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**U.S. COMMISSION ON CIVIL RIGHTS**

**ARIZONA STATE ADVISORY COMMITTEE  
TO THE  
UNITED STATES COMMISSION ON CIVIL RIGHTS**

**Public Factfinding Forum  
on the  
Arizona Department of Transportation  
Friday, March 14, 1997  
Phoenix, Arizona**

**REPORTER'S TRANSCRIPT OF PROCEEDINGS**

**Prepared for:  
ARIZONA STATE ADVISORY COMMITTEE TO THE  
UNITED STATES COMMISSION ON CIVIL RIGHTS**

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The Arizona State Advisory Committee to the United States Commission on Civil Rights held a Public Factfinding Forum on the Arizona Department of Transportation on Friday, March 14, 1997, at the United States District Court Building, 230 North First Avenue, Phoenix, Arizona.

Present on The Arizona State Advisory Committee were the following:

- The Honorable Manuel Pena, Chairperson,  
Phoenix
- Mr. Adolfo Echeveste, Tempe
- Mr. Rudy Garcia, Glendale
- Ms. Angela Julien, Tucson
- Ms. Patricia Kraus, Phoenix
- Mr. Jones Osborn, Yuma
- Ms. Ofelia Quijada-Olivas, Sahuarita
- Doctor June Webb-Vignery, Tucson
- The Honorable Penny Willrich, Mesa
- Mr. Richard Zazueta, Phoenix

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THE FOLLOWING PROCEEDINGS WERE HELD:

THE HONORABLE MANUEL PENA: The hearing will come to order. The attendance has been noted. We have a quorum, and we will proceed.

Good morning. This meeting of the Arizona Advisory Committee to the United States Commission on Civil Rights will now come to order.

I'm Manuel Pena, Jr., Chairperson of the Arizona Advisory Committee to the United States Commission on Civil Rights. The U. S. Commission on Civil Rights an independent, bipartisan, fact-finding agency first established under the Civil Rights Act of 1957.

The Commission on Civil Rights is an apartment agency of the United States Government, established by Congress in 1957 and directed to:

1) Investigate complaints alleging that citizens are being deprived of their right to vote by reason of their race, color, religion, sex, age, handicap or national origin or by reason of fraudulent practices;

2) Study and collect information concerning legal developments constituting

1 discrimination or denial of equal protection of laws  
2 under the Constitution because of race, color,  
3 religion, sex, age, handicap or national origin or in  
4 the administration of justice;

5 3) Appraise federal laws and policies  
6 with respect to the discrimination or denial of equal  
7 protection of the laws;

8 4) Serve as a national clearinghouse  
9 for information about discrimination;

10 5) Submit reports findings and  
11 recommendations to the President and Congress.

12 State Advisory Committees were  
13 established in each State and the District of  
14 Columbia in accordance with enabling legislation and  
15 the Federal Advisory Committee Act to advise the  
16 Commission on matters pertaining to discrimination or  
17 denials of equal protection of laws because of race,  
18 color, religion, sex, national origin, age, handicap  
19 or in the administration of justice and to aid the  
20 Commission in its statutory obligation to serve as a  
21 national clearinghouse for information on those  
22 subjects.

10:03A

23 Commission regulations call for each  
24 Advisory Committee to:

25 1) Advise the Commission in writing of

1 any information it may have respecting any alleged  
2 deprivation of a citizen's right to vote and to have  
3 the vote counted by reason of race, color, religion,  
4 sex, national origin, age or disability, or that  
5 citizens are being accorded or denied their right to  
6 vote in federal elections as a result of patterns or  
7 practices of fraud or discrimination;

8 2) Advise the Commission concerning  
9 legal developments constituting discrimination or a  
10 denial of equal protection of the laws under the  
11 Constitution because of race, color, religion, sex,  
12 national origin, age or disability or in the  
13 administration of justice; and as to the effect of  
14 the laws and policy of the Federal Government with  
15 respect to the equal protection of the laws;

16 3) Advise the Commission upon matters  
17 of mutual concern in the preparation of reports of  
18 the Commission to the President and the Congress;

19 4) Receive reports, suggestions and  
20 recommendations from individuals, public and private  
21 organizations and public officials about matters  
22 pertinent to inquiries conducted by the State  
23 Advisory Committee;

24 5) Initiate and forward advice and  
25 recommendations to the Commission about matters that

1 the Advisory Committee has studied;

2 6) And assist the Commission in the  
3 exercise of its clearinghouse function.

4 The purpose of the meeting today is to  
5 obtain information and views relating to civil rights  
6 issues and employment practices impacting employees  
7 of the Arizona Department of Transportation.

8 Participants in today's fact-finding  
9 forum have been requested to address the following  
10 issues:

11 1) The status of working relationships  
12 between employees and management at the Arizona  
13 Department of Transportation;

14 2) The number and nature of grievances  
15 and EEO complaints filed by Arizona Department of  
16 Transportation employees against the Arizona  
17 Department of Transportation;

18 3) Efforts to resolve disputes,  
19 grievances and complaints filed by aggrieved  
20 employees against the Arizona Department of  
21 Transportation;

22 4) The role of the State and Federal  
23 Oversight Agencies in assisting to resolve existing  
24 disputes and help prevent future disputes; and

25 5) General views on working

1 relationships at the Arizona Department of  
2 Transportation that relate to civil rights and  
3 recommendations for addressing these problems.

4 Among those invited to address the  
5 Arizona Advisory Committee today are elected  
6 officials, representatives from the Governor's Office  
7 of Equal Opportunity, the Arizona State Legislature,  
8 Arizona Department of Transportation, the State  
9 Attorney General's Office the Equal Employment  
10 Opportunity Commission, and the United States  
11 Department of Transportation.

10:06A 12 Based upon the information collected at  
13 this meeting, a summary report will be prepared for  
14 the United States Commission on Civil Rights.

15 Other members of the Advisory Committee  
16 in attendance during the meeting will be Adolfo  
17 Echeveste, Rudy Garcia, Angela Julien, Jones Osborn,  
18 Ofelia Quijada-Olivas, Dr. June Webb-Vignery, and the  
19 Honorable Penny Willrich and Mr. Richard Zazueta.

20 We also have a staff person from the  
21 Washington office Ms. Lee from the Boston National  
22 Commission on Civil Rights. Also with us today are  
23 Western Regional staff members, Thomas Pilla, Stella  
24 Youngblood, and Grace Hernandez from the Commission's  
25 Western Regional Office in Los Angeles.



1           This fact-finding meeting has been held  
2 pursuant to federal rules applicable to State  
3 Advisory Committees and regulations promulgated by  
4 the United States Commission on Civil Rights. All  
5 inquiries regarding these provisions should be  
6 directed to the Chair or to Commission staff.

7           I would like to emphasize that this is  
8 a fact-finding meeting and not an adversarial  
9 proceeding. Individuals have been invited to come  
10 and share with the Committee information relevant to  
11 the subject of today's inquiry. Each person who will  
12 participate has voluntarily agreed to meet with the  
13 Committee.

14           Since this is a public meeting the  
15 press and radio and television stations as well as  
16 individuals are welcome. Persons meeting with the  
17 Committee, however, must specifically request that  
18 they not be televised. In this case we will comply  
19 with their wishes.

20           We are concerned that no defamatory  
21 material be presented at this meeting. In an  
22 unlikely event that this situation should develop, it  
23 will be necessary for me to call this to the  
24 attention to the persons making these statements and  
25 request that they desist in their action. Such

1 information will be stricken from the record if  
2 necessary.

3 Every effort has been made to invite  
4 persons who are knowledgeable in the area to be dealt  
5 with here today. In addition we have allocated time  
6 between 4:00 p.m. and 5:00 p.m. to hear from anyone  
7 who wishes to share information with the Committee  
8 about the specific issues under consideration today.

9 At that time each person or  
10 organization will be afforded a brief opportunity to  
11 address the Committee and may submit additional  
12 information in writing.

13 Those wishing to participate in the  
14 open session must contact Commission staff before  
15 3:00 p.m. this afternoon. Commission staff is seated  
16 in the front row, Grace Hernandez and Mr. Pilla, and  
17 Stella Youngblood.

18 In addition the record of this meeting  
19 may be opened for a period of ten days following its  
20 conclusion. The Committee welcomes additional  
21 written statements and exhibits for inclusion in the  
22 record.

23 These should be submitted to the  
24 Western Regional Division of the United States  
25 Commission on Civil Rights, 3660 Wilshire Boulevard,

1 Suite 810, Los Angeles, California. The zip is  
2 90010. We can get that for you later on if you want  
3 to have it in writing.

10:09A

4 Okay. We will now proceed with the  
5 people who have been invited to make their comments.

6 We will first hear from Irene Canales,  
7 who is with the Arizona Department of Transportation.

8  
9 I want to make one other statement. No  
10 audience participation is permitted at any time  
11 during the proceedings. We will try to maintain some  
12 form of schedule.

13 I would ask that the statements being  
14 made be limited to no more than ten minutes. We're  
15 not going to push it.

16 Ms. Canales?

17 MS. IRENE CANALES: Before I begin, I  
18 would like to ask that the timing of one of the  
19 individuals who was to present be deferred to me,  
20 because I will be going a little bit over ten  
21 minutes.

22 THE HONORABLE MANUEL PENA: Who is  
23 that?

24 MS. IRENE CANALES: Monica Hernandez --  
25 I'm sorry. Manny Hernandez, who was going to be

1 presenting.

2 THE HONORABLE MANUEL PENA: All right.  
3 Let me point out that he has agreed to respond to  
4 questions later on if necessary.

10:11A

5 MS. IRENE CANALES: Good morning. My  
6 name is Irene Canales, and I'm an employee of the  
7 Arizona State Department of Transportation. I've  
8 been an employee for nearly eleven years. The first  
9 nine-and-a-half years I was the ADOT Employee  
10 Assistance Program Manager.

11 This is a program where behavioral  
12 mental health or substance abuse counselors are on  
13 staff to provide assessments, advise and make  
14 referrals on a confidential basis to employees who  
15 experience personal, physical, legal, financial,  
16 emotional, mental/behavioral health or work-related  
17 problems. This is a federally mandated program from  
18 the United States Department of Transportation as a  
19 result of the Drug-Free Work Place Act of 1988.

20 During the time I managed this program,  
21 I either worked the program with a staff of one,  
22 myself, or had at one time very briefly a staff of  
23 four, including myself.

24 For most of the time I either staffed  
25 the program with only myself or one other staff

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person.

12A

My program was responsible for being available to counsel 4,500 ADOT employees and their families throughout the State of Arizona. In addition we answered our own phones, greeted and received employees entering the reception area and did our own typing and filing.

Please note that an employee-assisted program is recommended to have one counselor for every 1,800 employees.

In addition to providing mental/behavioral health classes to employees, I was also responsible for trying to educate and sensitize ADOT management in handling employees with problems or personality conflicts in the workplace.

I did this through one-on-one sessions, group sessions, or I would bring in outside professional consultants to assist me in accomplishing this task.

My position allowed me to gain the confidence of many of the ADOT employees, especially the minority employees who would ask to speak to either an ethnic racial minority counselor and/or a counselor who could speak Spanish. I meet both requirements.

