the president, that it will
8 not be allowed and that corrective action will be taken
9 whenever it is identified; (3) monitor consumer
10 discrimination based on race, where it happens, when it
11 happens, and what were the circumstances; (4) senior
12 management must view as -- much view this as a priority
13 and be held accountable for the amount and the severity
14 of consumer discrimination; (5) set goals for reducing
15 these complaints; (6) sensitivity, diversity, customer
16 service training, whatever phrase you wish to call it,
17 has to happen at all levels within the organization,
18 particularly within the retail industry; (7) provide an
19 effective vehicle for consumers to voice their concerns
20 and their complaints, and let them know it is a
21 priority for the company; (8) companies should
22 institute blind testing.

23 Barbara talked a lot about the CRA and -- and
24 still how far we have to go, but there are -- we have
25 seen over the course of the last decade of CRA that

1 there have been some successes. There are some parts
2 of CRA that work better than others.

3 CHAIRPERSON BERRY: Community Reinvestment
4 Act.

5 MS. TAYLOR: Yes. I'm sorry. For those who
6 are not familiar with the term.

7 Again, while these examples have many issues,
8 they are improving, and we should attempt to learn from
9 them.

10 One of the things that they do, as I
11 mentioned earlier, is blind testing, is to send two
12 people of the same socio-economic level, dress,
13 education, into an organization, retail, be it retail
14 or a bank, and determine how they are treated.

15 Monitoring. That has been an incredibly
16 important program that's been instituted. It's
17 actually looking at the numbers. Numbers can lie, but
18 having the numbers at least gives you an indication of
19 where there are problems.

20 The next point which is crucial is really to
21 adopt the zero tolerance policy. If you don't do that,
22 if the people within the organization at the lowest
23 levels don't understand that the company is not going
24 to accept it, it will continue to fester.

25 So, whether or not the company is a good

1 company itself or an organization itself, there are
2 people within that organization that bring to the -- to
3 the company their individual biases, and there should
4 be a very easy way for people who are impacted by that
5 to state that there has been a problem, and it should
6 be investigated fully.

7 There are companies that are doing some
8 things, and through my work, both at the NAACP and
9 through social investing, I've been able to meet with
10 management at some of them.

11 One in particular is Toys R Us. They have
12 developed a diversity training program that has been
13 rolled out to include person -- more personnel as well
14 as tracking. They have been doing it for two years now
15 and have seen some success.

16 I've talked with the director of labor
17 relations there, and he has offered himself to this
18 Commission to talk in detail about these issues.

19 CHAIRPERSON BERRY: Okay. All right.

20 MS. TAYLOR: So, --

21 CHAIRPERSON BERRY: Thank you.

22 MS. TAYLOR: -- I want to thank you for
23 having me here.

24 CHAIRPERSON BERRY: Well, good.

25 MS. TAYLOR: And I hope that some of the

1 suggestions are helpful.

2 CHAIRPERSON BERRY: And there will probably
3 be some questions for you at the end.

4 I want to tell the other panelists, too, that
5 you may present what you wish to present, but don't
6 feel that you have to present a whole long paper like
7 Barbara did. There will be questions that the
8 Commissioners will ask you anyway. So, you may do it
9 however briefly or however you wish to do it.

10 Thank you very much, Ms. Taylor.

11 Our next -- I can do that because I know
12 Barbara. She doesn't mind.

13 Our next panelist is Mr. Dave Norford, who is
14 Director of the Mid-Atlantic Cleaners and Launderers
15 Association, a regional trade association, and is a
16 registered lobbyist for the industry.

17 He's been involved in the cleaning business
18 most of his life, and his contributions to the industry
19 have been widely recognized, and he's going to shed
20 light on all of these cleaning issues here.

21 Thank you very much for being with us, Mr.
22 Norford.

23 MR. NORFORD: Thank you for your courtesy.

24 This -- I'm happy to come here today. I'm
25 surprised you'd invite a rookie, but we are -- this is

1 an issue that we're happy to talk about because it's
2 one we don't run away from. It's one that in fact we
3 run towards, and not unlike this Commission itself, our
4 trade associations can discuss problems, look forward
5 to problems, and encourage our members, where you
6 encourage the public, to -- to address a problem, and
7 suggest methods in which a problem can -- can be
8 eliminated.

9 No easy task. So, let me start by saying
10 unequivocally that pricing based on race, color,
11 religion, national origin, gender, marital status or
12 age has no place in the professional dry cleaning
13 industry. This is well recognized across the country,
14 regardless of what trade association that you're
15 dealing with.

16 And the fair and equitable prices for
17 servicing any garment should be based upon the
18 characteristics and the amount of labor and expertise
19 required to clean and finish that garment, and not be
20 based upon who the garment belongs to or who wears it
21 or who brings it in for servicing.

22 Ladies and gentlemen, considering that labor
23 is our largest cost factor, a garment with design
24 characteristics or unusual care instructions requiring
25 specific processing techniques, including finishing by

1 hand, costs more to produce than automated machine or
2 machine-finished garments, and, ladies and gentlemen,
3 that's just simple economics, and it's recognized in --
4 in those -- in that -- as one of my co-panelists
5 recognized, in California.

6 There is no issue of gender involved in
7 determining price. There are determinations of what it
8 will take to complete and deliver an acceptable
9 requested service to a customer. You know, everyone
10 here today is wearing dress, skirt, jacket, pants, tie,
11 but they're all different. They're different fabrics.
12 They're different colors. Design, buttons, belts,
13 openings, fasteners, different care instructions sewn
14 in, about half of which are probably incorrect, but
15 that's -- that's a -- that's another topic that we --
16 we hold aside for the -- for the FTC.

17 Some of them are larger, some of them are
18 smaller. What makes them the same, though, is that our
19 industry attempts to take all of these various
20 garments, each different from the other, and place them
21 into broad categories, which can then be averaged
22 together to determine a base price for each.

23 It's a formidable task, and it's certainly
24 made sometimes by the seat of the pants, and by virtue
25 of that oftentimes imprecise.

1 When garments are mispriced at the cleaners,
2 I think it's the result of poor training. I can
3 honestly say that I've never heard or seen an employee
4 purposefully or incorrectly charge a customer. I can't
5 imagine anyone even thinking that, oh, goodie, here
6 comes a woman, let's sock it to her. Let's double her
7 price.

8 I just don't think it's in their minds. I
9 sometimes find that allegations of price discrimination
10 based upon gender occur even when members or industry
11 members have in place recommended fair non-
12 discriminatory pricing guidelines. Usually
13 investigation reveals that the allegation is the result
14 of an employee attempting to be helpful and answer a
15 question oftentimes over the telephone without a
16 garment to specifically examine.

17 It's an easy trap to fall into in the common
18 vernacular of today, been there, done that. Because
19 some groups have routinely used the telephone to survey
20 prices and categorize and report them as accurate, some
21 industry members have simply stopped responding to
22 questions of price over the phone.

23 They often state that they fear they may be
24 somehow set up, the caller often using the gender-based
25 descriptor "blouse" when asking what they charge.

1 Here's -- included in my remarks so you know
2 it's firsthand for me, pick up the telephone in one of
3 my stores that I used to own, and the person on the
4 other end says, "what do you charge for a man's shirt
5 and a lady's blouse?" I can assure you that warning
6 flags go up immediately, even when the business has a
7 policy, a non-discriminatory pricing policy or
8 guidelines in place, when an unknown caller provides
9 gender-based terms for their frame of reference, and
10 this fear of responding stifles business, and it breeds
11 resentment. It breeds resentment both within our
12 industry and for whomever might be on the other end of
13 the telephone. Well, you know, it's either an
14 inconvenience or wonder what they're trying to hide
15 that they won't respond. It's a lose-lose situation.

16 Are we concerned about the industry's image?
17 You bet. Headlines like "women taken to the cleaners",
18 "cleaners ring women", "cleaners soaking women", "women
19 getting a dirty deal at the cleaners", "women steamed
20 about shirt pricing", I've seen them all, and they all
21 hurt. Sometimes they hurt because the allegations
22 indeed are true, and sometimes they hurt because I know
23 they are blatantly untrue and appear to be purposefully
24 distorted for whatever reasons.

25 Have industry associations been pro-active in

1 encouraging change with regard to the removal of even
2 the hint of discriminatory pricings? Absolutely.

3 I do not know of any trade association across
4 this country that has not repeatedly encouraged and
5 suggested methods regarding the avoidance of even the
6 hint of gender bias in pricing, and locally, our
7 efforts here go back -- in the District of Columbia, go
8 back to 1988, and if I might, I have a colleague with
9 me, who is going to take about 60 seconds, and I would
10 like to introduce Ed Boorstein to make a couple of
11 comments at this point, and then I'll sum up.

12 MR. BOORSTEIN: Do I need to be near a mike?

13 CHAIRPERSON BERRY: Yes, Ed, if you want to
14 make comments, you have to be near a mike.

15 MR. BOORSTEIN: Okay. Over the past dozen
16 years, I've served our industry locally as a member --
17 a board member, local trade association president, and
18 on our regional board as well, and since 1989, we
19 actually put together a non-discriminatory pricing
20 guideline indicating -- which Dave will have -- has
21 written in his remarks, various characteristics which
22 do cost more when the cleaner tries to produce a usable
23 garment.

24 The last thing that we want is for any
25 segment of the economy to believe they were taken to

1 the cleaners.

2 It's been a hard road. As some of you may
3 remember, Professor Banzhaf, I was involved in working
4 with the D.C. Civil Rights Commission and the professor
5 in honing the language of this suggested approach.

6 The largest problem, of course, is that only
7 a minority within a minority of cleaners are members of
8 trade associations, and even then, the trade
9 association can speak to the member but not for the
10 member.

11 So, education and compliance are major
12 problems.

13 Thank you.

14 CHAIRPERSON BERRY: Thank you.

15 All right. Mr. Norford, you're going to
16 finish now, right?

17 MR. NORFORD: Yes, ma'am, I am.

18 CHAIRPERSON BERRY: Go ahead, please.

19 MR. NORFORD: Here's what we at Mid-Atlantic
20 routinely recommend to help ensure that discriminatory
21 pricing does not occur and that fair prices prevail,
22 and we're widely copied across the country on our
23 efforts here in trade journals and industry -- industry
24 publications.

25 We suggest that members adopt written fair

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1 non-discriminatory pricing policy which includes a list
2 of garment characteristics which may require
3 individualized attention.

4 We -- we heavily suggest that training of
5 customer service representatives about the policy, how
6 to apply it, what it applies to, and how to implement
7 it, and that these guidelines be displayed so that
8 anyone can easily see or read them that might be
9 interested and that a copy of them be kept at the
10 counter for quick and easy reference.

11 We encourage industry members to attempt to
12 inspect all items for proper pricing before delivery.
13 We -- one of our crusades is to eliminate the term
14 "blouse" from within the context of the cleaning
15 industry, referring only to shirts that we dry clean,
16 and shirts that we launder.

17 We have encouraged members to consider simply
18 opting for a single price for any shirt dry cleaned or
19 any shirt laundered or, in again an attempt to
20 categorize into large groups, either into a standard or
21 a non-standard category, which is an easy way to
22 understand what you're dealing with, we suggest that
23 they use only one price list, not separate lists for
24 men and women, that they price each garment
25 individually, not in combination with any other

1 garment, which matches or goes together, and those
2 people that have taken things like two-piece ladies
3 suits, two-piece mens suits, off of their price list.
4 They simply have jackets. They simply have trousers.
5 They have skirts.

6 It makes all of this go away. We encourage
7 our members to regularly review and make adjustments to
8 prices based on their fixed and variable expenses.
9 Keep a price list readily available. Avoid gender
10 reference when speaking with a customer or a potential
11 customer, and eliminate gender references or
12 descriptors in the price list, and, of course, in
13 advertising.

14 So that's -- that's a rather brief -- that's
15 a very, very big subject, hard to squeeze into a very
16 short time. I appreciate the Commissioners'
17 indulgence.

18 Again, thank you so much for the invitation.
19 It's a -- it's an honor. Thank you.

20 CHAIRPERSON BERRY: All right. We'll have
21 some questions later.

22 We now go to Mr. Jerry Wilson, who has been
23 leading the good life since he left as Chief of Police
24 in the District of Columbia, where he was Chief from
25 '69 to '74, and since then, he's been out making money

1 and being a crime analyst and security consultant and
2 all that sort of thing.

3 And, so, we are really very pleased to have
4 you here with the kind of expertise you have and happy
5 that you were able to determine that you could be with
6 us this morning.

7 MR. WILSON: Well, thank you very much. I
8 believe I'm a default witness because you couldn't get
9 anyone from the retail segment to come, and I spent
10 about a dozen years in retail security after I left the
11 police department, and still have studied it and indeed
12 teach retail security at the University of Maryland,
13 and I have no -- no agenda of my own that I'm trying to
14 sell. I want to offer a little bit of insight and
15 information.

16 I apologize. There's not a lot of literature
17 in security material related to bias against African
18 Americans or others, and -- and I think that's what
19 I'll begin with and probably also end with, and, so, my
20 comments really are not based on literature or
21 scientific studies, but just on some perceptions that
22 I've had over the last 20 years.

23 To begin with, when we talk about retailers,
24 and I'm stating the obvious, there really -- it's
25 difficult to generalize because they vary so much in

1 terms of size from department stores down to mom and
2 pop stores and from upscale to low scale and high
3 shrinkage places, such as camera and photo, to low
4 shrinkage, such as electronics and furniture, and --
5 and also in the whole milieu of retail, there is the
6 security provided by malls and shopping centers, which
7 also affects the way persons are treated.

8 Also, there's variable risks. Some retailers
9 necessarily worry about shoplifting, others worry about
10 being robbed because of different risks for a variety
11 of reasons.

12 Within that complication of the kinds of
13 retailers, there are also about four different kinds of
14 security. One of the things that you have to realize
15 is that 95 percent, I would say, of all retail security
16 is provided by normal store employees, not by guards.
17 Probably 95 percent is -- is done by ordinary store
18 employees, that is, retail clerks, and then, of course,
19 you have proprietary guards and sometimes contract
20 guards and sometimes off-duty police officers working
21 in or out of uniform and on and off the books, and one
22 final thing about retailers is, that it's necessary to
23 think about is, is that for most retailers, theft
24 prevention is very important, and for many retailers,
25 shrinkage each year due to theft and other factors

1 would be as great as their net profit. So, it is an
2 important part of their concerns.