1 My position was place the under the  
2 ADOT Director and Deputy Director.

10:13A 3 I was one of only two minority managers  
4 in the "Special Support Group." My peers in this  
5 group included managers of the ADOT personnel  
6 training, Affirmative Action and others.

7 My job was to report general problem  
8 areas to the Director or to the Deputy from specific  
9 complaints shared confidentially with me or my staff.  
10 I would then give recommendations to resolve the  
11 problems followed by the authority to resolve them  
12 with the support and approval of the ADOT Director's  
13 Office.

14 I carried out my duties with the  
15 understanding it would be inappropriate and  
16 unprofessional for me to share any names of employees  
17 with ADOT management.

18 It was not long after I began  
19 employment with ADOT, I was told by the then Director  
20 that he had full confidence and trust in my abilities  
21 and judgment and problem solving.

22 Therefore I would keep the Director  
23 informed of the number of employees my program  
24 assisted and the general problem areas that they fell  
25 into. I was given the independence to run my program

1 as I saw fit for the best of the employees.

2 I had thought my relationship with the  
3 ADOT Director and/or Deputy would always remain  
4 positive and professional as I was proud to have  
5 brought the EAP program to serve as a model program  
6 for other State governments and corporate agencies in  
7 Arizona and throughout the country.

10:15A

8 My proudest accomplishment was when I  
9 was invited to serve on the panel at the White House  
10 Conference for a Drug-Free America in Washington D.C.  
11 I was the only EAP on the panel representing Arizona.

12 Complaints presented to me by ethnic,  
13 cultural ADOT employees which gravely concerned me  
14 were:

15 Point: Favoritism by management in  
16 promoting less qualified non-minority personnel over  
17 more qualified experienced minority personnel.

18 Point: Working minority employees out  
19 of class where they either were paid at a lower grade  
20 and did the work for their non-minority management or  
21 were in a higher pay grade position working beneath  
22 their capabilities doing demeaning jobs.

23 Point: Reports of retaliation after  
24 filing an EEOC complaint with the ADOT Affirmative  
25 Action Program or grievance with ADOT personnel.

1 Point: Use of racial slangs and name  
2 calling such as the words, quote, wetback, beaner,  
3 nigger, faggot, spics and others, by co-workers with  
4 the knowledge of supervisors who took little or no  
5 action to stop this offensive conduct.

10:16A

6 Point: Denial of annual or sick leave.

7 Point: Refusal to allow an emergency  
8 phone call to be received by the employee.

9 Point: Having a door slammed in an  
10 employee's face.

11 Point: White employees making  
12 statements in front of a group that, quote, I'm not  
13 going to touch the donuts after the nigger has had a  
14 hand in the box, unquote.

15 Point: Older, poorer Spanish-speaking  
16 employees doing all the physical labor work while  
17 their white peers sit on the back of the truck and  
18 watch drinking water.

19 Point: Fear of losing a job simply  
20 because of being a minority.

21 Point: Enduring retaliation for  
22 reporting or, as it would be called, squealing on  
23 acts of discrimination that was done by white  
24 employees.

25 Point: Fear of being falsely accused



1 of stealing, lying or cheating.

2 Point: Unwarranted disciplinary  
3 action, suspensions or terminations.

4 Point: Fear of management if a  
5 minority complained of acts of discrimination in the  
6 workplace.

7 Point: Fear for life or serious bodily  
8 injury at the hands of non-minority workers or  
9 faction of the Ku Klux Klan or Skinheads.

10 Point: Silently enduring emotional or  
11 mental abuse from either co-workers or management.

12 Point: Refusing to allow an ill  
13 employee to either go home or to a doctor's  
14 appointment.

15 Point: Working under verbal threats of  
16 physical harm.

17 Point: Use of intimidating tactics,  
18 such as by managers to encourage better performance.  
19 Examples are refusing to allow breaks, no talking  
20 while working or even challenging whether the  
21 employee really had to use the restroom.

22 I often reported to my management these  
23 problems and was always told not to get involved in  
24 these types of issues, as they were not EAP concerns,  
25 but to refer them to the ADOT Affirmative Action

1 Programs.

2 I did make these suggestions to the  
3 employees. These episodes have and still do occur in  
4 ADOT, as employees still report some of the  
5 occurrences to me during breaks or at lunch.

10:18A

6 I have always had a passion for helping  
7 people, and a compassion for those who suffer in  
8 pain.

9 Little did I know that after February  
10 of 1993 I would experience firsthand what other  
11 minority employees were telling me all of these  
12 years, and my life would change forever.

13 In February of 1993 Larry Bonine was  
14 appointed to ADOT as the ADOT Director. He appeared  
15 to be very energetic, with the habit of slapping  
16 people in a friendly gesture, shaking hands and  
17 generally speaking, had a tendency to give physical  
18 pats to people when expressing a greeting or positive  
19 message. I was not comfortable with him, but I was  
20 eager to impression on him.

21 After two months went by, I was given  
22 an opportunity to meet him on a one-on-one basis. I  
23 was waiting for this meeting in the reception area of  
24 his office.

25 He came out of his office to get a

1 glass of water, and as he passed by the chair I was  
 2 sitting in, he slapped me hello so hard on my arm  
 3 that I was pushed into the lady in the next chair.  
 4 We both looked at each other in shock, but I didn't  
 5 say anything because I realized that he was my boss,  
 6 and I thought that he needed to find out that his  
 7 friendly gestures were not appreciated.

8 I did have the meeting with him,  
 9 explaining what my program was and left hoping he  
 10 would support the program as his predecessors had  
 11 done.

12 In the months that followed I reported  
 13 to Larry, Mary Peters, who was his assistant, and Tom  
 14 Warne, his Deputy Director, reports of racial  
 15 discriminatory practices occurring in the Department,  
 16 and I was working with Suzanne Sale to bring in  
 17 outside consultant in to help evaluate and address  
 18 the minority employees' concerns of discrimination  
 19 and racial bias.

10:20A 20 I soon realized that Larry did not  
 21 support me or my program, as he said to me, quote,  
 22 Employees don't need a counseling program. They just  
 23 need to have their blood pressures checked by either  
 24 a machine or nurse, as that will help them save their  
 25 lives by going to a doctor and get medication when

1 the readings are high, unquote.

2 He asked me to check on the cost of  
3 blood pressure machines, how many we would need  
4 throughout the State, if the occupational health  
5 clinics would take the blood pressures and the cost  
6 for both ideas. I did what he asked.

7 I reported what my findings were, and  
8 once again, I tried to explain that the employees  
9 did, in fact, need counseling to keep the blood  
10 pressures down.

11 I then shared the concerns I had about  
12 the issues being reported to me. Larry Bonine told  
13 me that I was always being negative by reporting  
14 problems to him. I tried to explain to him that this  
15 was my job.

16 He then told me he didn't want to hear  
17 about these kinds of problems. I felt worried that  
18 he wanted me to be a team player that only reported  
19 successes and positive information.

10:21A 20 Meanwhile, I was asked by Suzanne Sale  
21 to bring in a consultant to look at the racial  
22 discriminatory issue that the employees complained of  
23 in her division, I suggested bringing in the  
24 Dr. Javier Perez to talk to the employees.

25 In May of 1993 a second episode

1 occurred during the last meeting of the top  
2 50 managers. Even though my position was a part of  
3 this group, I had not been invited to a meeting until  
4 Mary Peters asked me to attend. As it turned out, my  
5 first meeting was the last for the group as they were  
6 disbanding it.

7 During the break, I saw Larry Bonine  
8 walking down the hall, and asked him to clarify some  
9 information he told me on the telephone a few days  
10 earlier.

11 As we stood in the hall in front of the  
12 men's room, he responded to my question by putting my  
13 hand on top of my head and started growling his  
14 answer in apparent annoyance that I even asked it.

15 He began pressing down on my head,  
16 shaking my head so hard that my neck was snapping and  
17 cracking. I felt extreme pain.

18 But what was worse is that Tom Schmitt,  
19 a managing engineer, came out of the restroom and saw  
20 what Larry was doing and began to laugh. I was  
21 humiliated, embarrassed and disgraced.

22 I went to the auditorium and sat in my  
23 seat next to a friend who was an engineer and told  
24 him what happened. He then laughed but immediately  
25 was concerned when he saw that I was upset and my

1 neck was hurting.

2 In November of 1993 a third episode  
3 occurred when I brought a Ph.D. or a doctor to  
4 Larry's office to meet him and provide an outline of  
5 a training that she was to provide for Larry and the  
6 Division Directors.

7 After I introduced him to her, Larry  
8 shook her hand and turned to me, putting me into a  
9 head lock and asking her how she liked me. I was so  
10 humiliated. Indignity can't begin to describe how I  
11 felt. Complete devastation more accurate.

12 My colleague was shocked and made  
13 mention to me after we left how she could not believe  
14 what Larry had done to me and told me to be careful  
15 and keep a distance from him. She was concerned and  
16 said she was thankful that he had not been rough with  
17 her, as she is physically fragile. I have never seen  
18 a Mr. Bonine treat a male or a white female manager  
19 in this manner.

20 After suffering from stress due to  
21 these episodes, I agonized over what I should do. My  
22 husband had been laid off from work, and I knew that  
23 I had to keep my job. I couldn't sleep, and after  
24 talking with two physicians, I was advised that I  
25 needed to do something about what had happened to me.

10:23A

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I confided in a friend in the Affirmative Action Office and realized after the discussions that the options available to me would get me nowhere. Because I knew that I still had to tell someone in order to prevent any similar episodes, I decided to confide in Mary Peters, who was now the Deputy Director of ADOT.

I spoke with Mary Peters, told her what had happened to me and that I wanted to be a team player, but I did not want Larry to touch me other than a handshake.

Mary asked me if I wanted to talk to -- wanted her to talk to Larry on my behalf and tell him what I just told her. I said if she could just please caution him that some people may not like him to be that physical and that hopefully would stop him from doing this to me again.

We then discussed Dr. Perez's report, and I told her that I agreed with his findings. I felt that ADOT had a long history of racial discriminatory problems, and it needed to be addressed.

A few days later Mary call me into her office where I was met by Mary and Lisa Wormington, the Affirmative Action Administrator. Mary asked me

1 if I felt that I was being discriminated against in  
2 ADOT. I felt it was extremely odd that I was being  
3 asked this question in this way and at this time. It  
4 made me very uncomfortable.

5 My response was, quote, If I did feel  
6 of way, I would not admit it here, unquote.

7 They then asked why, and I told them  
8 that many of the employees that I had counseled had  
9 cautioned me that complaints were not kept  
10 confidential in the Affirmative Action Office; that  
11 there were no minority employee advocates or top  
12 level advocate directors who were minority or who  
13 could be trusted.

14 I was then asked the question a second  
15 time, and felt I would not be able to leave that  
16 office without both of them becoming upset, unless I  
17 told them that I did not feel I was being  
18 discriminated against.

19 I do remember thinking clearly this  
20 type of questioning should not have been happening by  
21 either one of these two people.

22 After this occurrence the following  
23 happened to me:

24 Point: I received the cold shoulder  
25 from Mary and Larry and was kept out of the loop of



1 information needed for me to perform my job.

2 Point: I was informed that my EAP  
3 program would be privatized outside, but was assured  
4 by both Mary and Suzanne Sale that I would be the  
5 coordinator of the EAP contract.