3 Now, since -- since the retail security has
4 become somewhat professional, and that began about
5 1970, I would say, largely because of the demise of
6 fair trade laws, which made margins thinner, the thrust
7 of retail security has been in training, certainly in
8 the sophisticated retail operations and department
9 stores and chain stores, has been generally to train
10 both security personnel and the employees that thieves,
11 external and internal, come in all shapes, sizes,
12 racial and ethnic groups, and -- and the reason for
13 this, the strategy, so far as I've been able to
14 perceive and thinking back over the years, frankly has
15 not been to prevent racial and ethnic bias.

16 I mean that was not -- people didn't say we
17 have to prevent that. The main strategy has been to
18 train employees not to be blinded by their bias from
19 recognizing thieves from their own culture or groups.
20 I mean there's a reality that -- and -- and -- and the
21 bias is out there. There's no question that many
22 people -- you know, Cesare Lombroso would be happy that
23 his stigmata of crime still exists, except that people
24 now think that it's black people who are thieves, and
25 retailers that are sophisticated try to train their

1 employees or make a lot of effort to train their
2 employees to realize that -- that the shoplifter likely
3 as not to be somebody on their way from home from
4 Sunday school and -- and that the -- treats the manager
5 that they're working -- that their hardest-working
6 employee is more likely to be an embezzler than -- than
7 their one that's sloughing off, mainly because it's
8 hard to steal if you slough off because the manager
9 watches you too much.

10 And the mantra really in retailing is to
11 teach store employees may I help you, and, frankly,
12 stores do this better and worse, and at various times.

13 So, cultural bias certainly is a problem. At
14 a -- at a chain level, I don't think that it's a great
15 problem, but no doubt exists. I mean we heard an
16 example of -- of perhaps chain policy. I don't know
17 whether that was chain policy or not, but -- but it
18 would certainly sound as if that.

19 It was not, however, -- and this is one of
20 the things that I'll mention again. It was not
21 something that was talked about a lot in my years in
22 retailing, that is, the effects of bias. We -- we --
23 and it's not something that you heard a lot. There
24 were complaints, of course, in the news media of some
25 stores here in Washington on Connecticut Avenue,

1 particularly mom and pops, that would lock their doors
2 and not let African American males in, and -- and --
3 and certainly there were -- were, and I have seen this
4 in a variety of malls and stores, that -- that during
5 certain times would not let children in, teenagers in.

6 Now, -- now, counting them on my fingers, I
7 can think of a couple in areas where the children were
8 African Americans, and a couple where they were white.
9 So, I'm not sure whether that's bias against African
10 Americans. It may be or may not be, but it also is a
11 bias against teenagers, and, quite frankly, as I think
12 back to half a century ago when I was a teenager, there
13 was some of that same bias against me at the time
14 because we had merchants who certainly would reject
15 teenagers or discourage us from being in there or say
16 bye or get out, and, so, these -- there is no doubt, I
17 think, in retailing some bias against youngsters,
18 although that's mixed.

19 I know of one shopping center which -- which
20 tried to exclude kids from the high school and junior
21 high school, and in this case, they were not African
22 Americans, during the time that school was coming and
23 going, and they had merchants within the mall who
24 protested because they wanted the money that the kids
25 were spending. So, it's a mixed bag.

1 I'll also mention one other thing that -- to
2 show that bias still exists. While I was with Peoples,
3 on at least three occasions that I can recall, I had a
4 strong feeling, although it wasn't stated, that parents
5 who were complaining about their kids being caught
6 stealing were really mad because it was African
7 American investigators that caught them, but that's
8 another issue.

9 So, I apologize. I've given you impressions
10 that I can't support with data. It exists. Racial and
11 ethnic bias exists. I think most retailers try to
12 train out of it, but -- but it isn't high on their
13 priority for that reason. I think their purpose is to
14 make their employees aware of other -- other kinds --
15 that other people steal, I guess, would be the best way
16 to state it.

17 I want to really reinforce something that Ms.
18 Arnwine said about -- I had occasion recently to look
19 at crime control problems in seven cities in high-crime
20 neighborhoods, and -- and I was really struck by the
21 problem in those neighborhoods of lack of retailers, of
22 good retailers, of chain stores or stores that -- and -
23 - and the problems that people in those neighborhoods
24 had in reaching stores that they could purchase --
25 grocery stores, department stores, particularly grocery

1 stores, not having transportation to get to them and
2 not having them convenient.

3 There are a couple of civil rights issues
4 beyond ethnic bias in probably security I'm going to
5 mention as long as I'm here. There's always -- there's
6 been concern since the department stores were developed
7 in the 19th Century with the fact that criminal
8 sanctions are used to reinforce marketing methods which
9 use open unprotected display of merchandise to
10 stimulate people to buy things that they don't really
11 need, and -- and a second one that is more modern is,
12 is there's been a proliferation of private security,
13 and there are two and a half times as many security
14 personnel in America today as there are police
15 officers, and this has resulted in a shift of a lot of
16 law enforcement from the public sector to the private
17 sector, and there are concerns, and this is in the
18 literature of private security, with the fact that
19 we're developing criminal justice systems which are
20 actually operated for private purposes rather than
21 public purposes.

22 My only suggestion would be, not necessarily
23 recommendation is, is that if you find that -- that --
24 that -- that the kinds of things, such as were related
25 with regard to check-cashing, is prevalent, there may -

1 - that raising consciousness of retailers may do the
2 trick.

3 My -- I don't think that -- that chain stores
4 generally are -- practice racial bias intentionally.
5 My observation has been that they -- that they don't
6 practice is as a policy, and would like to eliminate
7 it, if it is a problem, in the organizations.

8 I'll shut up.

9 CHAIRPERSON BERRY: All right. Thank you.
10 Thank you very much.

11 Do Commissioners have any questions for the
12 panel? Commissioner Redenbaugh?

13 COMMISSIONER REDENBAUGH: Yeah. I'd like to
14 lead off with -- I'll have to be honest and say it's a
15 statement.

16 But, Barbara, if I may call you Barbara, I
17 was very impressed with what you said because in the
18 beginning, you make the connection between the
19 importance of capital accumulation and discrimination,
20 and, you know, I think we've done a rather poor job in
21 the access to -- access to capital and credit.

22 I probably should include myself in this
23 group. I'm a professional investor. What I've noticed
24 is that bankers and investors, like myself, tend to
25 move in a herd and go in the wrong direction, and, you

1 know, we tend to make all the investments and all the
2 loans on the things we should have done, and, so, I'm
3 -- I'm actually not very optimistic about this as a
4 group.

5 The problem you raise really is one of -- you
6 know, I think there are two kinds of discrimination.
7 There's the illegal discrimination that bankers and --
8 and investors and lenders make, and we definitely need
9 to move to reduce that.

10 There's also the -- we want bankers to be
11 discriminating, to discriminate in the lending, and
12 they haven't always done that. I mean they've lent all
13 these projects that don't work.

14 What you're saying today is that in many
15 neighborhoods, there are pockets of investment and
16 lending opportunity that are not being exploited.

17 Well, that would only make sense if they've
18 all put the money some place where they shouldn't have.
19 So, are -- are -- then here's my question, really.

20 Are you working or is -- to encourage the
21 minority ownership of enterprises, including banks,
22 that are more able to grasp and exploit, and I mean
23 exploit in a good sense, the economic opportunities
24 that exist in the neighborhoods that you're speaking
25 of?

1 Because I -- I would be much more encouraged
2 if we mobilized people's profit incentive to serve
3 those neighborhoods than their consciences.

4 MS. ARNWINE: It's an interesting dilemma. I
5 -- I really believe that the lack of -- of both
6 minority business entrepreneurialship, which is linked
7 so much to the discrimination in the lending industry
8 and the bonding requirements, is -- is one that's a
9 significant problem.

10 But I also believe that the lack of, you
11 know, of chain stores, of the reliance on mom and pop
12 stores for groceries in these neighborhoods because
13 chain stores refuse to locate in African American
14 neighborhoods, and the lack of banking activity is also
15 a critical problem.

16 And, so, I -- I see it as -- as something
17 where you -- where all sectors have, you know,
18 responsibility.

19 I'm also struck by looking at the Black
20 Enterprise 100 of -- when you look at black
21 entrepreneurial activity, that 40 -- over 40 percent of
22 that activity is car dealerships, and when you look at
23 the retail sector, it is small, and I -- I thought that
24 was also an interesting statistic that speaks to the
25 difficulty of -- of the capitalization process, but it

1 also then speaks to the difficulty of African Americans
2 just having good quality of life if you don't have
3 retail establishments nearby, and you're going into
4 shopping centers or malls where you're not wanted.

5 I think that we have a real problem in our
6 society that we need to address here.

7 CHAIRPERSON BERRY: That's all right. That's
8 a good answer. This is a particular topic of interest
9 to Commissioner Redenbaugh, and we've had -- we've had
10 come before us people talking about the mortgage
11 lending situation, --

12 MS. ARNWINE: Yes.

13 CHAIRPERSON BERRY: -- and we have puzzled at
14 various meetings on various topics about why somebody
15 wouldn't make a loan to somebody when the return would
16 be very good.

17 COMMISSIONER REDENBAUGH: Why people don't
18 take advantage of the opportunity actually.

19 CHAIRPERSON BERRY: Right. So, we're trying
20 to figure out why people don't take advantage of
21 opportunities. Is it that they don't know they exist
22 or they have some better opportunity?

23 MS. ARNWINE: Well, I think it's -- it's
24 interesting -- I mean one thing I've come to appreciate
25 from traveling around South Africa, Brazil and other

1 countries, that I've come to appreciate more about the
2 United States is that there is in commercial activity,
3 not only is there the -- the actual needs that are
4 serviced by the purchase of the product, there's also,
5 you know, status needs that are met by the purchase of
6 products, and that one of the problems I think that
7 we're seeing in some of this discrimination that's much
8 more blatant in Brazil, for example, is a -- is product
9 association.

10 Like one of the quotes I left out of the --
11 of this testimony was a quote by the owner, the CEO of
12 Timberland, saying that he didn't want his product
13 associated with blacks, and that he was very concerned
14 that black teenagers had adopted this product as one of
15 their -- it was a 1993 quote. Terrible.

16 I think a conservative magazine got upset
17 about it and did an article because they were so upset
18 about his quote, and it's that kind of -- there -- so,
19 there's a status association, also.

20 So, if you're a major lender, and you're
21 lending in African American neighborhoods, there --
22 there's also a status of, you know, somehow you're not
23 a major player or that goes beyond this.

24 So, I think that that's something that we
25 need to understand, is the psychology of consumerism,

1 and that there -- that the -- and the -- as I called
2 it, the associative values in our country that continue
3 to associate black with undesirable and less.

4 CHAIRPERSON BERRY: I see. Any other
5 Commissioner -- oh, you wanted to comment?

6 MS. TAYLOR: Actually, yeah. I would like to
7 -- to comment -- to make a comment to Commissioner
8 Redenbaugh's question about capital accumulation.

9 There are opportunities that are sort of
10 happening in pockets across the country to address
11 economic justice issues. For instance, in Newark, New
12 Jersey, there's a group, and it's a community
13 development center, called the New Community Center,
14 which partnered with a corporation to develop an area
15 within Newark, and one of the things that they looked
16 at were basic life issues.

17 So, what makes the quality of life better for
18 the people in the community, and one of those things
19 which most of us take for granted is the supermarket.
20 They partnered with Supermarkets General, which is the
21 Pathmark chain, to put a store in that community.

22 Well, if you speak with the people in
23 management at Supermarkets General, it is their most
24 productive store. It is their most profitable store,
25 and it is now used as a training ground for other

1 stores. They are recently -- they've recently
2 announced moving into Harlem, on a 125th Street, and
3 contrary to the importance of that kind of development,
4 you had the small business owners, the mom and pop
5 stores, complaining, and for almost six months, they
6 fought not to allow that store to move into that
7 community.

8 So, it is an economic issue for a lot of
9 people. Who's benefiting from it now? The racism and
10 sexism that exists, and who does not want to give up
11 what they have in order to allow for some more -- for
12 equality and fairness in these economic issues?

13 So, we do have pockets, and I think it's
14 important for us to learn from what's happening, what
15 has worked, what hasn't worked, but there's a long way
16 for all of us, and -- and there's a lot of work for all
17 of us to do in this issue.

18 As social investors, we do high-impact
19 investing, and that's to invest in community
20 development centers, and to -- Southshore Bank is
21 another place where we do a lot of investing with,
22 because it's -- it's something that's going to have a
23 direct impact on these communities that are suffering
24 across the country.

25 CHAIRPERSON BERRY: Commissioner George?

1 COMMISSIONER GEORGE: Thank you, Madam Chair.

2 I wonder if you have any reflections, and
3 perhaps you don't, and you can just say so, on the
4 question that sometimes arises about whether a
5 particular sort of business or establishment represents
6 a benefit or not to a community.

7 For example, a birth control center or a
8 liquor store, something controversial like that, where
9 some people would say, well, now there might very well
10 be racist motives or at least unpalatable motives for
11 locating these or a concentration of these in an area,
12 and other people might say no, this is bringing a
13 benefit, that people shouldn't be excluded in these
14 poorer communities in some instances from -- from
15 having it.

16 Do you have any thoughts about those
17 problems?

18 MR. WILSON: In the cities that I've visited,
19 three of them, and these were cities where there were
20 efforts by the government and community empowerment and
21 three of them, the communities were proudest of the
22 fact they had been able to close liquor stores.

23 MS. ARNWINE: I think that there -- I mean
24 there's always undesirable entrepreneurial activity
25 that communities still go against residential and --

1 residential, I would say, enhancement, and that go
2 against the -- the bridging of -- of a sense of
3 community, and I know, for example, Los Angeles.

4 We know that after the Rodney King incident
5 in the Simi Valley verdict and the burning of
6 significant portions of that city, that one of the
7 major efforts in Rebuild Los Angeles was to make sure
8 that part of the rebuilding of Los Angeles was not to
9 have a proliferation yet again of liquor stores in
10 those neighborhoods, and just as, you know, many
11 communities don't like to be invaded by combat zones.

12 I mean there is, you know, a feeling that
13 there are certain activities that do go against a sense
14 of community activity.