6 Point: I was asked by a manager what I  
7 had done to get on the wrong side of Mary and Larry,  
8 as they were very angry with me.

9 Point: I was asked to be on the team  
10 to privatize out my own program, but when myself and  
11 two others tried to take our time and do an efficient  
12 job in preparing the RFP, the three of us were simply  
13 removed from the team with no explanation.

14 Point: On October 23rd, 1995, Mary  
15 Peters called me into her office to tell me that I  
16 had about six weeks to find another job because my  
17 program was contracted out, and they needed my staff  
18 salaries to pay for the contract. She gave me three  
19 options, which were either to transfer to DES, take a  
20 buy-out or a reduction in force, and that she didn't  
21 recommend the latter.

22 I told her that the first two were not  
23 options and that I was and still am a permanent  
24 status employees.

25 I then asked her if there was a

1 position in ADOT that I could take and that it was  
2 important for me to remain in a management position  
3 to show other minorities that this Department does  
4 not lower the pay level of qualified Hispanics. I  
5 asked this because I had seen over the years  
6 positions created for white managers with no posting  
7 or notice of the job opening.

8 She said that she could not do this. I  
9 was humiliated and felt betrayed. In my opinion she  
10 had never intended to have me work as the EAP  
11 coordinator overseeing the contract.

12 Point: Other managers were coming to  
13 me and saying that they had never seen a manager such  
14 as myself treated so badly by ADOT Directors.

15 Point: In January 1996 I filed an EEOC  
16 complaint of retaliation and also testified before a  
17 subcommittee of this Commission.

10:27A 18 Point: Mary Peters had to evaluate me  
19 three times to attempt to do it fairly, as she said.  
20 This was her first attempt to the evaluate me after I  
21 had not had an evaluation done by anyone since 1993.  
22 She failed in her attempt.

23 Point: Word was put out that I am no  
24 longer in my position, and I therefore began to get  
25 phone calls from employees asking if I was gone yet.

1 Point: I sit in my office, not  
2 receiving calls with few to no walk-ins.

3 Point: I am feeling isolated and  
4 ostracized by my peers with no communication from  
5 Larry or Mary.

6 Point: I am told to joint a team to  
7 work on the Malcolm Baldrige application. When I  
8 explained to the team leader, Tim Jones, that I did  
9 not believe I could serve on this committee, as I was  
10 not in a position to say many positive things about  
11 ADOT management, he told me that he would then sit  
12 down with me and help me find something positive to  
13 write down. I suffered terribly at how this peer was  
14 so arrogant to me.

15 Point: Jerry Moreland, the ADOT  
16 Personnel Manager, called me to his office and with  
17 his subordinate told me I am to no longer to perform  
18 my job duties. This was on February 29th, 1996. He  
19 said that the EAP contract went into effect the day  
20 before. He asked me if Mary Peters had other work  
21 for me. I said that no, that she had not  
22 communicated with me in weeks.

10:29A 23 Point: E-mail is sent out the news  
24 that my EAP program is gone. I receive nothing in  
25 writing in regard to the change or whether I am to

1 act as coordinator, as I was led to believe and I  
2 thought I would be.

3 Point: I sit alone in my offices with  
4 no job assignments, no contact with anyone, or  
5 communication from my management. I feel as if I was  
6 in a tomb awaiting burial.

7 Point: I am approached by employees  
8 asking me what I am doing. I now begin to feel as  
9 though I have to justify my very existence. Some  
10 accuse me of taking much needed money from the budget  
11 because I won't leave.

12 Point: On March 28th Jerry Moreland  
13 called me to his office and told me that I am to take  
14 a position in the CDL Medical Review Program in the  
15 Motor Vehicle Division. When I asked to use my right  
16 to Reduction In Force, he told me that I cannot do  
17 that, and that I must either take the position or  
18 take a buy-out. I told him that I needed my job.

10:30A 19 He then told me that I must go to the  
20 Motor Vehicle Division. I was angered at the thought  
21 of how this man could take away the options that had  
22 been given to me by Mary Peters.

23 Point: On April 1st the only  
24 communication which I ever received concerning my job  
25 status came from Mary Peters, and said that I was to

1 work with Jerry Moreland and move to the Motor  
2 Vehicle Division, period.

3 Point: I began to have nightmares  
4 daily, and I become ill, having stomach pains and  
5 sleeping very poorly. I suffer from severe stress,  
6 and my ADOT friends are concerned and angered and how  
7 I am treated and see I am not well.

8 Point: I packed up and cleaned out my  
9 three offices, conference room and reception area by  
10 myself.

11 Point: On April 8 my doctor placed me  
12 on medical leave, the first ever I had taken in my  
13 professional career.

14 Point: On April 22nd, 1996, Mary Peter  
15 calls me into her office to do an exit interview and  
16 was surprised when I disagreed with it.

17 Point: Since May of 1996 when I moved  
18 to Motor Vehicle Division to the present time, I have  
19 received no form of communication from personnel that  
20 I have been removed from my position as manager of  
21 the EAP Program. In fact, I am still listed  
22 officially with the same title I had when I was  
23 managing the EAP Program.

10-31A

24 Point: My duties for the last year in  
25 the Motor Vehicle Division have been primarily to

1 highlight errors on CDL medical forms, such as blood  
2 pressure and vision. This is what the lowest pay  
3 grade in that area does. I do this all day every day  
4 for all of these ten months.

5 Mary Peters never demonstrated any  
6 concern whether I was placed in a management position  
7 or not. I have seen her help other non-minority  
8 managers, but she never asked me if I was all right  
9 or to even communicate with me the changes I would  
10 endure or allow me to discuss how I felt about  
11 decisions being made without my input concerning my  
12 fate in ADOT.

13 Point: I was put on medical leave for  
14 the second time in my life in December of 1996. My  
15 health is the poorest it has ever been while working  
16 at ADOT. I believe that I was and I still am  
17 suffering from stress-related illnesses.

18 I presently remain in the Motor Vehicle  
19 Division without a title, job description, pride or  
20 dignity. I feel as though I have been demoted and  
21 punished for trying to do my job, which included  
22 addressing minority employee concerns and bringing  
23 them to the attention of ADOT management.

24 I am embarrassed when I see my former  
25 peers, and I see pity in their eyes. I am a female

1 Hispanic, educated in two languages in two countries  
2 with the abilities to be a good manager, but I feel I  
3 was discriminated against by the Arizona Department  
4 of Transportation on the basis of my gender, race and  
5 national origin.

6 I strongly recommend that a legislative  
7 committee sensitive to minority issues lead an  
8 advocacy group from outside of ADOT. They along,  
9 with assigned minority advocates employees from  
10 within ADOT need to work together to address specific  
11 problem areas and eliminate those who practice and  
12 those who allow discrimination and racism in ADOT.

33A 13 This is just the tip of the iceberg, as  
14 there are many more employees who have not had the  
15 opportunity to be interviewed by this Commission due  
16 to the fact that they have been reluctant to come  
17 forward because of their fear of retaliation. I  
18 would strongly recommend that their voices be heard.

19 It is my hope that through the  
20 investigative process which this Committee is  
21 undertaking, that ADOT management, ADOT employees and  
22 the Governor's Office will become more fully aware of  
23 their legal and moral obligation to identify and  
24 eliminated all forms of minority discrimination and  
25 bias in the workplace.

1 Thank you.

2 THE HONORABLE MANUEL PENA: Thank you.  
3 Would you leave us your written statement so we can  
4 we'll have it copied.

5 Are there any questions of Ms. Canales?  
6 Mr. Osborn.

7 MR. JONES OSBORN: Mr. Chairman,  
8 Mrs. Canales, you mentioned that there were verbal  
9 threats of physical harm. Do you recall that?

10:34A 10 MS. IRENE CANALES: Yes.

11 MR. JONES OSBORN: Who made such  
12 threats?

13 MS. IRENE CANALES: Employees reported  
14 to me that they were not -- they were minority  
15 employees that were telling me they were concerned  
16 and they were fearful because non-white minorities  
17 were bringing weapons to the employment -- into the  
18 workplace and verbal threats had been made that they  
19 were to be killed.

20 MR. JONES OSBORN: So it's a variety of  
21 people who are employees of the Department?

22 MS. IRENE CANALES: Yes.

23 MR. JONES OSBORN: Mr. Chairman, may  
24 ask another question?

25 THE HONORABLE MANUEL PENA: Yes.



1 MR. JONES OSBORN: Would you be able to  
2 give us the date of the most recent overt act of  
3 discrimination in your employment?

4 MS. IRENE CANALES: I would say that  
5 the latest would be as of May of last year, putting  
6 me into the Medical Review Program and having me  
7 highlight blood pressures or vision errors on medical  
8 forms all day with no other job responsibilities, no  
9 title, no job description. I would say that is the  
10 last act of retaliation.

10:35A 11 MR. JONES OSBORN: Has another manager  
12 of the EAP --

13 MS. IRENE CANALES: Yes.

14 MR. JONES OSBORN: -- program been  
15 employed and put in place?

16 MS. IRENE CANALES: The program has  
17 been contracted out to a contact which is an external  
18 EAP program.

19 MR. JONES OSBORN: I see. In the  
20 medical review program where you presently work, are  
21 you given regular full-time work, or is it just  
22 occasional work?

23 MS. IRENE CANALES: It's occasional  
24 work.

25 MR. JONES OSBORN: Thank you,

1 Mr. Chairman.

2 THE HONORABLE MANUEL PENA: Richard?

3 MR. RICHARD ZAZUETA: Mr. Chairman,  
4 Ms. Canales, you've mentioned there has been a long  
5 history of discrimination and racism at the  
6 Department of Transportation. Do you feel that this  
7 has been institutionalized?

8 MS. IRENE CANALES: Yes, I do.

9 MR. RICHARD ZAZUETA: Thank you,  
10 Mr. Chairman.

11 THE HONORABLE MANUEL PENA:

12 Mr. Echeveste?

13 MR. ADOLFO ECHEVESTE: Ms. Canales,  
14 have you filed a specific grievance with your  
15 superiors, a written formal grievance on any of what  
16 you described that's happened to you specifically?

10:37A 17 MS. IRENE CANALES: I believe I filed a  
18 grievance initially, and that was refused because I  
19 hadn't filed that within the time frame or I was not  
20 allowed to file a grievance on my specific  
21 evaluation, so it was denied.

22 MR. ADOLFO ECHEVESTE: But you do  
23 have -- you have a copy of what you attempted to  
24 deliver to your superiors?

25 MS. IRENE CANALES: Yes, I do. I also

1 filed with the EEOC, the U. S. EEOC.

2 MR. ADOLFO ECHEVESTE: Thank you,  
3 Mr. Chairman.

4 THE HONORABLE MANUEL PENA: Ms. Olivas.

5 MS. OFELIA QUIJADA-OLIVAS: Thank you,  
6 Mr. Chairman.

7 You indicated in January of '96 you  
8 filed a EEOC complaint. Has there been an outcome to  
9 that?

10 MS. IRENE CANALES: That's an  
11 interesting point to bring out. I filed with the  
12 EEOC office in January 1996 and nothing happened, and  
13 still I have not received any word as to the results  
14 of the findings.

15 I did contact the investigator because  
16 I wanted to file a further retaliation complaint.  
17 She said to hold off, because she was waiting on a  
18 response from the affirmative -- the ADOT Affirmative  
19 Action Office. She said they had called and talked  
20 to her and initially said that everything was being  
21 resolved.

10:38A 22 I told her it was not being resolved,  
23 and she said that they had to wait to receive that  
24 conversation from the ADOT Affirmative Action Office  
25 in writing. I have not heard from her since.

1 MR. RICHARD ZAZUETA: How long ago was  
2 this?

3 MS. IRENE CANALES: This was in June  
4 1996 I filed.

5 MR. RICHARD ZAZUETA: And the follow-up  
6 conversation?

7 MS. IRENE CANALES: That was in  
8 April -- May when I was in the MVD. It was in May.

9 THE HONORABLE MANUEL PENA:  
10 Ms. Willrich?

11 THE HONORABLE PENNY WILLRICH:  
12 Ms. Canales, what do you believe would resolve the  
13 issues for you at this point?

14 MS. IRENE CANALES: Other than the  
15 recommendations that I have given?

16 THE HONORABLE PENNY WILLRICH: Yes.

17 MS. IRENE CANALES: I'm not sure I'm at  
18 a point at this time -- a point where I can really  
19 answer that statement. So much has happened to me  
20 that I'm looking to resolve this problem right now  
21 for everyone and just to make the workplace a better  
22 place.

23 THE HONORABLE MANUEL PENA:  
24 Doctor Vignery?

25 DOCTOR JUNE WEBB-VIGNERY: Ms. Canales,

1 the EEOC investigation, was there an on-site  
2 investigation?

10:39A

3 MS. IRENE CANALES: I don't believe  
4 there was. I don't know. My only communication was  
5 with the EEOC investigator, and she said that she was  
6 informed by the ADOT Affirmative Action Program that  
7 the problem was being worked on and resolved.

8 I have not be approached by the ADOT  
9 Affirmative Action Program, and I did not, you  
10 know -- I did not hear anything further from the  
11 investigator at the EEOC office.

12 DOCTOR JUNE WEBB-VIGNERY: Are there  
13 any other avenues to file a discrimination complaint  
14 with either a State agency, such as the Attorney  
15 General's Office, the Civil Rights Division, or the  
16 Affirmative Action Office of the Governor's Office in  
17 the Governor's Office?

18 MS. IRENE CANALES: I had called the  
19 Attorney General's Office, Civil Rights Division and  
20 asked for their assistance, and they told me they are  
21 not there to help employees. They are there to  
22 protect the State, and that I had no means through  
23 that office to get assistance.

10:40A

24 As far as going to the Affirmative  
25 Action Office, the Governor's Office of Affirmative

1 Action, I felt extreme conflict of interest for me to  
2 get to that office because I was concerned of the  
3 level at which I was taking complaints. I was taking  
4 complaints of the very director that reported to the  
5 Governor, and I felt that was not an option for me.  
6 That a neutral area had to be involved to help me at  
7 that level.

8 DOCTOR JUNE WEBB-VIGNERY: Thank you.

9 THE HONORABLE MANUEL PENA: In your  
10 previous position, were you the person that employees  
11 would take grievances to?

12 MS. IRENE CANALES: No, I was not. I  
13 was the person that -- usually the employees took  
14 grievances to the ADOT personnel office, unless it  
15 was a discriminatory complaint. Then that was taken  
16 to the ADOT Affirmative Action Office.

17 I received the employees usually after  
18 they were suffering from the stress of actually going  
19 through that process. They usually came to me and  
20 shared with me what had happened because they were  
21 stressed, and they were not well as a result.

22 THE HONORABLE MANUEL PENA: Thank you.

23 Ms. Julien?

24 MS. ANGELA JULIEN: Thank you,  
25 Mr. Chairman.

1 Ms. Canales, you talked about a  
2 incident where you felt that you had to say that you  
3 didn't feel you were being discriminated against when  
4 the Affirmative Action officer was with Mary Peters?

5 MS. IRENE CANALES: Yes.

6 MS. ANGELA JULIEN: The reason you felt  
7 that way is that you had reason to believe that your  
8 complaint would not be held confidential?

9 MS. IRENE CANALES: I think I mentioned  
10 that I didn't want to say anything negative because I  
11 felt that there wasn't an advocate in that room for  
12 me.

13 MS. ANGELA JULIEN: Okay.

14 MS. IRENE CANALES: And what my  
15 complaint was about was the very people -- was the  
16 very person that oversaw both of those people.

17 MS. ANGELA JULIEN: May I follow up?

18 THE HONORABLE MANUEL PENA: Go ahead.

19 MS. ANGELA JULIEN: And was there any  
20 further reason for you to fear lack of  
21 confidentiality?

22 MS. IRENE CANALES: Lack of what?

23 MS. ANGELA JULIEN: Confidentiality.

10:43A 24 MS. IRENE CANALES: My feeling was that  
25 employees had told me, a number of them had told me,

1 that there was no confidentiality obtained in the  
2 Affirmative Action Program, and also realizing that  
3 there were no federal laws in place, as there are for  
4 overseeing my program, that provide under the Privacy  
5 Act protection against repeating any information  
6 outside, I felt that there was no protection for me  
7 to keep this confidential in that room.

8 MS. ANGELA JULIEN: Thank you.

9 THE HONORABLE MANUEL PENA: Any other  
10 questions?

11 MR. RUDY GARCIA: I do, Mr. Chairman.

12 THE HONORABLE MANUEL PENA: Go ahead,  
13 Mr. Garcia.

14 MR. RUDY GARCIA: Were you familiar  
15 with Affirmative Action plan for the Department of  
16 Transportation?

17 MS. IRENE CANALES: Yes.

18 MR. RUDY GARCIA: Were you ever made  
19 aware of it?

20 MS. IRENE CANALES: Yes, I was made  
21 aware of it.

22 MR. RUDY GARCIA: Were you familiar or  
23 did they explain the employee problem-solving  
24 procedure to you?

25 MS. IRENE CANALES: Yes, they did.



1 MR. RUDY GARCIA: One more question.  
2 Do you feel as you began to provide these complaints  
3 that this guideline was used?

10:44A

4 MS. IRENE CANALES: That this guideline  
5 was used?

6 MR. RUDY GARCIA: That's the correct,  
7 the procedure?

8 MS. IRENE CANALES: Initiated by me?

9 MR. RUDY GARCIA: No. By the people  
10 hearing your complaint. Do you feel they went  
11 through the proper steps in either escalating the  
12 complaint or staying within the procedure, explaining  
13 as to why they couldn't move forward with it or what  
14 road blocks they were coming against in resolving  
15 your complaints?

16 MS. IRENE CANALES: Did I feel the  
17 group --

18 MR. RUDY GARCIA: The management group.

19 MS. IRENE CANALES: I'm not sure what  
20 the management group did because, again, I was not  
21 communicated with by management for almost -- well,  
22 for a year now.

23 MR. RUDY GARCIA: Did they ever refer  
24 to the procedure and justification for what they were  
25 doing at times when you thought a complaint was

1 simply -- had just disappeared? Did they ever come  
2 back and say, "Well, it's at this step"?

3 MS. IRENE CANALES: No, there were  
4 never any discussions. Again, it was felt that I was  
5 not in a position to be dealing with racial  
6 discriminatory issues because that was not under the  
7 jurisdiction, so to speak, of my program.

8 DOCTOR JUNE WEBB-VIGNERY: May I ask a  
9 question?

10 THE HONORABLE MANUEL PENA: Yes.

11 DOCTOR JUNE WEBB-VIGNERY: Thank you,  
12 Mr. Chairman.

13 Ms. Canales, with the procedure that  
14 was in place with ADOT for looking into an EEO  
15 complaint, was there a written statement of  
16 confidentiality within that procedure to your  
17 knowledge?

18 MS. IRENE CANALES: Not to my  
19 knowledge.

20 DOCTOR JUNE WEBB-VIGNERY: Thank you,  
21 Mr. Chairman.

22 MR. RICHARD ZAZUETA: I have a  
23 follow-up question, Mr. Chairman.

24 THE HONORABLE MANUEL PENA: Go ahead.

25 MR. RICHARD ZAZUETA: Ms. Canales, are

1 you familiar with a program called the alternative  
2 dispute resolution program, kind of a mediation  
3 program that's been brought up by the State?

4 MS. IRENE CANALES: Yes.

5 MR. RICHARD ZAZUETA: Did you ever look  
6 into it as a solution or mediation?

7 MS. IRENE CANALES: No, I did not see  
8 that as a solution. And once again, I felt that the  
9 level of which my complaint was at, it was a level  
10 above anyone in any Affirmative Action Office. It  
11 was dealing with managers, directors and the people  
12 that were supervised by the very Governor himself.  
13 And I saw it as a conflict of interest.

14 MR. RICHARD ZAZUETA: Thank you.

15 THE HONORABLE MANUEL PENA: Any other  
16 questions? If not, we thank you, and we're going to  
17 take and five-minute break to make our court reporter  
18 more comfortable.

10:46A 19 (Recess ensued from 10:47 until 10:54.)

20 THE HONORABLE MANUEL PENA: We will get  
21 started again. We will hear from Jose Puente from  
22 the Arizona Department of Transportation. I would  
23 like if you have a written statement that you would  
24 like to read to us, I would like a copy.

25 MR. JOSE PUENTE: I will have that

1 before the end of the discussion.

2 I am Jose Puente, an ADOT employee. I  
3 am the occupational safety administrator for ADOT,  
4 with statewide responsibilities, departmental wide  
5 responsibilities to conduct, to monitor, to, in  
6 effect, oversee the ADOT safety program for our  
7 employees, our customers and contractors who have  
8 contracts with ADOT through our partnering processes  
9 through the contracts.

10:55A 10 I am a Grade 23. I have been employed  
11 with ADOT seven and three-quarters years, having  
12 begun in May of 1989.

13 I began my journey with safety in 1972  
14 from the U. S. Army Transportation Corps, where I was  
15 commissioned as a second lieutenant. I am still  
16 serving as a patriot soldier and am stationed at Fort  
17 Huachuca as a logistic officer, as a installation  
18 transportation officer for Fort Huachuca.

19 I have worked with large organizations  
20 in the past, City of Tucson, City of Mesa, American  
21 Fence, American Transportation -- excuse me.  
22 American Transit Corporation, bus operations and so  
23 forth.

24 The opportunities that have been dealt  
25 to me have been extensive, and I have had large

1 organizational skills that have been part of my  
2 training phase through my opportunities.

3 I think I probably would like to start  
4 off answering the primary question: In ADOT have I  
5 seen or have I experienced discrimination in any way,  
6 form or fashion? Yes, I have. Yes, I have  
7 experienced it. Yes, I have seen it. Yes, I've  
8 heard about it. Yes, I have counseled with employees  
9 that have been part of the process.

10 Mr. Bonine asked a question the day  
11 after the Super Bowl last year in a meeting with  
12 fellow Hispanic managers that he called in, and he  
13 asked us as he went around -- and there were nine  
14 Hispanic managers from all walks of life.