15 What I thought was the most curious about Los
16 Angeles, though, and I still find very interesting, is
17 that besides the demand for, you know, more malls that
18 were in those communities and more grocery stores that
19 were also avoided, you know, by good -- good department
20 stores, I thought it was curious that the other big
21 demand was for bakeries, was the other big demand.

22 CHAIRPERSON BERRY: Okay. Vice Chair?

23 VICE CHAIRPERSON REYNOSO: We were talking
24 earlier about the natural motivation of business people
25 to make money, and yet we see a strange phenomenon,

1 seen in Los Angeles, and you all mentioned a couple of
2 other examples, of the existence of a store, say a
3 supermarket or a department store in a certain mall,
4 where the economic income for a family maybe has gone
5 down over the years.

6 Then eventually that -- that grocery store or
7 -- or department store closes, and they say we're not
8 making as much money as we could some other place, and
9 that all seems to make sense economically.

10 Then after a few years, a similar type store
11 moves in. I have in mind a grocery store in -- in
12 Southwestern Los Angeles, moves in, and it becomes a
13 real money-maker for them.

14 What -- what -- I -- what is the phenomenon
15 that -- that is going on? And then -- then those
16 money-makers indeed are used as examples to bring other
17 -- other businesses in, but -- but there -- somehow
18 there shouldn't have been that 20-year hiatus, if in
19 fact they were capable of making -- making that money,
20 and, so, I don't know whether it's new marketing or --
21 I've just noticed that phenomenon several times, and I
22 just wonder what your reaction was to that phenomenon.

23 MS. TAYLOR: If I may, part of that is just
24 not what happens between the company and the consumer,
25 but what also happens with those places where that

1 company goes to get capital, and, so, if a company --
2 if an organization is in an area that has been red
3 lined, and they are looking for financing for one
4 reason or another to -- to expand their business,
5 modernize, to address issues of net cash flow, if they
6 can't get capital, they can't survive, and, so, red
7 lining just doesn't impact the people that are trying
8 to live there from a housing perspective, but from the
9 economic base of companies that are within these
10 communities.

11 So, the store moves out, and it closes up,
12 and then 20 years later, when they're looking for new
13 markets, they say, oh, wait, there's no one in this
14 area, and they go back in, and, so, it's a cycle that's
15 happened in a number of communities.

16 One of the things about risk, I just wanted
17 to -- to talk a little bit about that, is one way to
18 make money is to sell more products. Another way to
19 make money and to impact your net -- your net profit is
20 to reduce costs, and one way that a lot of companies,
21 particularly retailers, try to do that is to reduce
22 their risk of theft.

23 Unfortunately, that attempt to -- and again
24 it's another economic issue, one of the things that
25 happens in their attempt to be pro-active about

1 reducing risk and ultimately affecting their bottom
2 line is to -- the biases come in, and, unfortunately,
3 certain groups are harassed more than others.

4 CHAIRPERSON BERRY: I'm going to ask if
5 Commissioners have any questions for the other two
6 panelists in the interest of time. Are there any
7 questions for the rest?

8 VICE CHAIRPERSON REYNOSO: Mr. Norford, what
9 percentage of retailers actually belong to your
10 association or similar associations? I ask that only
11 because your suggestions as to what should be done all
12 seem really very good, but I confess that I -- I
13 haven't been in one establishment where they've
14 actually had a price list posted, and, you know, the
15 sort of things that you recommended, and I don't go to
16 that many, but, you know, I've been to half a dozen in
17 the last few years.

18 This is all in California, and -- and -- and
19 those are such practical suggestions that you think
20 that even those that don't belong to your association
21 would implement them, but at least I haven't seen that.

22 So, I just wonder what your reaction was to -
23 - have I just been attending -- have been going to
24 those that aren't representative or what do you think
25 is happening?

1 MR. NORFORD: It's been estimated that there
2 are approximately 30,000 cleaners in the country, and
3 of those 30,000, at various times, anywhere from about
4 12 to 15,000 are dues-paying members of a trade
5 association.

6 VICE CHAIRPERSON REYNOSO: It's a good
7 percentage.

8 MR. NORFORD: We'd like it to be -- we agree.
9 We've got the greatest thing here since sliced bread.
10 There's no doubt about it, and the reason it's -- it
11 makes sense is because it's -- it's been developed --
12 as I say, we were the first in the country to come
13 head-on with this here locally, and actually sit down
14 and do some hard work, and the policy that I spoke of,
15 which you will get a copy of in the extended remarks,
16 is -- has been hardened by fire in front of human
17 rights commissions.

18 It's -- and it -- it's common sense, and most
19 folks we find, no matter who they are, how old they are
20 or what color they are or anything else, can agree on
21 common sense solutions to problems as they see them.

22 And then one other comment in -- in
23 California, they do have a law, and there are or should
24 be the associations out there. There are about a dozen
25 local associations. There is a -- and there's a major

1 state association out there, and I know in fact, since
2 I get all publications and keep up-to-date on things
3 across the country, because we talk to each other and
4 provide information, that in fact that the California
5 Fabric Care Institute, which is the statewide
6 association out there, and through their dozen
7 supporting associations, have distributed to every
8 member out there signage appropriate for framing that
9 albeit somewhat shortened version, it says that we
10 don't discriminate. It's a non-discrimination policy
11 statement, and then there are some ancillary materials
12 that they have also distributed which are very much
13 based on what we've -- what we've done here.

14 But you have these folks that are outside the
15 loop, and like any other small business person who's
16 the most -- who's in the most heavily or, as has been
17 stated, the most over-regulated small business in the
18 nation, that they have to be concerned about so many
19 things, that sometimes training falls way down on the
20 list, and sometimes they've got the sign that's on the
21 desk, and it's over there probably under a pile of
22 papers and it's not posted.

23 VICE CHAIRPERSON REYNOSO: I have a question
24 for Mr. Wilson, too. Quasi-personal in a way because I
25 have a son who runs an Eddie Bauer store.

1 CHAIRPERSON BERRY: You do? —

2 VICE CHAIRPERSON REYNOSO: And the discussion
3 here began a couple of months ago because there was an
4 Eddie Bauer incident locally, and my son says that --
5 that they actually -- their strongest training in terms
6 of preventing theft is good salesmanship, that they try
7 to teach the -- the -- the sales people to go up and
8 say good afternoon, how can I help you, and in some
9 ways, by being a good salesperson, they see what people
10 are doing, so there's not the opportunity --

11 MR. WILSON: I thought I mentioned that.
12 That may help you, and you see that in --

13 VICE CHAIRPERSON REYNOSO: But he says that
14 what got them in trouble in Washington was they had
15 hired a security company that -- for -- to have those
16 security personnel because they had some sales or
17 something of that sort, and he -- and he supposes
18 that -- that those security people didn't have the same
19 sort of training that their own people have, and you
20 mentioned, of course, the phenomenon of the increase of
21 private security forces, and I just wonder whether --
22 do you know -- do you know of any -- do those private
23 security forces get any training, if you will, the way
24 the -- the -- he tells me that Eddie Bauer people get
25 training?

1 MR. WILSON: Well, I believe the security
2 personnel here were off-duty police officers, is my
3 recollection from the news media, and -- but -- but in
4 terms of security person -- contractual security
5 personnel generally, no, the average training for a
6 contractual security persons -- pre-job training is
7 about four hours, and it really says get to work on
8 time, wear your uniform, have your shoes shined, and --
9 and a problem with retail security, particularly with
10 contractual personnel, and -- and also specifically
11 with off-duty police officers, is that store managers,
12 and -- and I can't speak to individual chains.

13 At Peoples, we really stressed to the manager
14 that they were in charge of security, but in most
15 cases, store managers leave security to the security
16 person. They -- and -- and particularly if it's an
17 off-duty police officer. Off-duty police -- police
18 officers, like lawyers and doctors and accountants,
19 don't take instructions very well from their clients,
20 and they tend to do things on their own, and, so,
21 especially when they're off-duty police officers, even
22 a manager who might otherwise supervise the security
23 tends to leave it to them.

24 I don't know whether that's what happened in
25 this case, but it would be my suspicion that they

1 were -- that they were acting on -- but training of
2 security personnel is something of a problem, and these
3 pick-up kinds of jobs, as was the case here.

4 CHAIRPERSON BERRY: Commissioner Anderson?

5 COMMISSIONER ANDERSON: Mr. Wilson -- and
6 maybe you can't answer this question, but would you
7 have the sense that a police officer would see himself
8 having to respect one set of standards while on duty
9 and perhaps not have to look at that set of standards
10 when they're off duty serving as the security personnel
11 for a private store?

12 MR. WILSON: I don't think that's a real
13 problem. Actually, the -- the -- the thrust of the law
14 is, is that the off-duty police officer is still acting
15 under the constraints of -- of -- of the rules
16 governing the police officer.

17 For example, the Miranda warning does not
18 have to be given by private security personnel, but
19 off-duty police officers must because they are -- if
20 they're operating with their -- with their government
21 badge.

22 I don't think that's a -- a -- I don't see
23 that as a -- as a -- as a significant problem. It may
24 be occurring, but I don't -- I haven't seen it, and
25 I've done a lot of work in private security over the

1 years.

2 COMMISSIONER ANDERSON: Can I ask you, is
3 there an association of security firms? Is there a
4 trade association?

5 MR. WILSON: Yes, sir. There's the American
6 Society for Industrial Security, is the -- the major
7 association for security personnel. Virtually all
8 security personnel in America belong to it. It's
9 headquartered in Arlington, Virginia. It's -- it
10 includes both retail and -- and it -- the reason it's
11 termed Industrial Security is it grew out of the --
12 early security in America grew out of the war time
13 industrial efforts to avoid espionage, but it -- now
14 it's very heavily retail.

15 COMMISSIONER ANDERSON: Do you know whether
16 they have a standard of conduct or whether they have
17 recommendations in terms of training or sensitivity to
18 these kinds of issues for the --

19 MR. WILSON: They do a great deal of
20 training. They have a code of ethics. It's a very
21 professional association.

22 I don't -- I -- as I said in my remarks, I
23 haven't -- I don't recall having seen anywhere any
24 discussion per se about avoiding racial bias in
25 security. I think it hasn't been raised as an issue.

1 I think it just hasn't percolated to the top.

2 I don't mean to say that people are saying
3 it's okay to engage in bias. It just is not one of the
4 things that you see a lot in the literature, and I
5 think that -- that that's why I mentioned that one of
6 the things the Commission might do is raise some
7 consciousness among associations, that being one of the
8 associations.

9 Perhaps -- there -- there are a number of --
10 of -- of retail associations as well, the Food
11 Marketing Institute comes to mind. There -- there are
12 a number of associations that -- that just might have
13 their consciousness raised because bear in mind again
14 that about 95 percent of the security is not done by
15 security people, it's done by store employees.

16 COMMISSIONER ANDERSON: So, I would -- if I
17 can just say one -- what struck me about Mr. Norford's
18 testimony was at least at the association level, you
19 seem to have understanding of a problem, put aside a
20 minute the extent of the problem or whether it's mostly
21 perception or reality or whatever, but there's an
22 approach at the association level that's got standards.
23 It has sort of a strategy to me, and now the question
24 becomes to what extent the members of the association
25 are listening, implementing, how many outside of the

1 association are -- are common. —

2 Now, looking at -- looking at your field,
3 where are we on that kind of a time line? Do we have
4 -- from what you say, it seems to me that the security
5 associations don't really have a similar kind of
6 approach at this point to what -- what we've heard in
7 terms of the retail --

8 MR. WILSON: Well, I think they do, but I
9 don't think with regard to this specific issue because
10 I don't think -- the dry cleaners have -- have taken
11 the approach to this issue because their consciousness
12 has been raised, and I don't think there's a lot of
13 consciousness in the security field about this issue.

14 There are -- there are lots of things that
15 the security field holds seminars on. ADA being one of
16 them. I mean is one of the major thrusts in retailing,
17 but -- but -- and a whole variety of -- of other kinds
18 of things, you know, such as data processing.

19 Security, I just don't think that -- that
20 anyone has knocked on the door and said, hey, you need
21 to think about adopting specific policies to -- to
22 deter racial bias and -- and retail security.

23 COMMISSIONER ANDERSON: So, one of the things
24 we could do would be to encourage the beginning of that
25 process.

1 MR. WILSON: That's correct. —

2 COMMISSIONER ANDERSON: Okay.

3 CHAIRPERSON BERRY: Okay. Commissioner
4 Higginbotham?

5 COMMISSIONER HIGGINBOTHAM: Thanks for your
6 extraordinary contributions.

7 You know the old story. It is easier to
8 curse the darkness than to light a candle.

9 What, it seems to me, is that in the course
10 of your experiences, and I'm thinking of my friend, Ms.
11 Arnwine and Ann Taylor, there must have been a few
12 success stories because you cite those, but the way the
13 media understandably works is that the success gets
14 minuscule attention. The failures become headlines.

15 Is it possible that there can be some
16 mechanisms of some responsible organizations which will
17 highlight systematically some of the success stories so
18 that those of us who are on boards of directors of
19 corporations will see that this organization went into
20 that center, and these changes took place?

21 Maybe even to the point of once a year or
22 twice a year, giving some recognition at some local
23 event. Does this make sense to you? Because otherwise
24 all we're going to do is to have penetrating analysis
25 of the failures, but you've got to get a catalyst so

1 that sometimes we can get people who feel as if, if I
2 do a good deed, it will not be lost in sight.

3 MS. ARNWINE: I think the point is very well
4 taken.

5 CHAIRPERSON BERRY: Speak into both
6 microphones, please. The flat one and the --

7 MS. ARNWINE: Oh, and the little one. Okay.
8 I think that the point is very well taken because in
9 our -- our objective is clearly to eliminate,
10 ameliorate and lessen the discrimination, and I think
11 that you're right about the need to try to create an
12 industry vehicle of acknowledgement where people would
13 feel that -- that as I talked about the status
14 associated with consumerism, that there would be a
15 field of doing these types -- of locating profitable
16 businesses in African American communities, would be a
17 good thing.

18 I -- I thought it was very interesting, and I
19 mentioned, you know, the P.G. County problem, that one
20 of the most recent things I noticed is the building
21 P.G. by -- by the owner of Black Entertainment TV, Mr.
22 Johnson, a big huge restaurant complex out there that's
23 going to be very upscale, and I'm sure the minute he's
24 successful, you know, that will, you know, help, but I
25 thought it was very interesting that he took the lead

1 there, and those are the kinds of stories that -- that
2 need to be told.