15 And he asked the question, "Have you  
16 been discriminated against?" It was a shot from the  
17 hip, if you will pardon the expression, but  
18 Mr. Bonine wanted to know. It was a blank question,  
19 "Have you experienced it or have you seen it?"

10:57A 20 The first few people were afraid to  
21 answer. When it got to me, I told him, "Yes, I have,  
22 sir."

23 And it was an important part of the  
24 process because at that point I was about the fourth  
25 person to be asked. After that people began to

1 realize that it was a fair question for a fair  
2 response. My response was yes.

3 And so with that regard, Mr. Bonine  
4 began to then advise us that he had not really ever  
5 dealt with the Hispanic culture in the past. He did  
6 not have any experience. He did not even consider  
7 Hispanics to be minorities.

8 The issue being that he called a group  
9 of Hispanic managers, and the essence was for us to  
10 educate him on our culture and educate him on how we  
11 think.

12 And so the process went from there to a  
13 more amicable meeting.

14 J:58A In the process Mr. Bonine also stated  
15 to us that the only culture he had dealt with besides  
16 his culture, the Angelo culture, was the black  
17 culture. He had seen it in Mobile, Alabama, as the  
18 district engineer for the Corps of Engineers.

19 I had to explain to Mr. Bonine, and I  
20 asked him a question, "Sir, are you a Army colonel?"  
21 He said, "Yes." "Have you had experienced in the  
22 military with your 20-some-odd years of experience?"  
23 "Yes, I have." "Have you not ever run across a  
24 Hispanic person in your platoon, in your company, in  
25 your battalion?"

1                   At which point he then told me, he  
2                   says -- he answered the question, he said, "Yes, my  
3                   first sergeant was a Sergeant Romero." He mentioned  
4                   a Hispanic name.

5                   And I said, "Sir, what is the  
6                   difference between that and today?" And that was the  
7                   essence. I did not understand how he could not  
8                   understand or how -- how he would not know that one  
9                   culture -- one versus the other, black and Hispanic,  
10                  the Angelo culture.

11                  At that point it became evident to me  
12                  that perhaps at this point it was a bigger concern  
13                  than I had previously stated. At that point, at that  
14                  meeting, I had filed discrimination charges through  
15                  EEOC Federal, and I filed a retaliation charge after  
16                  that meeting on the basis of couple of things.

17                  One is he called -- the meeting that  
18                  Mr. Bonine called and had us to show up, he would  
19                  just randomly call people and have them show up.  
20                  This time he randomly called all Hispanics, and it  
21                  was a random shot, I presume, at 4,500 people. He  
22                  was able to get nine people to come and meet with  
23                  him.

1.1-00A 24                  So number one, it was a loaded  
25                  question. At that point Mr. Bonine divulged

1 information that, in effect, put me in harm's way for  
2 which I called a retaliation charge that he discussed  
3 issues that I had brought through my charge to the  
4 EEOC and in confidence at this point. And he was  
5 disclosing information that there had been charges  
6 filed and so on and so forth. On that basis I filed  
7 a charge. That is one typical example.

8 I would like to just for -- my outline  
9 of notes, I would like to go back to what has  
10 happened at ADOT and what we feel.

11 I'm a professional safety person.  
12 There are seven people on my staff. There are --  
13 there's one industrial hygienist, three safety  
14 consultants. There is an engine response specialist,  
15 my secretary, who also is a worker's comp person.  
16 We're all professionals on my staff. Any of my staff  
17 members can take a problem and take it to resolution.  
18 So we're dealing with professional people here.

11:01A

19 I'm a Grade 23. What does a Grade 9  
20 have to contend with? What does a Grade 15 have to  
21 contend with? What does a Grade 17 have to contend  
22 with? If a Grade 23 has problems, to me there is a  
23 problem. And I have in my professional opinion and  
24 ethics code, I have to try to help those in need.

25 And for that reason that's why I'm here



1 today. Having experienced this professionally and  
2 personally. I have seen blatant cases.

3 In one case the district engineer  
4 refused to let me teach a class in his district  
5 because my Angelo subordinate was sick.

6 The topic was on confined spaces. I  
7 wrote the spec on confined spaces, which I serve on  
8 the Industrial Commission of Arizona Safety and  
9 Health Committee, and I help and promulgate the rules  
10 and the standards through the Industrial Commission  
11 Committee of Arizona and I worked on that committee  
12 in the '70s and '80s, and I have been on that  
13 committee to 17 years.

14 Topics that I know and I am  
15 supervising, and it would be very difficult for me to  
16 understand why I, as a safety professional, could not  
17 take the place of one of my subordinates and teach  
18 that class.

19 That having occurred, I taught the  
20 class. Immediately after the class the district  
21 engineer proceeded to ask my boss, Mr. Ray Ellis, who  
22 in 1990, roughly 1990, he asked for my individual  
23 subordinate to be transferred to his district. He  
24 would deal with my subordinate.

25 He had no need for further services

1 from Jose Puente and his troops. The answer came  
2 back this is a centralized safety program, and we are  
3 going with that.

4 At that point the relations with the  
5 district engineer have not improved. If anything,  
6 there has been an eroding and compromising of the  
7 safety program within ADOT based on what I perceive  
8 to be no other reason except what I perceive to be  
9 the wrong color. That is the blatant.

11:03A 10 The subtle, the comments. I'm referred  
11 to by Mr. Moreland, personnel director, as colonel.  
12 I earned that rank. I've had 26 years in the Army  
13 reserve, and I've earned that rank, and it's not to  
14 be taken likely. It's not to be stepped on. The  
15 President of United States and Congress gave me that.

16 And Mr. Moreland uses it as a ha-ha  
17 nice little thing in that regard as I walk through.  
18 That's blatant and also it's a very subtle.

19 Going back to other practices I have  
20 seen, in the three meetings I had with Mr. Bonine  
21 from December of '93 to June '95, I brought up these  
22 issues as I'm speaking with you. The first meeting I  
23 had with him, Mr. Bonine lined up the State engineer,  
24 the Deputy Director, and he lined up three or four  
25 other people, and they were all there as an audience.

1 And I was speaking to kangaroo court if you will.

2 I met with them without notes. And the  
3 comment Mr. Bonine had was he was impressed, "No  
4 notes. 20 minutes. I'm impressed."

11:04A

5 And so I was basically speaking from  
6 the heart. I know ADOT. I know the employees. I  
7 know the issues. I deal with the level where the  
8 employees are dead. That's a worse case scenario.  
9 There is nothing worse than them being dead.

10 We've had five deaths since 1988. My  
11 program has suffered, and I say my program, the one  
12 I'm charged with, the seven or eight people, also  
13 45 or 50 people that have to work with us in the  
14 field. Those folks are not getting the services on  
15 the basis of a lot of innuendos, half truths and a  
16 lot of rhetoric and a lot of daily justification of  
17 our jobs. Daily justification of what am I there  
18 for? Who needs you?

19 Mr. Schmitt has said, "We can contract  
20 your services out at any time." "I know," I said,  
21 "Yes, sir. I was looking for a job when I came  
22 here." Those are the kind of rhetoric that goes back  
23 and forth. At times it is appropriate for us to  
24 respond and at times it isn't.

1:06A

25 It never stops to hurt. It never stops

1 to touch the very person who is responsible to carry  
2 the program through. It never stops to hurt.

3 However, I will pull myself out and go look at that  
4 young lady or that the person in the trench, and  
5 that's my main purpose in life is to keep them alive  
6 and get them home safely daily. And I have come  
7 through this process in order to be there.

8 On another occasion Mrs. Peters, my  
9 supervisor, wrote me up. I am probably the only  
10 manager in ADOT who works for the Director's Office  
11 besides Ms. Canales, who has had to deal with some  
12 kind of reprimand or disciplinary action or loss of  
13 job.

14 I received a reprimand, a letter of  
15 concern that did not go into my file. I have a copy.  
16 And the letter was based on some complaints from the  
17 district engineer in another location in Holbrook  
18 over an employee who had gone through the process of  
19 Affirmative Action, personnel, and had walked through  
20 all the stages of ADOT.

21 And they thought, "Oh, let's include  
22 safety. This guy has to wear steel-toed shoes."  
23 Mr. Schmitt brought me to the office, "I have a  
24 question. I don't want to rhetoric. Only two  
25 answers 'yes' or 'no.' Are maintenance workers

1 required to wear steel-toed shoes on the job?" I  
2 said, "Yes, they are." "Thank you very much. That's  
3 all I need. You're dismissed."

4 This employee spent over 29 years in  
5 ADOT and had vied for and did not get a job as a  
6 supervisor within ADOT and this gentleman had spent  
7 29 years. Unbeknownst to me, this person has a club  
8 foot. This person all these years has worked with a  
9 club foot. This person has put 29 years, has  
10 invested 29 years of his life into ADOT, plus now he  
11 is at a age where he has diabetes and cannot wear  
12 steel-toed shoes.

13 The issue came to me as a safety issue.  
14 I handled it a holistic manner. Safety, yes there is  
15 a way. DOA risk management. Get rid of the person.  
16 He can't work with steel-toed shoes. DOA risk  
17 management came back. That's what I was written for.

18 Sorry to take so much time.

19 It started in September of '94, and it  
20 went through March of '95 and at the end of March of  
21 '95, I got a letter of concern that I stood and  
22 defended an employee, and that employee wasn't going  
23 to be hammered out using safety as a driver. There  
24 were other processes that had not worked well. The  
25 employee is no longer with ADOT and for that reason I

1 was written up. And based on innuendos and half  
2 truths and certainly a setup.

3 We've had issues with Mr. Schmitt, and  
4 Mr. Schmitt is a large player. He threatened or  
5 advised me that my job can be contracted out. I do  
6 take him seriously. I've always taken any engineers  
7 seriously. He's now the State engineer.

8 There were issues that Mr. Schmitt did  
9 not agree with us because we do emergency response  
10 for ADOT. And because he didn't agree with us, he  
11 was able to, as a State engineer, control my destiny.  
12 He could control an argument that would start in his  
13 office, and he could take it next door and basically  
14 have his way.

15 Basically needles that have been used  
16 and thrown on the side of the road, a mower comes  
17 along, one of our mowers, and they go all over the  
18 place.

19 You call Haz Mat. Who is Haz Mat? My  
20 unit. My unit has had orders to go only when  
21 required by Mary Peters, Thomas Schmitt, Larry Bonine  
22 and August Hardt. Only go when required. You  
23 respond drastically. Et cetera, et cetera, those  
24 kind of innuendos.

25 The needles need to be disposed of in a

1 manner that the EPA will understand and buy into, but  
2 not only that, it's a requirement of the health  
3 department. Employees cannot be exposed to needles  
4 because of the OSHA standards that say you cannot  
5 handle needle.

6 We call Haz Mat. Half a day went by  
7 before we were called. ADEQ called us. At that time  
8 when I brought the issue to Mr. Schmitt, he took me  
9 in his office, and he told me basically -- and he has  
10 told me three times that I am full of -- and it's an  
11 expletive.

11:11A 12 That one time he told me -- he put his  
13 foot up on the desk and he munched on an apple while  
14 he talked to me. That tells me I'm not anybody of  
15 any importance.