3 But on the other hand, I'm worried because
4 I -- I am conscious of the fact that there have been
5 closings of stores that were in fact profitable.

6 COMMISSIONER HIGGINBOTHAM: Sure.

7 MS. ARNWINE: And I still think that we -- we
8 have to somehow address the underlying problem of
9 this -- of this status orientation, --

10 COMMISSIONER HIGGINBOTHAM: Agreed.

11 MS. ARNWINE: -- and the -- the problem with
12 the red lining, that -- that they do go a lot to the
13 success of our efforts, but I -- I think you're right,
14 that we need to figure out more opportunities to -- to
15 highlight and commend people and to keep their eyes on
16 this price.

17 CHAIRPERSON BERRY: Okay. We're going to
18 have one more comment, and then I'm going to have to go
19 to the next panel, because the other panel is getting a
20 little restless here. We appreciate this.

21 Go ahead.

22 MR. WILSON: I just want to -- it's fine to --
23 - to address the concerns of the American Society for
24 Industrial Security, but be sure to also get the
25 associations of retailers, such as the Food Marketing

1 Institute, the National Association of Chain
2 Drugstores, the International Council of Shopping
3 Centers, because security managers generally are not
4 policy-makers. They're policy implementers.

5 CHAIRPERSON BERRY: Okay.

6 MS. ARNWINE: I'm going to make one last
7 comment, I hope that you don't mind, to Judge
8 Higginbotham's request.

9 There are very few national mechanisms to
10 recognize the success stories. One of them was the
11 Department of Labor's Eve Awards, which in this -- it
12 was really directed to diversity issues, but that was
13 one that recognized companies and their efforts.

14 There are things happening in pockets all
15 across the country where a local group will recognize
16 the effort, but it rarely gets the attention.
17 Companies tend to be more concerned about putting out
18 fires than being positive, and the recognition that
19 goes along with that, and there are a lot of companies
20 that are doing things that are not (1) publicizing
21 them, making a big deal out of what they're attempting
22 to do.

23 There are newsletters that talk about the
24 issues. One of the things that we do when we recognize
25 a problem with one of the companies that we're holding,

1 and we know that there are good actors in that same
2 arena, is we partner them up. We say you need to talk
3 with this group. They've been doing it for a long
4 time. This is what they found successful. Please talk
5 to them.

6 We've had conferences to bring people
7 together, organizations together, to talk about the
8 issues very openly and honestly, where we take a back
9 seat and allow them to talk about it, both the good
10 players and the bad players.

11 So, there are things that are happening.
12 Unfortunately, it just doesn't get the recognition that
13 it deserves, as you've mentioned.

14 CHAIRPERSON BERRY: Okay. I want to thank
15 the panel very much. We very much appreciate your
16 being with us, and we will implement some of your
17 suggestions, I'm sure, and now we'll go to the next
18 panel.

19 Thank you very much.

20 MS. ARNWINE: Thank you very much.

21 MS. TAYLOR: Thank you.

22 (Pause)

23 CHAIRPERSON BERRY: We are going to ask the
24 next panelists to come forward. Mr. Oral Miller, who
25 has been Executive Director of the American Council of

1 Blind; Christopher Lynn; Lajuan Johnson; and Mr. Joseph
2 Curran, Jr.

3 We want to thank the panelists very much for
4 being with us, and to thank you for your patience as we
5 went through the first panel, also.

6 We are going to begin this session with Mr.
7 Miller. Mr. Miller has been Executive Director of the
8 American Council of the Blind since 1981. Before that,
9 he was a litigation attorney and was in private
10 practice. He is a past president of the American Blind
11 Lawyers Association.

12 Mr. Miller, welcome, and please proceed in
13 whatever manner you wish. Could somebody hand the
14 microphone over to Mr. Miller, please? Hand him the
15 flat one and the tall one. You have two of them.
16 Okay.

17 MR. MILLER: Okay. We're in business.

18 CHAIRPERSON BERRY: Good.

19 MR. MILLER: Thank you very much, Madam
20 Chairman. It's a genuine pleasure to greet you and the
21 members of the Commission today, and I think it's very
22 appropriate that you're holding this briefing today,
23 June 14th, Flag Day.

24 CHAIRPERSON BERRY: Right.

25 MR. MILLER: Which certainly is a very

1 appropriate time for us to talk about the rights of
2 citizens of the United States, and I'll be talking
3 primarily about the rights of some citizens who
4 sometimes get overlooked. I'm referring to disabled
5 people.

6 As you indicated, I'm with the American
7 Council of the Blind, which is the largest organization
8 made up of blind and visually impaired people in the
9 country, and it's dedicated to improving the well-being
10 of blind people in all aspects of society, and enabling
11 blind people to participate fully in all aspects of
12 society.

13 With me today is a young man who is the
14 national college intern for the American Council of the
15 Blind. Each summer, we bring in an outstanding college
16 student from the United States, after a competition
17 application system, and that person will spend a couple
18 of months in Washington learning about things
19 governmental, and with me today is Mr. James Denholm,
20 who is a student at St. Norwood's College in De Pere,
21 Wisconsin.

22 CHAIRPERSON BERRY: Welcome, Mr. Denholm.

23 MR. MILLER: And, Jim, would you stand up, so
24 people can see you?

25 CHAIRPERSON BERRY: There he is.

1 MR. MILLER: This is his introduction to
2 things governmental in Washington.

3 CHAIRPERSON BERRY: All right. It's not
4 always like this.

5 MR. MILLER: His very first meeting of any
6 sort involving hearings, briefings --

7 CHAIRPERSON BERRY: We're usually on time,
8 and we're usually -- so on.

9 MR. MILLER: Thanks, Jim. Jim, being from
10 Wisconsin, is a Green Bay Packer fan, and we hope that
11 by the time he leaves Washington this summer, he will
12 at least know about the Washington Redskins.

13 Surely no one would discriminate against
14 blind people or disabled people. Well, that sounds
15 good, but it simply isn't the case. That's a mis-
16 informed, uninformed and in some cases naive belief,
17 and, of course, the fact that discrimination does take
18 place, whether it's malevolent or not, the fact that
19 discrimination takes place is why there was a reason
20 for passing civil rights laws or similar laws, such as
21 the Americans With Disabilities Act, the Air Carriers
22 Access Act, Rehabilitation Act of 1973, the Fair
23 Housing Amendments, the Civil Rights Restoration Act,
24 and many other laws.

25 In spite of all those, as some of the other

1 panelists have pointed out, we haven't yet reached,
2 depending on your persuasion, Nirvana or Beulah Land.
3 We haven't reached that point for many reasons. Some
4 have been referred to already, and the same ones apply
5 in the field of disability.

6 In many cases, it may be due to ignorance,
7 may be due to cultural barriers. People coming from
8 other cultures who don't understand what blind people
9 can do, don't understand the working methods, the
10 assistive devices, etc., which they will use.

11 In some cases, it's due just to plain old
12 traditional stereotypes, negative stereotypes. In some
13 cases, it may be due to changing practices; that is,
14 the fact that things need to be done a little bit
15 differently now, and it takes awhile to catch on to
16 those different practices, and this is with great big
17 capital letters, italicized and all that, lack of
18 enforcement of existing rules and regulations and
19 statutes.

20 Let's look at just a few simple examples, and
21 these are very simple examples, of the kinds of things
22 that blind people encounter just about every day.
23 Didn't happen this morning, but it sure does happen
24 frequently. Let's talk about taxis. Taxicabs.

25 VICE CHAIRPERSON REYNOSO: We're going to

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1 talk about taxicabs this morning.

2 MR. MILLER: Good, good. Taxicabs in
3 Washington are generally hailed on the street. Well,
4 that means you hail one, if you know it's coming. You
5 try to get the attention of the driver and so forth.

6 The fact is blind people, especially blind
7 people who are using guide dogs, and Commissioner
8 Redenbaugh will probably listen to this very carefully,
9 because I suspect he has encountered difficulties like
10 this, especially people using guide dogs are in, I
11 won't say routinely, but frequently, frequently,
12 frequently are simply passed up, and there are more
13 cases of this than there would be time to discuss.

14 Our own director of governmental affairs in
15 my own office, who is a blind lady who uses a guide
16 dog, was recently attending a meeting with government
17 officials, and this incident just -- this practice
18 happened to come up, and they said surely this wouldn't
19 happen, you know, surely you're imagining this. They
20 walked down the street, and while they were waiting for
21 the -- for our governmental director to catch a cab,
22 three cabs went by, obviously didn't have passengers,
23 were not committed, etc. They simply didn't want to
24 pick up this lady with the guide dog.

25 And a recent incident in Washington's

1 National Airport, blind lady with a guide dog, she
2 happened to be with her sighted husband at the time,
3 too, and taxis very blithely passed them by, simply
4 because again they didn't want to pick up the people
5 with the guide dog.

6 Recent incident in Washington. A blind lady
7 called a taxi to her apartment building. The taxi
8 came. She, with the assistance of the doorman from the
9 apartment building, went out, got in the taxi. After
10 she got in, the cab driver said I'm not going to take
11 you because you have a dog, and something almost like
12 an altercation took place, and she was put out of the
13 taxi. Now this was in the presence of the doorman and
14 the whole bit, and needless to say, she's pursuing her
15 remedies.

16 You noticed as I walked up to the table, I
17 don't use a guide dog. I use a long cane. But that
18 doesn't mean I'm immune from some of these little
19 difficulties, too.

20 I frequently, when I leave my office
21 building, I'm going to catch a taxi, walk up to the cab
22 stand at the Madison Hotel. Madison Hotel in
23 Washington, in case some of you are from out of town
24 and aren't familiar with it, is a posh hotel.

25 So, what I'm talking about doesn't relate to

1 the hotel, but the practice out at the stand. You
2 know, the practice is, of course, to catch the first
3 cab in the line, to keep the drivers from fighting
4 among themselves.

5 Because a number of the drivers always assume
6 that I'm going to be going home or somewhere like that,
7 rather than to the airport, I frequently have that
8 first driver simply pull off and leave me, and over a
9 period of time, to the extent I have been able to get
10 the numbers of those cab drivers from the hotel doorman
11 and others, I've kept a little list, you know, the
12 Gilbert and Sullivan operettas, I have a little list, I
13 have a little list.

14 I have a little list. I've kept the names
15 and numbers of some of those offending drivers. Now
16 whenever I come out, and I am in fact going to the
17 airport or one of those rare rides that is great for a
18 cab driver, like going to Dulles Airport or something
19 like that, you can be sure when I get in the cab, I
20 check that fellow's cab number and name, and if he's
21 one of the offending drivers, I go to the next driver,
22 and I explain to him why.

23 And this is simply a small way of using what
24 limited economic power I would have to get the message
25 across to these people that you're not supposed to do

1 this.

2 We have a chapter in the American Council of
3 the Blind which is Guide Dog Users, Incorporated, and
4 rather a descriptive name, and one of the purposes of
5 this organization, of course, is to emphasize the
6 obligations and the duties of guide dog users, and one
7 of the things they stress regularly is the importance
8 for dog users to make sure that if they are using
9 public accommodations, such as taxis or other
10 transportation systems, make sure the dog is a very
11 clean dog, a very well-kept dog and so forth, because
12 they want to be responsible passengers, also, and all
13 of that.

14 The net result, the bottom line is we receive
15 hundreds of complaints a year in the office of the
16 American Council of the Blind here in Washington from
17 simply blind people who use guide dogs about examples
18 of people who have refused to let them in, people who
19 have refused to pick them up in taxis or to admit them
20 to restaurants or admit them to other public
21 accommodations, and I'm not going to talk just about
22 taxis, by the way.

23 Now, to make this seem more real, and this
24 actually happened, I'm going to play for you over the
25 mike here, I think it will pick up, a message which I

1 took off the voice mail system yesterday, yesterday,
2 and I think it will come through clearly enough, just
3 listen carefully. Let's see if it will.

4 VOICE MAIL MESSAGE: "My name is Robert
5 Feinstein. The number is 718 627-0713. I'm calling
6 about an access problem with a car service that refuses
7 to take guide dogs categorically. The guide dog
8 division of ACB in New York basically does nothing.
9 So, I'd like to know if you could advise me as to how I
10 can get proper counsel because I'd like to take this
11 matter further. My number again is 718 627-0713.
12 Thank you very much."

13 MR. MILLER: Okay. Now I know which
14 microphone does the PA and which one does the
15 recording, too.

16 That's a real life case. That just came in
17 yesterday, and we intend to inquire about why our
18 chapter there isn't doing a better job at taking care
19 of this gentleman's problem. At the same time, we
20 intend to make sure that something is done to help him.

21 Now, the kind of difficulty I'm talking about
22 doesn't happen just with taxicabs. It happens with
23 other public accommodations. Right here in Washington,
24 D.C., and this didn't happen at a -- a greasy spoon
25 restaurant or a tiny little place where perhaps the

1 people haven't had an opportunity to have adequate
2 training.

3 Very recently, again our director of
4 governmental affairs, who happens to be a young woman
5 who uses a guide dog, was attending a meeting at an
6 upscale restaurant down near the Georgetown area of the
7 city.

8 I'll name the restaurant. It's the Sequoia
9 Restaurant, and she was meeting there with a group of
10 our members and other blind citizens in the Washington
11 area, who had a serious concern, and their concern was
12 the fact that the Washington Metropolitan Area Transit
13 Authority, Metro, has consistently refused to comply
14 with the mandates of the Americans With Disabilities
15 Act to install useful tactile trips along platform
16 edges, instead of non-existent, untried, untested,
17 expensive, complex, fragile and inherently defective
18 and unsafe electronic system --

19 CHAIRPERSON BERRY: Sounds like you don't
20 like that system.

21 MR. MILLER: -- that is supposed -- that is
22 supposed to detect the edge of the platform.

23 If you detect that I think the system is bad,
24 you read me correctly.

25 CHAIRPERSON BERRY: Okay.

1 MR. MILLER: She was told when she went to
2 meet at that restaurant that, sorry, they couldn't meet
3 there because no dogs were allowed. Okay. That is
4 being taken care of.

5 So, you see my point. Blind people, whether
6 they happen to be using long cane or the guide dog, are
7 encountering these problems, and I'll give you the
8 reasons and some of the things which I think can be
9 done just in a second.