16 Another time he addressed me and said  
17 the same things after I had attempted, in a meeting  
18 with Mr. Bonine, to address issues. "You have too  
19 many of the same people serving on teams. You don't  
20 have the Hispanics. You don't have the lower class  
21 grades involved in teams. All you have is your  
22 favorite people on your teams. We need to address  
23 this. I'm one of your managers. This is advice."

24 Mr. Schmitt, at the break in front of a  
25 lot of people, told me I was full of -- and expletive

1       again.

2                   At this point now I have all of those  
3 managers who have heard me, have heard the  
4 discussion. And so, in essence, what I'm trying to  
5 say at this point is this regardless of -- regardless  
6 of how hard or how much effort we put into a program,  
7 all it takes is a bad word, a bad word.

8                   And even a bad word from one of my  
9 co-workers, a bad word from someone who is angry at  
10 me, is one thing but to belittle me in front of my  
11 peers, over 100 people that heard, that is not  
12 acceptable by my standards.

12A 13                  So Mr. Schmitt has been a key player.  
14 So with that in mind I would like to say that in our  
15 daily tasks of justifying our jobs and our existence.

16                  At times it appears that it becomes a  
17 burden, and Hispanic and other employees of minority  
18 status of color have carried the burden.

19                  The rewards are not evident except in  
20 the long days and then the next check maybe and maybe  
21 we can coexist.

22                  In justifying even in my grade in ADOT  
23 as a Grade 23, justifying the abuse in my mind, it's  
24 mental anguish that I have to go through, and then I  
25 have to be a team player, and I have to buy into the



1 corporate spirit of total quality management.

2 I see the walk -- I see the talk, but I  
3 don't see the walk. I see the daily briefings we go  
4 to and I hear the books being read by everybody, and  
5 they recommend this book and recommend that book.

11:13A

6 I don't see the walk, and it is very  
7 difficult for me to buy into something when I see  
8 that employee who had an accident who is never going  
9 home again. It's rhetoric in my opinion.

10 In closing, I would like to say this:  
11 ADOT, in my opinion, participated in institutional  
12 racism, and my personal efforts to identify the  
13 issues to bring them forward for Director Bonine, to  
14 Deputy Director Peters, to Mr. Schmitt and Mr. Hardt  
15 and folks who are at a high level within the  
16 Department have fallen on deaf ears.

17 We love our jobs. I work 18 hour days.  
18 I get up at 3:00 in the morning to do a Haz Mat call  
19 in Seligman on duty. That's my duty because one of  
20 my fellow employees is out there, too. And the  
21 reasoning behind my duty is because when they're on  
22 duty, I'm on duty, too.

11:14A

23 So with regard to falling on deaf ears,  
24 that's what it is. As we love our jobs, we're loyal  
25 public service. We have diligently done our

1 professional tasks on behalf of the State, our fellow  
2 employees, for our families, for the community.

3 We serve on United Way. We work with  
4 our little league teams. We go to church, and we  
5 participate actively. Among other things that's our  
6 duty.

7 So all we ask for is fair treatment.  
8 No matter how hard we try, the system is not  
9 responding, and we have now staked our jobs because I  
10 know my job is on the line.

11 Mr. Schmitt told me that. And then  
12 Mr. Schmitt is in the position where he can affect  
13 that. And then our reputations are on the line  
14 that's what is going to feed me. I have 20-some-odd  
15 years in the business, and I have a good reputation,  
16 and that is what is going to continue my employment  
17 in the future.

18 Our resources and stamina, yes, we have  
19 put them to test. We have pushed the issue out of  
20 ADOT's trenches. This is why we're here. We tried  
21 the trenches, and it wasn't working.

11:16A 22 So as to create the better environment  
23 for our fellow Latino and other minority employees in  
24 ADOT, our future may look bleak now. Either we do it  
25 or we shut up. We must step forward. We must be

1 counted. Our children and grandchildren do not need  
2 to be dealing with this issue. This has been going  
3 on long enough.

4 This vicious cycle must stop. We've  
5 chosen this route to effect viable change. We are  
6 able to make change. We can do if we're given the  
7 opportunity.

8 I am out of the loop. Ms. Canales was  
9 out of the loop. My office is on Beardsley, 16 miles  
10 away. All other managers of my status are right  
11 under the wing of the Director at 206 South 17th or  
12 within range. I am 16 miles away, and I have to  
13 fight the traffic when something comes up, and I  
14 don't know about the meetings that are going on. I  
15 missed one last week. Didn't even know about it.

11:17A

16 So this is going to enable us once and  
17 for all to have an active role in charting our  
18 destination, and that is our inalienable right. It's  
19 guaranteed by the Constitution of the United States,  
20 and we deserve to be happy. We deserve to live in  
21 harmony with our fellow Americans.

22 For we can do our simple math -- or you  
23 can. You can figure out that Latino employees are  
24 not represented well in the higher echelons of ADOT,  
25 and if they were -- and we have excellent

1 engineers -- we would be among the district  
2 engineers. I don't know of any district engineers of  
3 Hispanic culture.

4 Deputy Directors, never given the  
5 chance. Division Directors and positions that enable  
6 us to effect change and to be able to make the  
7 difference between the economic strata of those jobs  
8 that we now occupy.

11:18A

9 I thank you and can I answer any  
10 questions?

11 THE HONORABLE MANUEL PENA: Thank you.  
12 Any questions.

13 MR. JONES OSBORN: Mr. Chairman?

14 THE HONORABLE MANUEL PENA: Go ahead.

15 MR. JONES OSBORN: Mr. Chairman,  
16 Mr. Puente, you're using an abbreviation I'm not  
17 familiar with, Haz Mat.

18 MR. JOSE PUENTE: Yes.

19 MR. JONES OSBORN: What does that stand  
20 for?

21 MR. JOSE PUENTE: Short version of  
22 hazardous materials, and I neglected to mention that  
23 my office is responsible for the Code of Federal  
24 Regulations that control the handling of material  
25 regulations under the 40 CFR, 29 CFR, which is labor,

1 the 49 CFR, which is transportation, and the 30 CFR,  
2 which is mine health and safety. All of those affect  
3 us, and so I apologize for that.

4 MR. JONES OSBORN: That's all right.

5 Now, I'm interested in the exact date,  
6 if you can give it to us, when Mr. Bonine called you  
7 in along with some other Hispanic employees of ADOT  
8 and asked if you were aware of any discrimination.

9 You mentioned the Super Bowl. What  
10 year Super Bowl?

11:19A 11 MR. JOSE PUENTE: Yes, sir. That was  
12 last year, the Monday after the Super Bowl.

13 MR. JONES OSBORN: '96?

14 MR. JOSE PUENTE: Yes, sir.

15 MR. JONES OSBORN: What do you think  
16 occasioned that event by Mr. Bonine?

17 MR. JOSE PUENTE: Well, by that time I  
18 had filed.

19 MR. JONES OSBORN: You had filed?

20 MR. JOSE PUENTE: My EEOC complaint.

21 MR. JONES OSBORN: Do you think he was  
22 aware of that?

23 MR. JOSE PUENTE: Yes, sir.

24 MR. JONES OSBORN: You do?

25 MR. JOSE PUENTE: He mentioned at that

1 time, and there were some letters that went to  
 2 Mr. Bonine from a couple of our centers and our  
 3 representatives, and he mentioned that he had  
 4 received one that he was particularly upset about.  
 5 That was Mr. Hamilton. He mentioned Mr. Hamilton,  
 6 and he went into some detail enough to where I was  
 7 somewhat compromised at which point I was --

8 MR. JONES OSBORN: Are you aware --  
 9 would you say the atmosphere at ADOT has  
 10 substantially changed, improved, or gotten worse or  
 11 stayed the same?

11:20A

12 MR. JOSE PUENTE: Sir, when I --

13 MR. JONES OSBORN: Since then.

14 MR. JOSE PUENTE: Since '89 yes, we  
 15 have gone -- it has gone to the detriment of the  
 16 employees and the well-being of our organization in  
 17 my opinion.

18 MR. JONES OSBORN: Thank you,  
 19 Mr. Chairman.

20 THE HONORABLE MANUEL PENA: Doctor  
 21 Vignery?

22 DOCTOR JUNE WEBB-VIGNERY: Thank you,  
 23 Mr. Chairman.

24 Mr. Puente, I had a couple of  
 25 questions. Just for clarification, one statement you

1 made was that the only other -- you were the only  
2 other manager of ADOT who had received a reprimand;  
3 is that correct?

4 MR. JOSE PUENTE: That was basically in  
5 the context, yes.

6 DOCTOR JUNE WEBB-VIGNERY: In your  
7 file.

8 MR. JOSE PUENTE: Okay. There were two  
9 managers in the diversity report of 1993 that were  
10 reported, that ADOT commissioned, if you will. There  
11 was mention of two managers who had been removed from  
12 the Director's Office and had been moved elsewhere.

13 The two managers would be myself and  
14 Ms. Canales, who was with the Director before  
15 Mr. Bonine came along.

16 Mr. Cowen came aboard. We were sent to  
17 Administrative Services, and I was basically speaking  
18 to the issue of those two same managers are still --  
19 still the two of us. Ms. Canales has lost her  
20 position. I have been reprimanded, and in my opinion  
21 I am in harm's way.

11:22A 22 DOCTOR JUNE WEBB-VIGNERY: And a second  
23 question. You mentioned district engineers.

24 MR. JOSE PUENTE: Yes.

25 DOCTOR JUNE WEBB-VIGNERY: And I gather

1 you are one of the district engineers?

2 MR. JOSE PUENTE: No, ma'am. I'm  
3 Occupational Safety Administrator. The District  
4 Engineer would be a Highways Intermodal Division to  
5 head up the district.

6 There were four in '89, and there are  
7 now ten.

8 DOCTOR JUNE WEBB-VIGNERY: To follow  
9 up, are there any Hispanic district engineers?

10 MR. JOSE PUENTE: No, ma'am.

11 MR. RICHARD ZAZUETA: Mr. Chairman?

12 THE HONORABLE MANUEL PENA:

13 Mr. Zazueta.

14 MR. RICHARD ZAZUETA: Mr. Chairman,  
15 Mr. Puente, are you the highest ranking Hispanic in  
16 the Department of Transportation?

17 MR. JOSE PUENTE: Sir, I really can't  
18 answer that exactly. I don't know the pay grade.  
19 But I'm Pay Grade 23, and in discussion with Mary  
20 Peters, is one of the top covered positions in the  
21 Department. So beyond that level they go uncovered.  
22 So Grade 23 is presumably one of the highest.

11:23A

23 In the last few years possibly some  
24 have moved into closer range. I don't know the exact  
25 answer. At the time when I first came, I was among



1 the top.

2 MR. RICHARD ZAZUETA: Thank you.

3 THE HONORABLE MANUEL PENA: Mr.  
4 Echeveste?

5 MR. ADOLFO ECHEVESTE: Mr. Chairman,  
6 Mr. Puente, I'm not sure if this question is  
7 appropriate, but I want to pursue it based on your  
8 statement, and perhaps maybe it's not appropriate of  
9 you, but I'll see. I'll put it on the table.

10 You stated that in your opinion you  
11 feel there is institutional racism?

12 MR. JOSE PUENTE: Yes, sir.

13 MR. ADOLFO ECHEVESTE: In pursuit of  
14 that, one of the pieces of information in our packet  
15 is the Affirmative Action chart at the Department of  
16 Transportation. I don't know if you're able to give  
17 me the answer, but I'm curious as to the staff that  
18 is shown here, what racial ethnic background does  
19 this represent? For example, the Director?

11:24A 20 MR. JOSE PUENTE: That's the  
21 Affirmative Action officer.

22 MR. ADOLFO ECHEVESTE: It's Affirmative  
23 Action Administrator Lisa Wormington?

24 MR. JOSE PUENTE: She's an Angelo  
25 woman, yes.

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11:25A 21  
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MR. ADOLFO ECHEVESTE: Her administrative secretary Karen Poppleton?

MR. JOSE PUENTE: Yes, Angelo.

MR. ADOLFO ECHEVESTE: The Equal Opportunity Specialist IV, Eddie Edison?

MR. JOSE PUENTE: Yes. Black.

MR. ADOLFO ECHEVESTE: And a Specialist III, Travis Benton?

MR. JOSE PUENTE: Black, sir.

MR. ADOLFO ECHEVESTE: The Specialist II, Carolyn McMahon?

MR. JOSE PUENTE: Angelo.

MR. ADOLFO ECHEVESTE: The Specialist II, Tom Moore?

MR. JOSE PUENTE: Angelo male.

MR. ADOLFO ECHEVESTE: There is a vacant position, Specialist II, so hope springs eternal.

I'll stop there with my questions at this time.

THE HONORABLE MANUEL PENA: Anybody else? Mr. Garcia?

MR. RUDY GARCIA: Mr. Chairman, Mr. Puente, in your seven-and-a-half tenure, you have received periodic evaluations, I assume, for that

1 period?

2 MR. JOSE PUENTE: Yes.

3 MR. RUDY GARCIA: What type of scores  
4 did you receive?

5 MR. JOSE PUENTE: Initially there was a -  
6 learning phase, getting used to the Department. It  
7 went from fives to sixes to sevens to sevens and  
8 eights.

9 Change came along and there was one  
10 evaluation around sevens and then when I went back to  
11 the Director's Office, because I was transferred back  
12 in '93 early '93, there was a period where I did not  
13 receive an evaluation for a couple years.

14 After that, evaluations have been in  
15 the fours, fives, sixes range. And the last one up  
16 in the four, fives and sixes and the last one was a  
17 little higher.

11:26A 18 MR. RUDY GARCIA: What would that  
19 represent, above average performance, four, five,  
20 six?

21 MR. JOSE PUENTE: That's subjective,  
22 obviously. The manager that I worked for has a  
23 different range, different than I do. In my shop  
24 seven and eight would be an extremely good rating.  
25 And the fives and sixes would be in the average.

1 Anything below that would be need some help.

2 MR. RUDY GARCIA: So going to this  
3 reprimand that you received, which I believe you  
4 indicated you felt it was somewhat retaliatory, that  
5 would be inconsistent with the evaluations that you  
6 received?

7 MR. JOSE PUENTE: Yes, sir.

8 THE HONORABLE MANUEL PENA:

9 Ms. Willrich?

10 THE HONORABLE PENNY WILLRICH:

11 Mr. Chairman, Mr. Puente, you would consider yourself  
12 part of the upper management of the Department; is  
13 that correct, part of the top administrative staff?

14 MR. JOSE PUENTE: Yes, ma'am.

15 THE HONORABLE PENNY WILLRICH: As part  
16 of the top administrative staff has there been any  
17 diversity training for the management itself?

11:27A 18 MR. JOSE PUENTE: No.

19 THE HONORABLE PENNY WILLRICH: Let me  
20 also ask, Mr. Puente, one of the comments that you  
21 made was that you thought there was institutional  
22 racism, and the comments that have been made by  
23 yourself and Ms. Canales has made, at least, pointed  
24 to Mr. Bonine as the Director at the time.

25 One of the things that I'm learning, is

1 this something that has been a part of the Department  
2 prior to Mr. Bonine becoming the Director and it's  
3 just a carryover, or is it something that came on as  
4 Mr. Bonine took on as Director of the Department?

5 MR. JOSE PUENTE: It's been going on  
6 for a while. This is a long-term problem as I  
7 mentioned in the last statement.

8 My concern was that in '93 I took the  
9 time and put myself in harm's way with Mr. Bonine to  
10 explain to him what I was hearing and provided a  
11 mechanism which I felt because of my influence and  
12 because of my abilities to speak two languages and to  
13 communicate with people in the field, that I could be  
14 of assistance.

11:29A

15 And between '93 and '95, that was not  
16 taken advantage of. In fact, Mr. Bonine in May of  
17 '95 told me that he didn't want to hear any more  
18 comments from me about Hispanics and racism and so  
19 forth because he was tired of hearing it, and that he  
20 would rather that I concentrate on my job and get  
21 those accidents down and get the program going.

22 So at that point this is why now I  
23 believe Mr. Bonine has as Director of ADOT the  
24 responsibility to resolve that.

25 THE HONORABLE PENNY WILLRICH: One

1 follow-up question, Mr. Chairman.

2 In our materials we've been provided  
3 with the diversity plan for ADOT. What you're saying  
4 in answer to my formal question is that the top  
5 administrators have not been trained in terms of  
6 diversity and applying that in supervision for other  
7 staff?

8 MR. JOSE PUENTE: I believe what you  
9 have there is a report that was generated by the task  
10 force and that it was began but did not see its way  
11 through. I don't know how far up the organization  
12 through the organization it went.

30A 13 I was provided a copy as a result of  
14 starting LaVoz, and we were using the report to try  
15 to find out where some of the problems were.

16 THE HONORABLE PENNY WILLRICH: Thank  
17 you, Mr. Chairman.

18 THE HONORABLE MANUEL PENA: Mr. Puente,  
19 were you with ADOT when James Creedon was acting  
20 director?

21 MR. JOSE PUENTE: Yes, sir.

22 THE HONORABLE PENNY WILLRICH: Can you  
23 tell us about any difference in racial attitude under  
24 his leadership and with the current leadership?

25 MR. JOSE PUENTE: Yes, sir. I

1 certainly can see there was a major difference.  
2 Mr. Creedon was 100 percent better. Mr. Creedon was  
3 well on the way to understanding and resolving  
4 issues.

5 He understood it and he dealt with it,  
6 did not tolerate -- in my opinion, did not deviate  
7 from his professional attitude. And it was much  
8 better.

11:31A

9 THE HONORABLE MANUEL PENA: So in your  
10 opinion things began to get worse racially after  
11 Mr. Bonine came on board?

12 MR. JOSE PUENTE: Yes, sir.

13 THE HONORABLE MANUEL PENA: Thank you.  
14 Ms. Julien?

15 MS. ANGELA JULIEN: Mr. Creedon was  
16 acting director in 1992 when the diversity team  
17 charter was established; is that correct?

18 MR. JOSE PUENTE: I don't remember the  
19 days.

20 MS. ANGELA JULIEN: He's listed as  
21 Acting Director. My question is we do have this copy  
22 of the diversity team charter, mission statement,  
23 five-year plan.

24 To your knowledge has that diversity  
25 team continued to meet and work and communicate to

1 employees, or has there been an official disbanding  
2 of that team?

3 MR. JOSE PUENTE: They haven't met  
4 because one of my employees was on the team, and he  
5 hasn't gone to any meetings. It's been quite a few  
6 years since they met.

11:32A

7 MS. ANGELA JULIEN: But to your  
8 knowledge has there been any official statement as to  
9 whether or not that team still exists?

10 MR. JOSE PUENTE: That I don't know.

11 THE HONORABLE MANUEL PENA: Ms. Kraus?

12 MS. PATRICIA KRAUS: You talked about  
13 the letter of reprimand. Can you tell me  
14 specifically what that letter was in reference to?

15 MR. JOSE PUENTE: It was directed at my  
16 activities when I mentioned I had been set up. The  
17 District got with the Director's Office personnel and  
18 Affirmative Action, and they asked for a conference  
19 call.

20 And as I'm 16 miles away, I'm running  
21 back and forth between buildings and between sites.  
22 So we set a specific time. I went to my office and  
23 took the call.

24 And essentially what I was reprimanded  
25 on was an oversight on my part. The reason I believe



1 I was set up is because I took the case in September,  
2 and in January still things had not been resolved.  
3 And into March, we now are trying to get this  
4 employee evaluated by a professional doctor, second  
5 opinion -- third opinion by this time.

11:33A

6 The District laid the responsibility on  
7 me. Personnel, Mr. Moreland did not even field the  
8 call, nor did any of his representatives who could  
9 have advised us on personnel issues.

10 The District personnel were all asking  
11 to have Joe Puente set the appointment up. We must  
12 have one of the foremen, one of the supervisors from  
13 Holbrook go with the employee to the doctor's office,  
14 because Joe Puente is feeding information to the  
15 doctor that is not true. That is a Tech III who does  
16 certain things according to this the PDQ that was on  
17 file at personnel.

18 I work via cellular so we had that  
19 faxed over to the doctor's office.

20 District was upset about that, and they  
21 wanted a certain supervisor to accompany the employee  
22 in question to the doctor's office and sit with him  
23 in the doctor's office and explain to the doctor this  
24 PDQ is not correct. In fact, this is what this  
25 employee does.

1                   So they did not trust the employee to  
2 tell the truth. Certainly did not trust me to tell  
3 the truth. Obviously that was kind of the setup it  
4 was. I got to call this employee.

5                   I had an eye injury, and I was  
6 recovering from it. And I had my staff working on  
7 this, and I forgot to call that gentleman.

8                   That gentleman and I worked safety for  
9 six years before and there is no reason why I would  
10 not have called him. It was an oversight.

11                   On that oversight the District  
12 complained, filed a letter, E-mail, hate mail and the  
13 basis for the reprimand that I received was on their  
14 allegations and some words taken from the medical  
15 report, which I allegedly planted or had the doctor  
16 know.

17                   One particular case would be that the  
18 employee when he goes there, this would become a  
19 workers' comp. I administer worker's comp for ADOT.

20                   It's the responsibility of an employer  
21 to inform the doctor if the employee is going to  
22 change doctors. The employee cannot change doctors  
23 on their own.

24                   I was facilitating for the employee.  
25 The employee was my key issue. This person could not

1 work. He was going to be out of a job. I needed to  
2 make it. That employee walked in and he brought his  
3 wife from Flagstaff and they were there. The doctor  
4 had all he needed, but all of that was used in the  
5 letter.

11:36A

6 I had no -- there was no way I could  
7 convince my supervisor that it was wrong the way the  
8 employee was being treated, and I did not deserve the  
9 letter. I was upset about myself and also about the  
10 employee.

11 MS. PATRICIA KRAUS: One more question.  
12 The status of your EEOC case, have you heard from the  
13 Committee on any followup?

14 MR. JOSE PUENTE: From the federal  
15 EEOC?

16 MS. PATRICIA KRAUS: Yes.

17 MR. JOSE PUENTE: Yes, ma'am. I've got  
18 some letters back. And they informed me that we have  
19 at right to go to mediation through the Governor's  
20 Office. I spoke with a gentleman from the Governor's  
21 Office.