10 In another area, there has been great
11 improvement in the air travel industry, air travel
12 business over the years. The situation was never
13 really bad, but it is significantly better than it's
14 ever been before, after the adoption in the late '80s
15 of the Air Carriers Access Act, and the regulations
16 under that.

17 But nevertheless, there are glitches
18 occasionally that come up in that, and I have
19 distributed to all of you, I believe, a copy of an
20 article I wrote approximately 18 months ago for the
21 Braille Forum, which is the national magazine of the
22 American Council of the Blind.

23 CHAIRPERSON BERRY: Right. We have that.

24 MR. MILLER: Explaining the difficulties
25 which one lady encountered, a federal employee, when

1 American Airlines insisted, absolutely insisted, that
2 the only place she could ride on the airplane with her
3 guide dog was in the bulkhead seat.

4 That isn't where she wanted to sit, and
5 that's not what the federal regulations say she has to
6 do. The regulations say in substance that a disabled
7 person can sit wherever he wants to within limitations.
8 There are a couple of safety restrictions, and this
9 matter was brought to the attention of American
10 Airlines at the highest level, and I'm pleased to say,
11 as the article points out, that American took care of
12 it quickly and discovered that it was in fact a glitch
13 in training, and hopefully that kind of difficulty
14 won't happen again.

15 There is going to be an increasing risk, and
16 you might as well be prepared for this, of incidents
17 like that in the near future as, and this is one of
18 those changing practices I was referring to earlier,
19 this risk is going to become greater as more and more
20 service animals are used by disabled people to help
21 them with their needs, and the good people at American
22 Airlines explained that, for example, they have already
23 had their first experience with a disabled person going
24 on the airplane and using a diapered monkey as his
25 service animal.

1 The service animals don't come from the fine
2 track record of the guide dogs or the seeing-eye dogs,
3 which have been around for decades and are well-
4 trained, and the owners are well-trained, and they,
5 well, just come from a fine track record, and they know
6 what their role is. They know what their place is, and
7 so forth.

8 The needs of other disabled people, of
9 course, are different. They're more complex, and the
10 service animals that are trained to assist them, of
11 course, will be functioning in a different environment.

12 So, this is an area I'm sure that will
13 develop over the next few years.

14 In conclusion, there's been a lot of progress
15 already, but as some of the other panelists have said,
16 we need still to go a long way. One of the things we
17 need to do is educate people far, far better that
18 discrimination, whether it be malevolent or based on
19 these other things we're talking about, discrimination
20 because of disability is a civil rights violation, and
21 the other side of that coin is we have got to enforce
22 the existing rules a lot better than we have.

23 I'll be pleased to answer any questions you
24 have.

25 CHAIRPERSON BERRY: Thank you very much, Mr.

1 Miller.

2 Our next presenter knows something about
3 taxicabs, and I think 718 is in his jurisdiction.

4 MR. LYNN: Yes, I'm going to take care of
5 that --

6 MR. MILLER: Good.

7 MR. LYNN: -- as soon as I'm done here.

8 MR. MILLER: I'll give you the telephone
9 number.

10 MR. LYNN: I have it. 718 627-0713. -

11 CHAIRPERSON BERRY: Yes, he's Mr. Christopher
12 Lynn, who was appointed by Mayor Giuliani and confirmed
13 as Chair of the New York City Taxi and Limousine
14 Commission.

15 MR. MILLER: All right. This man's going to
16 get fast service in New York today.

17 CHAIRPERSON BERRY: Right. And, so, he's
18 been on the private practice, long experience, and he's
19 going to tell us how to solve any taxicab or any other
20 problems that you might have.

21 Thank you very much, Mr. Lynn.

22 MR. LYNN: Thank you. It's a pleasure to be
23 here this afternoon, especially in front of so many
24 famous and distinguished people. It's somewhat
25 intimidating.

1 It's certainly an honor to represent my boss.
2 It's an honor and a pleasure to represent Mayor
3 Giuliani here.

4 I want to tell you I have prepared a written
5 statement, which has been circulated. I will not read
6 that. I will highlight a couple points very quickly.
7 I do have a brochure that's here that I did with the
8 Commission of Human Rights, and I'll talk about what
9 we're doing in that regard, but, first, I think I just
10 want to give you very briefly in 25 words or less what
11 the taxi industry in New York City is about.

12 50 percent of all the taxis in the United
13 States are in New York City. We have 11,920 licensed
14 medallion cabs. Those are the ones you hail on the
15 street. Everything else has to be done by pre-
16 arrangement and by telephone. We have 42,000 licensed
17 drivers. 85 percent of the drivers who drive come from
18 countries which are not English-speaking. So, we do
19 about 600,000 rides a day. The subway does about 3.5
20 million. So, it's a substantial component of the every
21 day transportation mode in New York City, and
22 individual medallion -- we just auctioned some off for
23 the first time in 58 years, individual medallion cars
24 at auction, a \$177,000. That means you have to drive
25 it one shift a day. You can lease it out one a trip a

1 day.

2 If you want to -- if you want a cab that you
3 can lease out on both shifts during the day, and you
4 don't have to drive, that's a corporate medallion,
5 that's \$221,000 it will cost you for a minimum, and you
6 have to buy two. So, it's double that. It's a lot
7 money to own a medallion in the city of New York.

8 Now, the Taxi and Limousine Commission was
9 created in 1971, has nine commissioners, five are
10 appointed by the council, four are appointed by the
11 mayor, and it exists under the city charter to regulate
12 for the comfort and convenience of the riding public.

13 It also in charge of the limousine industry,
14 the neighborhood car services in the city of New York,
15 and since I've come there, one of the biggest problems
16 we've had is this issue of race-based refusals.

17 Prior to my tenure there, they didn't keep
18 very good statistics on this. In fact, up until that
19 time, refusals to the outer boroughs and refusals based
20 upon ethnicity and so forth were lumped into one group.

21 I began to keep better statistics since I
22 came there. We looked at the training of the drivers.
23 It's very nice to treat -- to teach drivers about
24 cultural sensitivity. In fact, they can teach us
25 because they're from other countries, but what you have

1 to teach them is the rule. If you violate this rule,
2 if you refuse to pick someone up because of their
3 ethnicity, and you're caught, it's three strikes, and
4 you're out, which means you won't drive a cab again.

5 That was the rule before I got there. I
6 tried to change it. I wanted one strike, and you're
7 out. I think the fines are too low. I think \$500 is
8 not enough to fine someone to do this. I wanted to
9 make it \$1,500.

10 So, with the support of the Mayor, we went to
11 the City Council. We haven't been able to do that yet.
12 But what we're doing is we've beefed up the enforcement
13 with the TLC. Enforcement is done, of course, the
14 cases are brought by the police department, which does
15 self-initiating testing. They send groups out to do
16 this, and then the cases come before us.

17 Once they come before me, I've hired more
18 judges on the second floor. I was looking at the --
19 the rates of convictions of these things. I was very
20 unhappy because 50 percent of the cases were being
21 dismissed, and I sat there. They had a guy down who
22 runs my court on the second floor, and I said, "Why is
23 this happening?" He says, "Well, you know, a lot of
24 times, when they come in, and they make this claim,
25 they can't identify the driver." And I was stunned,

1 and I said, "Of course they can't identify the driver.
2 The driver just passed them by. All they got was the
3 medallion number." I said, "Is that the standard that
4 the judges are using?" He said, "Yeah." I said,
5 "Well, we're changing the standard."

6 The Administrative Code. If they can come in
7 and identify the medallion number, and we pull the
8 records and see indeed that from the trip sheet and
9 other records that that cab was in Manhattan or
10 wherever it was, and 70 percent of all rides start and
11 end in Manhattan, so it's a pretty good case that it's
12 Manhattan, if it's there, if it's in the vicinity, and
13 they got the medallion number, that's it. They're
14 convicted.

15 Now we have to do more than that because the
16 fine just goes to the driver. What about the owners
17 who own these expensive licenses from the city? They
18 have to be held responsible, too, and indeed under the
19 Administrative Code, we did a little research, and we
20 saw that they can be held vicariously liable.

21 So, we began to bring cases against them.
22 Then I went to the Human Rights Commission, and I said,
23 "Listen, Commissioner Varella. Once we convict people,
24 we want to ship these cases down to you, and we want
25 you to prosecute them, too, especially the owners,

1 because we can only fine \$500. You, Madam Chairman, in
2 your infinite wisdom, with your judges, can take their
3 medallion."

4 So, once we started to do that, of course,
5 what did they do? A delegation of lawyers came to see
6 me, and they had objections to this and objections to
7 that, and the answer they got was if you discriminate,
8 and your people who own licenses allow people to
9 discriminate who drive the cabs, that's tough. So, you
10 better do something about that.

11 So, they said, "What can we do?", and I said,
12 "Well, you can put a sign in all of the garages. "
13 That's only 20 percent of all the cabs, by the way. 80
14 percent of the cabs that operate in the city of New
15 York are non-fleet. They're non-garages.

16 One of the other issues I've had is trying to
17 find out who they are, but you can put up a big sign.
18 You can make them sign a pledge that if they drive for
19 you, and they are found guilty this one time, they're
20 fired. You'll never let them rent from you again. So,
21 they've done that, but that's still not enough.

22 What else do we have to do? I've gone on
23 talk shows. I've gone on radio, and I've gone out to
24 the drivers, and I've said -- I've confronted them on
25 this issue, and we've had the debate. Why do you do

1 it? Why do you pass someone by? And I've been told by
2 folks you can't tell me that I have to pick up a kid
3 with a cap on backwards and sneakers and take them up
4 to -- I said, "Indeed, I can tell you that", and I
5 said, "Why wouldn't you do that?", and they said,
6 "We're afraid of our safety", and that's why Mayor
7 Giuliani's brilliant record in law enforcement comes
8 into play, because lo and behold, since the day he took
9 office, until today, not one -- not one cab driver in
10 the city of New York who drives a yellow cab has been
11 murdered or killed, and why is that?

12 Because the day he took office, there was a
13 law that there has to be a partition. It's called the
14 Safety Shield in Chicago. I've been out there to tell
15 them they have to do it with Commissioner Schomberger.
16 I think they should. They save lives.

17 If there's a partition in the taxi, you're
18 not going to be murdered, you're not going to be
19 killed, and if that's the case, what excuse do you have
20 for them not picking people up? You have none.

21 What it boils down to is the driver will then
22 tell you, well, I'm afraid I won't get paid, and you
23 tell them, well, look, that comes with the price of
24 doing business, unfortunately. There's pilferage in
25 any business, and we've heard all about it this

1 morning, and an \$8 fare that you lose, unfortunately,
2 is a lot cheaper than losing your right to drive in the
3 city of New York forever, which you will under Mayor
4 Giuliani, and paying a fine, which you will, and having
5 your owner go after you because their medallion has
6 been suspended or taken, and that's just the way it is.

7 Now, we need the cooperation of everybody.
8 We need the taxi drivers, and we need the taxi owners,
9 and we need the public. We have to make our call to
10 the TLC, and we've done it more user-friendly. We have
11 a pledge 30 minutes in and out. You make a complaint
12 to me, you will be in and out of that hearing in 30
13 minutes.

14 We've a specialized procedure to do it.
15 Nonetheless, a lot of people are reluctant to come in
16 and do it because, under the law, they have to confront
17 -- they have to come to a hearing, and we get lots of
18 people in there.

19 I was surprised the other day, I was down
20 there, and who did I see? I saw Ed Bradley sitting
21 there waiting for a hearing, and I said, "What are you
22 doing here?" He said, "Well, I have a complaint
23 against a cab driver." I said, "Well," I said, "let me
24 know what happens after that", and he came upstairs,
25 and he had that brochure, and he said, "The driver was

1 convicted. Now I've been told to go to the Human
2 Rights Commission to go after the owner." He said, "Do
3 you do that with everybody?" I said, "Yes, we do."

4 We have to get the message out. It's very
5 nice to educate. It's nice to have a college-style
6 bull session about cultural differences and this and
7 that. We don't have time for that anymore. We're
8 telling people you break the law, it's going to be real
9 expensive to you. You can't afford this. That's the
10 only message they understand, and I think the message
11 is getting out in terms of that.

12 Let me see. Have I --

13 CHAIRPERSON BERRY: What's your term there,
14 Mr. Lynn?

15 MR. LYNN: Pardon me?

16 CHAIRPERSON BERRY: What's your term?

17 MR. LYNN: I've been there a year.

18 CHAIRPERSON BERRY: And how long -- what's
19 your term of office?

20 MR. LYNN: Seven years.

21 CHAIRPERSON BERRY: Okay. I just wondered.
22 Go ahead. You finished?

23 MR. LYNN: One other thing. It's
24 interesting. When you debate people, and the cab
25 drivers tell -- tell me, you can't tell me who to pick

1 up, and you can't -- what do you know? You've never
2 driven a cab, and then you -- I point out to them, I
3 gave you a 20 percent fare increase, the biggest
4 increase in history, and I capped the lease rates, what
5 the owners could charge you, so you're guaranteed 60
6 percent of the share of income. Well, you were right
7 on that.

8 So, I've had enough experience and
9 intelligence to be able to make sure they got more
10 money, and they kept it, but on this other issue, there
11 seems to be some resistance.

12 We're making progress. I want to tell you
13 one story I'm a little disheartened at. About a month
14 ago, I live near Columbus Circle, and I was going up to
15 a movie, and I walked by the Coliseum, which is at
16 Columbus Circle, and there was a big sign, "Black
17 Expo", and I saw lots and lots of African Americans who
18 were young, younger than I am, anyway, well-dressed.
19 They looked like they had stepped out of the window at
20 Saks Fifth Avenue. Couples, men and women and so
21 forth. It was about 7:00 at night, and I stood, and I
22 watched, and for about 10 minutes, every cab I saw pull
23 up there, the off-duty light went on, and they just
24 sort of walked away, and I really got angry. It's sort
25 of in my nature.

1 So, the next half hour, I took out my -- I
2 took out my badge, and when I saw the off-duty light, I
3 went up, and I said, "Do you know who I am?" And they
4 all know who I am, by the way. All 42,000. Yes, I
5 just was going off duty. I said, "Let me see your trip
6 sheet." Well, it's not there. I'm very sorry. I
7 said, "Go back". I said, "I'm so disappointed. I
8 fought for a huge increase for you folks. I capped it.
9 I'm being sued by the owners for that, for you, and
10 look what you're doing for me." And most of these
11 drivers, as I said before, are from other countries,
12 you know, non-English-speaking countries, and, well, I
13 said you tell them you're not going to be hurt or
14 anything else. You -- you have to confront it eye-to-
15 eye, and it -- I obviously can't do that all the time,
16 but the next morning, I remember, it was Sunday
17 morning, and I told the Mayor the story, how upset I
18 was, and he said, "When does the Expo end?" I said, "I
19 think it ends tonight." He said, "So, I know where you
20 will be this afternoon and tonight." I said, "That's
21 right."

22 Next year, we're going to be prepared. What
23 the Commission could do to help us, I guess, is if
24 there is any kind of group like that in town, if you
25 could let us know. If you could call the Taxi and

1 Limousine Commission, 212 302-TAXI, we have live human
2 beings now under the Giuliani Administration. No more
3 machines, where you leave a complaint, because then
4 nothing happens. We have -- we have 21 full-time
5 people in 9 to 5. We answer those phones. We go after
6 these complaints. We -- we honestly and sincerely care
7 about this issue.

8 I know I sound tough because I mean it. My
9 boss means it. You talk about zero tolerance, he has
10 less than zero tolerance for this type of thing,
11 especially under the facts that we've given so much to
12 build the industry up.

13 So, I'm going to call this young man that Mr.
14 Miller mentioned. We do regulate livery services,
15 which is the for-hire vehicle industry. They get --
16 they get -- they sign a pledge of non-discrimination in
17 order to be able to operate their service, and
18 obviously if they're refusing to pick up -- and he's
19 right. It happens all the time, and they pull other
20 stuff with blind people, too.

21 They -- I have had car services that suddenly
22 tell them the price is double for blind people. You'd
23 be surprised what people pull. But we do after them,
24 and we stop it, and we're serious about it, and also,
25 folks who were confined to wheelchairs as well, they

1 have a very difficult time.

2 The concept is mainstreaming. We believe in
3 that. Blind folks and folks in wheelchairs shouldn't
4 be confined to a service where they call up. They
5 really should be able to use things on the street where
6 you hail them. Why not? Otherwise they're sort of
7 prisoners. So, we're with them all the way on that,
8 but we need cooperation of the consumers to come in.
9 We will be user friendly with them, and -- and I guess
10 that concludes my remarks.

11 It went well beyond 10 minutes. I'm sorry.

12 CHAIRPERSON BERRY: We'll have some questions
13 when we're finished. Don't go away.

14 MR. LYNN: Okay.

15 CHAIRPERSON BERRY: Thank you very much.

16 Lajuan Johnson is Director of the Office of
17 Consumer Affairs at the Department of Commerce, U.S.
18 Department of Commerce, and she's going to tell us --
19 give us some other good information that we can use.

20 Thank you very much for coming, Ms. Johnson.
21 Please proceed.

22 MS. JOHNSON: Thank you, Madam Chair.

23 I'd like to take this opportunity to thank
24 the Commission for inviting me here today, to talk
25 about such an important topic as discrimination against

1 consumers of goods and services.

2 As was said earlier, I'm the Director of the
3 Office of Consumer Affairs at the U.S. Department of
4 Commerce, and even though the department does not
5 regulate or enforce any consumer protection laws, we
6 are still bombarded with complaints from consumers
7 about problems that they encounter in the marketplace,
8 and for us, the marketplace extends far beyond retail
9 establishments.

10 It is my understanding that here at the
11 Commission, your discussions normally center around
12 discrimination and the denial of civil rights and equal
13 protection under the law.

14 So, I ask you to journey with me today just
15 for a few moments, I will admonish your warning, as I
16 focus specifically on consumers, and the strategy that
17 we attempt to use at my office and in other consumer
18 affairs offices throughout the Federal Government in
19 terms of what we do or attempt to do to empower
20 consumers.

21 We concentrate primarily on information and
22 education. We attempt -- we say -- we feel that an
23 educated consumer is in fact a consumer that comes to
24 the marketplace that is armed with information, and
25 that they know their rights, and that they can then put

1 pressure on the powers to be to make sure that in some
2 instances, these rights are in fact available to them.

3 But before I begin, let me explain what I
4 mean by consumers. Consumers are defined as purchasers
5 of products and services in the marketplace or
6 recipients, whether that's actual or potential, of
7 government-supplied services and benefits, and what
8 that means essentially is that we are all consumers.

9 In President Clinton's letter to consumers in
10 the U.S. Office of Consumer Affairs, 1996 Consumers
11 Resource Handbook, the President stated, "In this age
12 of rapidly-advancing technologies, the global
13 marketplace offers an impressive variety of goods and
14 services, but only informed consumers can profit most
15 by them."

16 The responsibility is to make sure that
17 products, processes and services are responsive to
18 consumers, to their needs, and that it rests not only
19 with the manufacturers of the products and the
20 providers of service, but also with agencies,
21 organizations, and consumers themselves, who are the
22 intended ultimate beneficiaries.

23 In Consumer Affairs, we feel that the best
24 way to protect consumers against discrimination,
25 swindles and deceptions, is to empower them with

1 education and information about their rights.

2 In a March '95 current population survey
3 taken by the Department of Commerce's Consumer --
4 Census Bureau, pardon me, estimates that the average
5 American household has an income in excess of \$43,000 a
6 year.

7 While that translates into an enormous amount
8 of buying power in the legitimate marketplace, we know
9 that business -- business and consumer groups, rather,
10 estimate that more than a \$100 billion a year is lost
11 to various deceptions and swindles against consumers.
12 You can call it targeting. You can call it
13 discrimination. You can call it by any name you
14 choose.

15 The result is the same. Consumers need help.
16 Consumers need protection, and we feel that consumers
17 need to be empowered.

18 In March 15th, 1962, President John Kennedy
19 acknowledged the centrality of consumers in our
20 marketplace, in his special message to Congress on
21 protecting the consumer interest. Since then, what has
22 come to be called the Consumer Bill of Rights has
23 evolved as our marketplace has evolved.

24 Consumer Bill of Rights states that consumers
25 have the right to safety, the right to expect that the

1 consumer's health, safety and financial security will
2 be protected effectively in the marketplace.

3 The right to information, the right to have
4 full and accurate information upon which to make free
5 and considered decisions, and to be protected against
6 false and misleading claims.

7 The right to choice, the right to make an
8 informed choice among products and services in a free
9 market at fair and competitive prices.

10 The right to be heard. The right to a full
11 and fair hearing and equitable resolution of consumer
12 problems, and the right to consumer education, which
13 was the fifth right added by President Ford in 1995,
14 gives consumers the right to continuing consumer
15 education, without which consumers cannot enjoy the
16 full benefits of the other enumerated benefits.

17 Well, in 1994, President Clinton added a
18 sixth right, the right to service. This right gives us
19 the right to convenience, courtesy and responsiveness
20 to consumer problems and needs, and all steps necessary
21 to ensure that products and services meet the quality
22 performance levels claimed for them.

23 Yes, we have a Consumer Bill of Rights, but
24 where are the teeth for this paper tiger? Well, the
25 teeth are in the consumer protection laws that are

1 regulated and enforced by the federal, state and local
2 government agencies.

3 Many of our federal agencies have enforcement
4 and/or complaint-handling duties for products and
5 services that are used by the general public. City,
6 county and state consumer protection offices often
7 mediate complaints, conduct investigations, and even
8 prosecute offenders of consumer laws.

9 In the private sector, consumers can seek
10 help from organizations, such as the National Fraud
11 Information Center and the Better Business Bureaus.
12 National Fraud Information Center helps consumers avoid
13 becoming victims of fraud. They provide referrals to
14 appropriate law enforcement agencies and professional
15 associations, and they also assist consumers in filing
16 complaints.

17 The Better Business Bureau, on the other
18 hand, provides yet another source of assistance for
19 consumers in that they supply information about
20 companies, particularly whether or not there
21 outstanding or unsettled complaints in the marketplace
22 against a respective company.

23 They, too, help consumers resolve their
24 complaints, including mediation and arbitration, and
25 one of their unique features is that they provide

1 information about charities and other organizations
2 that are also seeking public donations.

3 The mission of my office at the Department of
4 Commerce is to promote a better understanding between
5 businesses and consumers, and while we seek to help
6 businesses improve the quality of their services, we
7 also seek to educate consumers to make wise purchasing
8 decisions.

9 We have a series of consumer tips, where we
10 help consumers avoid problems with businesses, know
11 their rights, and tell them how to resolve complaints
12 that they may have. These tip sheets are available in
13 English and Spanish, and they cover complaints of a
14 general nature on auto repair, phone, mail order,
15 credit and banking and travel.

16 In addition, we try to inform the business
17 community in our consumer affairs bulletins -- Guides
18 for Business, rather, how to become more responsive to
19 consumer needs, and to increase their sensitivity to
20 consumer needs and preferences.

21 Now most of us credit and banking services
22 regularly, but how many of us are familiar with the
23 basic protections that we already have under the
24 federal law?

25 Many of us know that under the Fair -- how

1 many of us, rather, know that under the Fair Credit
2 Billing Act, you can withhold a payment on a disputed
3 amount on your credit card bill? How many of us know
4 that under the Fair Credit Reporting Act, if you are
5 denied credit because of information in your credit
6 file, you have the right not only to see this
7 information, but at no charge if you find that it is
8 incorrect and incomplete. The credit reporting agency
9 must not only investigate but must correct this error.

10 How many of us have been contacted by
11 telemarketers or received a postcard telling us that
12 we've won this luxurious dream vacation? Do we know
13 that we don't have to give credit card or checking
14 account information over the telephone when we are
15 unsure about this company's reputation?

16 Do we know to get the details of the offer in
17 writing and to check out these offers with the hotels,
18 the airlines or the cruise lines beforehand, not after
19 the fact, but beforehand?

20 We've all heard stories about automobile
21 dealerships and repair shops, and their attempts to
22 take advantage of women because they basically think in
23 a lot of cases that women aren't knowledgeable about
24 cars.

25 We've heard about illegal telemarketers who

1 target what they classify as the chronic elderly. They
2 look at them as -- as fraud victims, and they feel they
3 easy to spot.

4 Some of us have even heard about businesses
5 who don't comply with the Americans With Disabilities
6 Act and attempt to circumvent some of those laws
7 because of the cost incurred that they would have to
8 incur.

9 I brought a few articles. I've been kind of
10 going through the paper since I got the invitation to
11 come, just to see what kind of consumer issues that I
12 thought would be related to what we're talking about
13 here today.

14 This article comes from an April 29th article
15 in the Washington Post, "Disabled Man To Get a \$160,000
16 and Apartment for Life". While he was being
17 discriminated against and denied an apartment, he took
18 it to court. He understood something about his rights.
19 He sought legal representation, and where he is now, he
20 received a \$160,000 because he won the case, but he
21 also has an apartment for life.

22 I have another article on "Elder Fraud
23 Becomes Big Business". Telemarketing scams aimed at
24 the elderly, I understand, take in about \$40 billion a
25 year. This is just aimed at the elderly.

1 In looking through the July 1996 article of
2 Black Enterprise, I came across an article that's
3 entitled "The Real Black Power", and what it talks
4 about is a Los Angeles family was in a department
5 store. They were attempting to make a return. They
6 didn't have the receipt, but while they were waiting,
7 they noticed that the customers before them were in
8 fact getting refunds and making all kinds of returns.

9 They were denied a refund because they did
10 not have a receipt. The gift that they were attempting
11 to return had been given to them as a wedding gift, and
12 what the clerk did not know was that the person
13 attempting to make the return, which was the husband,
14 was himself a detective, and that in talking to one of
15 his colleagues at his office the next day, he found
16 that when the clerk told him that she would check on
17 getting him a refund, what she was actually doing was
18 calling all of the department stores to see if in fact
19 they had a recent report of a theft because he was
20 attempting to return some very expensive china.

21 So, these are just some of the examples of
22 what occurs on a daily basis.

23 How can consumers fight this type of
24 targeting and discrimination? Well, we think that
25 armed with a good dose of common sense and a knowledge

1 of the protections that are already on the books,
2 educated and informed consumers who purchase products
3 and services should expect and must demand honesty,
4 courtesy and fairness in the marketplace.

5 The term "information is power", which I'm
6 sure is familiar to a lot of us, I think, is a
7 misnomer. The power is not in the information. The
8 power -- the information -- the power is not in the
9 information. The power is in how the information is
10 used.

11 When we as consumers enter the marketplace
12 armed with information and education about consumer
13 protection laws, we can flex our muscles and use our
14 power to eradicate some of the discrimination against
15 consumers of goods and services.

16 Like it or not, we have no choice in this
17 matter. We are all consumers from cradle to grave.
18 While I don't claim to have all the answers, I do know
19 that education and information are mighty forces to be
20 reckoned with in the fight to eradicate discrimination
21 against consumers of goods and services.

22 Again, I thank you for the opportunity to
23 present my remarks before the Commission today, and I
24 have brought with me samples of some of the
25 publications that we publish from the Department of

1 Commerce.

2 Thank you.

3 CHAIRPERSON BERRY: All right. Thank you
4 very much for your presentation, Ms. Johnson, and I'm
5 sure there will be some questions, and we have as our
6 clean-up -- clean-up presenter, clean-up man, and he's
7 been cleaning up politics for a long time and law, he's
8 the distinguished Attorney General of the State of
9 Maryland, Mr. Joseph Curran, and before that, he was a
10 Lieutenant Governor of the State of Maryland, and has
11 been in state government and politics, oh, I guess
12 maybe 40 years, if you're that old. I don't know if
13 you are or not.

14 And, so, as Attorney General, he has a
15 consumer protection division that has about a 100,000
16 telephone calls and 10,000 written complaints each
17 year. So, he's going to tell us how to solve these
18 problems.

19 Thank you very much, and please proceed, Mr.
20 Attorney General.

21 MR. CURRAN: Well, I'm pleased very much to
22 be here, and having driven up from Baltimore, it's only
23 about a 45-minute drive, although I wish one of these
24 days I'd find no construction as we enter -- for 30
25 years, I've been coming to Washington, and they're

1 still working on these roads.

2 But in any event, I'm pleased to be here and
3 to share with you some insight. I do applaud what
4 you're doing, specifically in the area of consumer
5 discrimination.

6 As you mentioned, Madam Chair, we do have a
7 consumer protection division in Maryland, and in fact,
8 we've -- it's my understanding we had -- we've had one
9 since 1967, and I believe we were the third state to
10 have a consumer protection division. It's a very
11 aggressive, very active organization, staffed
12 principally by volunteers. That's how we make it
13 successful. We're able to recruit some 60-70
14 volunteers, retired persons, retired school teachers,
15 business persons, homemakers, just persons who want to
16 make a contribution, and we do indeed get somewhere in
17 excess of a 100,000 inquiries a year.

18 Now we're not a large state, as you well
19 know, but a 100,000 times a year, some person is irked
20 about a consumer transaction enough to give us a call
21 or 10,000 times a year they write us a letter, and we -
22 - we try to respond as best we can.

23 I'm sorry to say because of down-sizing and
24 government reduction of funds, our counties of
25 Montgomery, which borders on the District, and Prince

1 George County, which also borders on the District, they
2 have consumer offices, but they -- they're sort of
3 down-sizing which means that more of the Metro
4 Washington persons who have a concern would be calling
5 us in Baltimore, and, you know, we're going to have a
6 larger share of concerns.

7 However, I think we deal as best we can with
8 your -- your garden variety fraud, deception, failure
9 to reveal material facts. I mean we handle that, and
10 we -- we -- we kind of keep on top of it, although
11 there is a lot of it out there, I might add, and from
12 time to time, we do take significant action against
13 those deceptive practices that lead to serious fines,
14 and we recovered not too long ago against one of these
15 mail order companies, I might add, \$2.6 million. So,
16 we make a pretty significant hit every once in awhile
17 that sends the message out.

18 But where I do think you might want to do
19 more is in the area of consumer discrimination that has
20 nothing whatsoever to do with fraud because fraud
21 doesn't mind taking advantage of a youngster or an
22 oldster or a black or a white or rich or poor. They
23 sort of -- they don't discriminate with these con guys.
24 They sort of take -- they steal from everybody.

25 But there is indeed -- we have seen more and

1 more concerns about consumer discrimination. I think
2 you can do a little bit more.

3 Someone talked a bit ago when I first got
4 here about the discrimination in the marketplace.
5 Eddie Bauer is one of the -- one of the sports places
6 in the Metro Washington area. A young man, as I think
7 the record will show, had purchased something there,
8 and he came back a day or so later, and the guard asked
9 him to take his shirt off while he had to find out
10 where -- I've never kept a sales ticket. I can't
11 remember ever buying a tire or shirt and kept the sales
12 ticket.

13 The first thing I do is throw the bag away,
14 and, you know -- so, who keeps a sales slip? Seldom
15 does anyone really do that, and in Towson, Maryland,
16 which is the Baltimore County area, north of the city,
17 and it's a rather affluent area, and we've had cases
18 there recently where an African American couple were
19 shopping and were thought to have taken something by --
20 by that guard, and they were strip searched and, of
21 course, found that there was nothing on them.

22 So, I just want to be aware that in the
23 marketplace, there are these examples.

24 We don't -- and we have to talk more about
25 that. I mean it's happening, and, of course, it

1 results in high-profile law cases, and in some cases,
2 significant recoveries, which is all well and good, but
3 probably many, many more times don't result in a law
4 case, and it gets resolved in embarrassment.

5 In Maryland, there is a -- there is a human
6 relations commission that we don't represent in the
7 Attorney General's office. However, we've been made
8 aware that about a hundred times a year, there are
9 complaints of discrimination in consumer transactions,
10 and that's really where I think you may want to at
11 least try to learn a little bit about.

12 Cases in which, where there was an alleged
13 shoplifting stop, and while the one particular
14 shoplifting alleged person was being processed, all
15 minorities were asked to leave the building. They had
16 just been there shopping, and -- and that was, I'm
17 sure, -- it had a significant impact on -- we've had
18 cases where inferior tables at restaurants were given
19 to one class of persons and a better table somewhere
20 else or you have to wait longer in line to get a
21 particular table.

22 Recently on the Eastern Shore of Maryland,
23 the -- we were informed that some folks were there for
24 a family reunion, and the African American group was
25 told there were no rooms where another group came in

1 somewhat later and said, oh, yes, we have rooms.

2 Of course, that's against the law now, but
3 that's a consumer transaction that should be brought to
4 the attention of -- of -- of people who deal in that
5 trade.

6 A beauty salon was recently advised that it
7 didn't perform services on African American woman who
8 came for beauty salon service. Now, I might add, if
9 that were deemed to be a contract, that may already be
10 a violation, but I'm just saying that these things have
11 been brought to our attention.

12 We've also seen such things as health clubs
13 and diet clubs, where you have chains, and in a certain
14 area, you can go and say, by the way, Mr. So and So or
15 Madam So and So, if you can't exercise at the Towson
16 location, you can go over here to the Delaney Valley
17 location or you can go over here to the Bel Air
18 location, whereas if you are a member in the inner city
19 area, it's -- you know, they don't suggest to you,
20 well, you -- if you can't -- if you don't want to lift
21 weights in downtown Baltimore, you can go lift weights
22 somewhere else. So, that -- that has also given us
23 some concern.

24 The point I'm suggesting to you is that in
25 our consumer division, we think we are able to fight

1 pretty hard with the laws that we have on fraud and --
2 and -- and deception, and the obvious consumer frauds.

3 We -- we have the tools. We don't
4 necessarily have the personnel. We have the tools, but
5 in this other subtle area of discrimination, we would
6 recommend that there be more discussion, that there be
7 more training, that there be more hearings.

8 I've -- I could probably dig up, you know, 20
9 or 30 cases, but there may well be 20 or 30,000 cases
10 for all I know out there. How widespread it is, I
11 don't know, but I do think it's deserving of the
12 attention that was given to the area of employment or
13 the area of fair housing or the area of public
14 accommodations. That, of course, was a time -- was a
15 troubling time back some several decades ago.

16 Arguably it's been addressed. Hopefully it's
17 been eliminated, probably has not in whole, although
18 certainly eliminated in part, but it may well be that
19 the discrimination in consumer transactions, forgetting
20 the fraud, I'm talking about the subtle things of -- of
21 suspected shoplifting and everyone leaves or you come
22 back into a store and where's the sales slip that you -
23 - that no one really has anyway, and those kinds of
24 things deserve attention.

25 It was -- I -- I will leave you with one

1 thought. I have not seen this, but a staff person
2 advised me that there is a study done by the University
3 of Chicago Law Review, and you may wish to get a copy,
4 and if you will, we can send you a copy, in which they
5 had a study of some 90 Chicago area car dealers, and
6 they -- they -- it was a testing operation to see how
7 -- how the black male compared to the white male
8 compared to the white female compared to the black
9 female, and in shopping and pricing and what they
10 needed to -- and it indicated quite frankly that in
11 many, many cases, although maybe not, the white male
12 got a better deal and than the white female, and then
13 lower down the line was the black female, and the --
14 so, it's a University of Chicago Law Review study of
15 the subtle discrimination practiced by sales persons
16 who knew how to perhaps manipulate the individual, and
17 it's deserving of bringing that to their attention.

18 Finally, as I say, it was suggested to me
19 that it's part of the daily life of a black person to
20 feel consumer discrimination. I confess, I obviously
21 have not felt that, but I'm telling you I've been told
22 it does exist, and therefore if you think we've done a
23 reasonably acceptable job in -- in public
24 accommodation, I think there's a lot more to be done in
25 consumer discrimination.

1 We're okay in fighting fraud, given more
2 tools, given more staff, but fighting the more subtle
3 forms are beyond our scope, and it's something that I'm
4 told exists, and it will be good for you to look into
5 with more hearings.

6 Thank you.

7 CHAIRPERSON BERRY: Okay. Thank you very
8 much.

9 I want to point out a couple of things.
10 First, Eddie Bauer sent us a letter, sent me a letter,
11 Mr. David Hiatt, who's the Vice President of Eddie
12 Bauer, giving us an update on efforts that they've made
13 since the incident at Fort Washington, Maryland, on
14 October 20th, and how hard they're working to try to
15 make sure that things like this don't happen again,
16 which I will enter into the record at this point.

17 "Dear Dr. Berry: We would welcome the
18 opportunity to speak with you and provide an update on
19 Eddie Bauer's efforts to foster diversity. As you
20 know, our company was involved in an unfortunate
21 incident that took place at our warehouse sale in Fort
22 Washington, Maryland, on October 20, 1995. We were
23 appalled by the incident and took several steps to
24 express our sincere regrets. We have worked diligently
25 toward an amicable settlement and look forward to a

1 quick resolution of this case.

2 Like you and the members of the Commission,
3 Eddie Bauer is committed to racial harmony and
4 understanding. As a corporate citizen, we support
5 diversity and want our company to reflect the multi-
6 cultural communities we serve. We feel strongly that
7 every Eddie Bauer customer should expect to be treated
8 with dignity, respect, and courtesy at all times.

9 Since the incident, we have taken stock of
10 our organization and revamped our security policies.
11 We have also launched a corporate-wide diversity
12 initiative to make our organization more inclusive of
13 different cultures. We focused this initiative on
14 minority recruitment and retention, minority supplier
15 development, community relations and diversity
16 training. All Eddie Bauer recruiters were trained in
17 diversity awareness. Through this effort, we have
18 successfully increased the number of minorities at
19 various levels of the organization. But we realize we
20 have a long ways to go.

21 In addition to employing minorities, we
22 launched a minority supplier development program to
23 identify and increase procurement from minority-owned
24 businesses. We are increasing procurement with
25 minority vendors even as program objectives are being

1 formulated.

2 Eddie Bauer's tradition of corporate social
3 responsibility led to the creation of a community
4 relations program focused on youth education. To this
5 end, we have formed partnerships with several major
6 organizations representing African American people.
7 Through these partnerships, we have created an Eddie
8 Bauer Scholarships Program at several African American
9 universities. We are working with the Greater
10 Washington Urban League and the Urban League of
11 Metropolitan Seattle in supporting programs for youth.
12 Additionally, we are supporting the National Council of
13 Negro Women's efforts to foster black male development.

14 Finally, we have taken a leadership role in
15 working with other retailers in fostering diversity. A
16 comprehensive proposal we developed for the National
17 Retail Federal (NRF) addresses a number of industry-
18 wide issues around diversity. These include minority
19 supplier development, diversity training for retail
20 staffs and recruiting, retaining and developing
21 minority employees.

22 Dr. Berry, Eddie Bauer is making every effort
23 to foster valuing of diversity in our organization, our
24 industry and the communities we are privileged to
25 serve. I would welcome an opportunity to meet with you

1 to discuss our efforts more fully. Thank you for your
2 every consideration. Sincerely, David K. Hiatt,
3 Division Vice President, Internal Controls and Public
4 Affairs."

5 CHAIRPERSON BERRY: And then the only other
6 thing I'll say is, instead of calling on the other
7 Commissioners immediately, is that everyone can cite
8 examples of discrimination that has occurred to them as
9 consumers, and this is a topic that is very sensitive
10 and very close to my heart because I, of course, can
11 cite my own examples, which happen on a daily basis,
12 and one of the questions I have, which we've not
13 addressed, is whether these problems occur simply
14 because -- and will occur so long as we have racial
15 assumptions in our society, and that the folks who are
16 involved in the marketplace here are simply reflecting
17 what everybody thinks about blacks, whites, this group,
18 that group, and that is it a chicken and egg problem?
19 You got to change the whole societal assumptions before
20 people stop engaging in this behavior?

21 I'm reminded I was at the car place the other
22 day and almost couldn't get my car out when it was
23 serviced because I came into wait for it, and they page
24 you when your car is ready, and the page person said,
25 "Dr. Berry, please come forward, your car is ready."

1 So, I went up to the counter and said to a
2 clerk who was standing there, "Is my car ready? I
3 think you paged me. I think my car's ready." She
4 said, "Oh, no, we didn't page you. Go back and sit
5 down. We'll let you know when your car is ready."

6 VICE CHAIRPERSON REYNOSO: "We paged Dr.
7 Berry."

8 CHAIRPERSON BERRY: So, I was confused. I
9 said, well, maybe I didn't hear right. So, I went
10 back, and I sat down, and i started reading again, and
11 finally, I said, I'm sure, and then somebody paged
12 again. "Would Dr. Berry please come to pick up your
13 car? Your car is ready." It's in lane something.

14 So, I went up to her again. I said, "Is my
15 car ready?" She said, "No. We'll let you know when
16 your car is ready. Sit down." This happened four
17 times. The last time, I walked up, and the service
18 manager, who happens to know me and has known me for
19 years, walked in, and he said, "What are you doing
20 still here? We paged you four times ago. You were in
21 a hurry, and you're still standing here. What's wrong
22 with you?" And I said -- and he looked at the woman,
23 and the woman looked at me. She said, "You're Dr.
24 Berry?" I said, "Yes", and got my car. I mean I
25 almost didn't get my car.

1 The only other example I can give you is that
2 whenever I have to return something to the store, to,
3 say, the supermarket that I bought by mistake or
4 something, got the wrong thing, and I need to return
5 it, and obviously I have thrown away the receipt or
6 something, I don't know what I did with it, I have a
7 friend of mine who is white take it to the store for
8 me.

9 I save up things, and then when I have to
10 return them, my friend is there, I say, "Would you mind
11 taking these things back to the store for me?" Because
12 when I take them back, they ask me, do you have a
13 receipt, when did you buy this, what did you do, and I
14 don't want to have this hassle.

15 So, what I do is, I wait and ask her to take
16 them. She takes them. They never ask her for a
17 receipt. They never say anything to her. They take
18 them, and the whole thing is a problem, and she knows
19 it now. At first, she said to me, "This is crazy", you
20 know, "take the things back yourself", but now she
21 knows and says, -- I also have white people hail cabs
22 for me. I don't hail cabs myself. I know I won't get
23 the cab anyway in New York City.

24 MR. LYNN: Yes, you will.

25 CHAIRPERSON BERRY: So, it's just one of the

1 constraints that one operates under, and I'm sure other
2 people have their own stories, and these are just
3 random accounts, and I know they're not systematic and
4 are not based on any data, and it's also the case that
5 black taxi drivers will not pick up black folk to take.

6 All they're doing is reflecting the
7 assumptions which exist, too. So, what I'm asking you
8 guys, and I know I'm supposed to ask the other
9 Commissioners if they have a question, is this simply
10 all related to the way we look at each other in terms
11 of race in the country and the people we encounter in
12 the marketplace or simply just reflecting these
13 assumptions, and until they change, we're still going
14 to get this, and what you said about disabled people,
15 and I -- I watch Russell all the time, and I knew this,
16 but what happens with the dog is the same thing that
17 happens when the guy sees me walk up and ask for a cab.
18 I mean it's exactly the same thing, you get passed by
19 in either case.

20 COMMISSIONER REDENBAUGH: That is the reason
21 you and I cannot travel together.

22 CHAIRPERSON BERRY: Right. Russell cannot be
23 my white person. So, that said and done, we'd die out
24 there, wouldn't we?

25 COMMISSIONER REDENBAUGH: We would. We

1 would. Not in New York, but here, in Philadelphia.

2 CHAIRPERSON BERRY: We'd die in Philadelphia.

3 COMMISSIONER REDENBAUGH: L.A.

4 CHAIRPERSON BERRY: That's for sure.

5 COMMISSIONER REDENBAUGH: Chicago.

6 CHAIRPERSON BERRY: So, anyway, so -- having
7 said that, anybody got -- is it -- you know, it is sort
8 of a chicken and egg problem? We can't really do
9 anything? Or is it like Mr. Lynn says, you know, we
10 can do something, to heck with what people are assuming
11 culturally or what they think about folks? There's a
12 law, you know, let's enforce it.

13 MR. LYNN: Make it too expensive for them not
14 to do it, and you'll find that they will. The problem
15 with the seeing-eye dog is a little bit different, I've
16 found, and the wheelchair. It's that the driver -- the
17 driver oftentimes says to himself, oh, this is going to
18 take a little bit more time. Okay. So, you have to
19 convince the driver, yeah, it's going to take a little
20 bit more time. It's going to be very expensive if you
21 can trying doing it.

22 I think -- I think that's -- that's the
23 solution. I --

24 COMMISSIONER REDENBAUGH: But that's why we
25 always over tip.

1 CHAIRPERSON BERRY: Right.

2 MR. LYNN: Probably so.

3 CHAIRPERSON BERRY: And I do that, too, over
4 tip when taxis will -- do pick me up. You know,
5 spending all this money to tip somebody for taking me
6 somewhere to work.

7 MR. LYNN: I would hope anybody would at
8 least tip the drivers 20 percent in New York City
9 because you wouldn't go into a restaurant and not do
10 that, and if the service is acceptable, you ought to do
11 it. They work very hard. They work long hours. They
12 don't have a union basically. They don't have any sort
13 of benefits whatsoever, and they have to work 12 hours,
14 and under the old wage scale, they were making about
15 6.50, and under Giuliani, they're making about \$12 an
16 hour, but it's still very hard work.

17 So, please, please, please, remember to tip
18 to ensure promptness. If it's -- if it's --

19 CHAIRPERSON BERRY: We have a more specific
20 question. Commissioner Redenbaugh?

21 COMMISSIONER REDENBAUGH: You know me. I can
22 never ask a question. Well, I will put it in the form
23 of a question.

24 There is a very marked difference in my
25 experience in riding cabs in Philadelphia from New

1 York. I now know why. Thank you.

2 In -- in New York, whenever I've had this
3 problem, I just show my badge and read them their
4 rights, and they say get right in. You're the cause of
5 that. Thank you. It works, you know, flashing that
6 medallion -- that shield.

7 But in Philadelphia, I limit myself to two
8 complaints a year. I don't want to be a full-time
9 advocate for anything. But I do -- I am getting to
10 know the PUC prosecutors pretty well, which suggests
11 that the problem isn't getting solved.

12 What could we do in Philadelphia or other
13 cities, but that's the one where I have the problem
14 every --

15 MR. LYNN: Well, I would have to see what the
16 -- what the structure is, and obviously a violation is
17 a violation of the -- every city, I'm sure, has a human
18 rights code.

19 COMMISSIONER REDENBAUGH: Right.

20 MR. LYNN: Some of them are inclusive and
21 protect other people, including lesbians and gays, as
22 New York City does, I don't know what Philadelphia
23 does.

24 COMMISSIONER REDENBAUGH: Well, --

25 MR. LYNN: The first step is to look at what

1 the law is there, and the second step is—that if
2 they're regulated by a body, then the body ought to
3 have its own set of rules and -- and enforce that as
4 well, so you have two types of fines they could get hit
5 with, and -- and make sure that there's the political
6 will to enforce it.

7 COMMISSIONER REDENBAUGH: Well, I always win
8 these cases, you know, and it's a \$300 fine and
9 suspension, and, you know, I think PUC does a good job,
10 but not in educating drivers, only in compelling
11 compliance.

12 MR. LYNN: Well, then perhaps the PUC ought
13 to use the local organization and the taxi press and so
14 forth to educate them as to what's going to happen to
15 you if this happens, and it's a very good return
16 actually, and that they ought to do some self-
17 initiating testing.

18 Not only is this happening, but we're out
19 there testing folks, and you don't know who we are when
20 we get into those cabs. We may be regular passengers,
21 we may not be. We may be from a police department and
22 so forth. So, that has a great deterrence as well, and
23 that they ought to actually do some of that as well.

24 COMMISSIONER REDENBAUGH: Thank you.

25 CHAIRPERSON BERRY: Vice Chair?

1 VICE CHAIRPERSON REYNOSO: I just have a
2 general question to any observations you might have.

3 As I heard your testimony, we -- we have two
4 types of problems. One is you have a law, and it's not
5 being enforced. Philadelphia, I'm sure, must have a
6 law that -- that -- that protects the blind, yet
7 somehow it's not getting enforced, and that comes up
8 with private -- private regulatory instructions in
9 stores and so on. So, you have the rule, but somehow
10 the implementation is not quite there.

11 We have another problem. The Attorney
12 General, I think, pointed at it, and that is that we
13 haven't yet thought about, studied enough, to
14 articulate well enough what consumer discrimination is,
15 because it comes up in different forms, but it's just
16 as pernicious as employment discrimination and so on,
17 and I just wonder what your thoughts are on how we
18 should go about identifying what we know is there in
19 terms of discrimination in such a way that maybe we can
20 suggest some regulatory activity.

21 MR. CURRAN: Well, if I can just jump in on
22 it, I think that certainly a hearing in which you could
23 solicit comments from the affected individuals would at
24 least give you an understanding of the scope of it.

25 I -- I can tell you that in one area, we've

1 gotten a hundred complaints, in the -- in a way that I
2 don't even represent, quite frankly. I suspect, quite
3 frankly, there's many, many more, but if there is -- I
4 don't know the scope of how many times when a person
5 applies to be a member of an exercise club, they're
6 told they can't transfer their membership. I don't
7 know that. I just am aware. We hear that I was told I
8 could go from Towson to Roger's Forge to so and so, but
9 we -- it's our belief that if you're an inner city
10 person, you got to be there, and -- but I don't know
11 what the scope is.

12 If you could ascertain the scope, you could
13 then determine what more steps could be taken. I do
14 agree with some of the suggestions Mr. Lynn made.
15 Sanctions do work where -- where there is a law. So,
16 sanctions do work.

17 In Maryland, we have an open space. We have
18 a tax benefit to those country clubs who keep their
19 country -- their golf courses open space because it's -
20 - it's one less shopping center. It's one less, you
21 know, group of dense-area homes.

22 So, you want to give them a tax break, but,
23 of course, we -- we found out in some of these clubs,
24 and there are some of these very well-to-do clubs,
25 women couldn't go in this particular room or they had

1 to tee off, you know, after, you know, 5:00 in the
2 afternoon, they could tee of, but they -- and they
3 couldn't play on the weekend, that sort of thing.

4 So, we took away their tax breaks, and then
5 they stopped -- then women can tee off whenever they
6 get out there, just like anybody else. So, sanctions
7 do work, but I don't know the whole scope of consumer
8 discrimination.

9 I can tell you about consumer fraud. I can
10 tell you about some other aspects of the law that we
11 enforce, but I cannot tell you the scope of
12 discrimination, except what I've heard. I suspect it's
13 widespread. I suspect that it deserves more attention.
14 I suspect that if people of -- of good will were made
15 aware of it, it might seep through.

16 I do believe, though, there is some
17 pernicious, latent, long-term concern about changes
18 that you spoke of earlier, that it's the chicken and
19 the egg. I think the chicken has to be given some
20 instructions before there's a new egg, but I do think
21 the chicken is capable of learning with education.

22 COMMISSIONER LEE: Madam Chair?

23 CHAIRPERSON BERRY: Yes? That's Commissioner
24 Lee, who is out in California. Go ahead.

25 COMMISSIONER LEE: I also want to thank the

1 panel for an excellent presentation, and I want to
2 stress the importance of education and information on
3 consumer rights and protections.

4 One question I have, and whoever can answer
5 this, the groups that are the most vulnerable to
6 discrimination, such as the new immigrants, elderly and
7 other segments of the different communities, but,
8 unfortunately, these folks are more vulnerable to
9 discrimination are not in the loop as we see the
10 information on consumer rights and protections, let
11 alone representation.

12 So, do you have any ideas or any
13 recommendations of how to better inform these certain
14 communities so that these regulatory laws will be
15 applied and of benefit to everybody?

16 CHAIRPERSON BERRY: And she's referring, as
17 you -- none of you heard the first part. New
18 immigrants, the elderly, people who may not know
19 about -- how do we go about informing people so that
20 everybody can take advantage of these processes?

21 MS. JOHNSON: Exactly. What has been done,
22 for example, in my office, we have targeted what we
23 classify as unserved and under-served constituencies.
24 This would include newly-arrived immigrants who may
25 have a limited command of the English language. A lot

1 of the consumer groups are now printing their material,
2 their educational information material in three, four
3 and five different languages.

4 There are a lot of public and private
5 partnerships where corporations and -- and state and --
6 and Federal Government agencies are partnering to
7 prepare and to disseminate information to consumers, so
8 that they then are aware of their rights in various
9 areas.

10 You have organizations here in this city,
11 such as Direct Marketing Association, Direct Selling
12 Education Foundation. All of them are reaching out not
13 only to their constituents, but we're looking at what
14 we call multipliers.

15 If you take, for example, a social service
16 organization, such as the Urban League, who operates in
17 various affiliates throughout the country, we would,
18 because of budget constraints, not be able to touch
19 perhaps everyone at the local level, but we would
20 attempt to meet with Urban League officials, officials
21 who have programs where they go out into the -- in the
22 community, to get our information to the Urban Leagues,
23 to La Raza, to Chinese Americans, to associations that
24 have members or affiliates that go into the grassroots
25 level.

1 So, all of our information, I think since
2 I've been with the Office of Consumer Affairs at
3 Commerce, we have almost doubled our mailing list. We
4 can't now because of budget reasons do a lot of
5 mailing.

6 So, we have gone into putting things on line,
7 and some of the associations are picking up our
8 material on line, so that our information and our
9 education is out there, and we're attempting to
10 identify who those under-served and -- and non-served
11 constituencies are, and to approach them, and to target
12 them with information that we think would be beneficial
13 to them.

14 CHAIRPERSON BERRY: And we, Commissioner Lee,
15 are updating our information, which is on how to get
16 Uncle Sam to protect your civil rights, which is to be
17 made available. Others on the panel want to comment on
18 this question.

19 Mr. Miller?

20 MR. MILLER: Yes. Not that the answer to
21 every problem is money. It's certainly not. But,
22 unfortunately, that is part of the answer, as several
23 of the other panelists have said.

24 In the general media, the tv and so forth,
25 now I'm seeing more ads, let's say, on the sex

1 discrimination, you know, somebody alleged so and so
2 and so and so. No, that's illegal. That's the law.

3 Unfortunately, we -- we don't see enough ads
4 like that going into these other areas, saying some of
5 these other practices that go on are also illegal
6 because again some of these -- some of these areas,
7 people don't think of being violations of the law.

8 They are accustomed to them. They're just
9 practices that go on around. They sort of wink at
10 them. So, that's part of the answer.

11 The American Council of the Blind is a
12 membership organization, of course, does -- and this is
13 a case with many other consumer organizations. They're
14 doing everything they can to educate their consumers,
15 to ask questions, to resort to whatever the remedies
16 are available.

17 Unfortunately, in many communities, on some
18 of the things we've been talking about today, like the
19 difficulties with cabs and restaurants, and it happens
20 with hotels and other places, too, the penalties,
21 generally speaking, are not nearly stringent enough.

22 You know, if a penalty for a cab driver is a
23 \$150 or \$200 or something, that doesn't even get his
24 attention. He might not even bother to show up.
25 Again, if -- like the farmer with the 2X4 and the mule,

1 if it gets his attention first, then maybe something
2 can be accomplished. They've got to be far more
3 stringent. They need to be taken more seriously.

4 CHAIRPERSON BERRY: Mr. Lynn?

5 MR. LYNN: Well, I would just point out in
6 New York City, if they didn't show up, their license is
7 suspended immediately, and we send someone out to their
8 house to get it, so that it works.

9 MR. MILLER: Can the District of Columbia
10 afford this man?

11 CHAIRPERSON BERRY: Probably not.

12 MR. MILLER: I'm afraid you're right.

13 CHAIRPERSON BERRY: Probably not. Maybe in
14 seven years.

15 MR. MILLER: Right.

16 CHAIRPERSON BERRY: Six more years. Right,
17 Mr. Lynn?

18 MR. LYNN: Right.

19 CHAIRPERSON BERRY: Okay. Well, thank you
20 very much.

21 MR. LYNN: Thank you very much.

22 CHAIRPERSON BERRY: I want to thank the panel
23 for being here to participate, and we've learned a
24 great deal, and we will be discussing how to further
25 proceed in this area, this important area of concern.

1 So, thank you very much again for being with
2 us.

3 MR. MILLER: Thank you.

4 MS. JOHNSON: Thank you.

5 CHAIRPERSON BERRY: Thank you, Commissioner
6 Lee.

7 That ends the briefing, and we already
8 adjourned the meeting. So, we are -- now we can go.

9 (Whereupon, at 2:04 p.m., the meeting was
10 adjourned.)

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alan friedman
OFFICIAL REPORTER

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