22 And I chose not to pursue that because  
23 I felt that my best interest would not be  
24 represented. How could, in fact, an appointee of the  
25 Governor represent me when my Director is also

1 appointed by the Governor as are the key staff at  
2 ADOT?

11:37A

3 So I did not feel it would be in the  
4 best interest. I had already tried. I had done what  
5 I felt I needed to do with the Director to try to  
6 help.

7 I guess at this point it was not going  
8 to do me any justice.

9 MS. PATRICIA KRAUS: Thank you,  
10 Mr. Chairman.

11 THE HONORABLE MANUEL PENA:  
12 Mr. Echeveste?

13 MR. ADOLFO ECHEVESTE: Mr. Chairman,  
14 Mr. Puente, the letter of reprimand that you  
15 received, the employee that you were attempting to  
16 facilitate the process which you are responsible for,  
17 was this an employee that -- how long had he been in  
18 the Department or she?

19 MR. JOSE PUENTE: This gentleman had  
20 been in the Department -- he was a 51-year-old male  
21 at the time. Been with the Department 29-plus years.

22 MR. ADOLFO ECHEVESTE: 29 years. Was  
23 this higher level, lower level employee?

11:38A

24 MR. JOSE PUENTE: This employee had  
25 worked his way up to Maintenance Tech III, which is

1 as high up as they get without going into the  
2 supervisor level, as I recall the system.

3 MR. ADOLFO ECHEVESTE: 29 years. Was  
4 this employee a minority employee or Angelo employee?

5 MR. JOSE PUENTE: This gentleman is a  
6 Hispanic male.

7 MR. ADOLFO ECHEVESTE: Do you feel that  
8 you were doing your job, meaning your  
9 responsibilities, in attempting to implement your job  
10 properly with an employee and it resulted in a  
11 reprimand?

12 MR. JOSE PUENTE: Yes, sir, because the  
13 district engineer went to my office, from Holbrook  
14 and he asked me -- he needed to see me. When he came  
15 to my office, he said, "You're Hispanic. This  
16 gentleman is Hispanic. I need help. This gentleman  
17 is not too bright. You need you to help me to get  
18 him to understand. He doesn't do real good on his  
19 reports, very well on his reports. He has problems  
20 understanding direction, and so as a Hispanic to  
21 Hispanic I would like you to facilitate this for me."  
22 This is why I poured my soul into it.

11:39A 23 In the sense that I supported the  
24 Department, I supported the engineer and I supported  
25 the employee which is what I'm supposed to do.

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I assigned that function to one of my subordinates, Mr. Roger Cox. And he is the one that did all the background work. When I brought that to Mrs. Peters', attention she would not hear of it.

In fact, since he brought the Hispanic issue up, I pulled myself right out of it again. I felt it was appropriate because I have to continue a holistic approach in dealing -- I have to advise employees of their rights, and I have to protect the Department.

We have a good track record with worker's comp as well as incident rates despite the problems we have had. As I mentioned earlier, I go back to the trenches when I need to blow off steam. I go back to the trenches. I put my efforts into people that want the help.

11:40A

MR. ADOLFO ECHEVESTE: Follow-up question. I'm having difficulty understanding. They asked you to facilitate with this employee.

Was there an outcome that the Department wanted that was different from what you did? What did they want then, from your opinion?

MR. JOSE PUENTE: My professional opinion, not personal, I felt that this employee -- they were using safety steel-toed shoes as a final

1 recourse to very easily phase this person out, retire  
2 him medically, get him out of the way and allow the  
3 new supervisor to function without this gentleman  
4 being around. I believe that is really the whole  
5 intent.

6 MR. ADOLFO ECHEVESTE: And that's why  
7 you were asked to interject yourself directly?

8 MR. JOSE PUENTE: Yes, and I believe I  
9 served him well.

11:41A 10 MR. ADOLFO ECHEVESTE: I see. Thank  
11 you.

12 THE HONORABLE MANUEL PENA: Ms. Julien?

13 MS. ANGELA JULIEN: Mr. Chairman,  
14 Mr. Puente, going back to a different issue, the day  
15 after the Super Bowl meeting.

16 MR. JOSE PUENTE: Yes, ma'am.

17 MS. ANGELA JULIEN: You said that  
18 Mr. Bonine referred to issues in your complaint. I'm  
19 curious about whether you feel that during that  
20 meeting your colleagues were aware that those issues  
21 came directly from you; was that inferred or stated?

22 MR. JOSE PUENTE: Yes, ma'am. I felt  
23 that threat, and I felt that I had been basically  
24 brought in, and Mr. Bonine had used it as a point of  
25 reference.

1                   If I had volunteered the information, I  
2 would have volunteered to end the process before it  
3 went through due process.

4                   MS. ANGELA JULIEN: And when you were  
5 invited to this meeting, did you have any idea what  
6 the purpose of the meeting was?

11:42A 7                   MR. JOSE PUENTE: No. As a matter of  
8 fact, I scheduled to be off that day. My cousin was  
9 in town for Super Bowl, and I couldn't be with him.  
10 I was asked to come in there.

11                   MS. ANGELA JULIEN: Through memo or  
12 phone call?

13                   MR. JOSE PUENTE: Phone calls, and I  
14 don't recall if there was a memo.

15                   MS. ANGELA JULIEN: And there was no --  
16 you didn't know what the meeting was regarding?

17                   MR. JOSE PUENTE: No, I didn't. It was  
18 a meeting which when I walked in, I saw the faces,  
19 and I heard the discussions, and I knew what it was  
20 about.

21                   THE HONORABLE MANUEL PENA: Take any  
22 other questions?

23                   MR. RUDY GARCIA: One more.

24                   Mr. Puente, what do you feel would be a  
25 remedy for what you've experienced going into the



1 future for the Department?

2 MR. JOSE PUENTE: Well, sir, among  
3 other things, the threat of a daily existence of a  
4 program, it does exist for me, the daily threat of  
5 not having a job because it could be contracted out  
6 or privatized.

7 As a matter of fact, today -- I'm  
8 scheduled next week with an alliance team supposedly  
9 re-engineering and I'm part of it. I don't know what  
10 it's about. They met last week. I wasn't there.

11 The essential thing, one, I never be  
12 threatened with their job because we have other  
13 important things to do.

14 Secondly, there ought to be a  
15 commitment to a program, and there hasn't been  
16 budget. Staff, my administrative staff is gone.  
17 Clerical pool is gone. Others have plenty of staff  
18 around. I see them. Software, hardware is not  
19 available.

20 So what happens is in my business it  
21 has occurred since I've been there, is I began to do  
22 my program and become effective and make people  
23 accountable for what they're supposed to do, then the  
24 budget begins to wrap around you and become an issue.

11:44A 25

Budget, commitment to the program, and

1 I'm not sure as to where I'll be, but I think that  
2 the existence of a safety program in ADOT is  
3 essential. And I believe that I have done a good job  
4 with the program.

5 So I would like to see continuity. I  
6 would like to see respect, dignity. I would like to  
7 exercise my amendment rights to the effect I have a  
8 right to be happy. I've earned it. And so have many  
9 other people in this department that I represent.

10 THE HONORABLE MANUEL PENA: Doctor  
11 Vignery.

12 DOCTOR JUNE WEBB-VIGNERY:  
13 Mr. Chairman, thank you.

14 Mr. Puente, one question, is there any  
15 place in the State apparatus that you felt you could  
16 go with your complaint?

17 MR. JOSE PUENTE: No.

18 DOCTOR JUNE WEBB-VIGNERY: Thank you.

19 MR. RICHARD ZAZUETA: I have one  
20 followup.

21 THE HONORABLE MANUEL PENA: Go ahead.

22 MR. RICHARD ZAZUETA: Is the safety  
23 program funded through federal funds?

11-45A 24 MR. JOSE PUENTE: Well, sir, we receive  
25 money from the Construction Highway Funds. I

1 would -- I don't know the answer to that, sir, to  
2 tell you the truth.

3 I don't know how far, but it is a  
4 federal requirement, OSHA through Congress, the  
5 Williams/Steiger Act of 1970 mandates that we have a  
6 program that protects our employees.

7 I presume because of that and because  
8 the State receives money and ADOT receives money from  
9 the Federal Government, yes, sir, that would be my  
10 basis.

11 MR. RICHARD ZAZUETA: Thank you,  
12 Mr. Chairman.

13 THE HONORABLE MANUEL PENA: Any other  
14 questions?

15 We thank you, Mr. Puente, for being  
16 with us today.

17 MR. JOSE PUENTE: I'll provide a copy  
18 of these as soon as I get them in writing.

19 THE HONORABLE MANUEL PENA: We would  
20 like to hear from Mr. Arthur Stanley. Mr. Stanley is  
21 a retired former employee of Arizona Department of  
22 Transportation.

23 MR. ARTHUR STANLEY: Well, before I get  
24 started, I would like to ask that you be a little  
25 patient with me, because I've had a couple of

strokes, and the old mind is not what it used to be. It's not quick. Now, I have all the information you might want, but it might take me a little time to get it. How about that?

THE HONORABLE MANUEL PENA: That's fine. Could you just maybe tell us about some of the specific racial things that happened to you?

MR. ARTHUR STANLEY: First of all, let me let you know who I am. I'm Arthur Stanley. I'm one of the only blacks that was in ADOT in '84. And the section that we're dealing with here, I was the only black.

I was hired into this place in February of '84. The day after I was hired I walked into the agency, thinking I should thank the Director for selecting me because I needed a job.

And there was a Caucasian secretary sitting there. And she tells me, she said, "Mr. Stanley, I know you're from Seattle, Washington." She said, "I want you to know that you should not thank that fellow, because he didn't select you because you were the best applicant. He selected you because he had to."

Okay. Now, I didn't go any further than that, so there are a lot of innuendos there, but

1            anyway, as soon as I came aboard ADOT, I was, let's  
2            say, put into some very trying situations. And I  
3            would say that those situations were stressful, very  
4            difficult, because this was a job for at least two  
5            men. But I needed a job. And I did those jobs.

6                        I want to highlight some of the things,  
7            the reason we're all here. These two people have  
8            made some magnificent revelations to you. But I want  
9            to give you some devastating stuff.

10                      They tried to kill me several times,  
11            kill, k-i-l-l, kill me several times. But this was  
12            always construed as an accident.

50A 13                    I have numerous, numerous EEOC  
14            resolutions for right to sue. But I didn't want to  
15            sue the State. I didn't want to sue the State. I  
16            wanted to be treated like a human being. That's all  
17            there was.

18                      Anyway, I worked in this department,  
19            and the first director -- under the first director,  
20            he was atrocious. Not only, as the young lady said,  
21            he was forced to hire me, but the man, he hated a  
22            black person on his staff.

23                      Anytime you work with non -- I ain't  
24            going to say this. We're all going to say this, so I  
25            can say this. When you work with white folks -- I'm

1 from Louisiana. I know white people. I have been  
2 associated with white people. All right.

3 If people are always telling me jokes  
4 with Asians, Mexicans, or whomever, me, white folks  
5 telling me about these folks, just as soon as they  
6 get out of earshot of this black thing, they're going  
7 to tell jokes about this nigger, see? That's why I  
8 don't play with people with nicknames and jokes. I  
9 don't want them to think I'm funny, but it's just my  
10 experience.

11 Born down there and kicked and pushed  
12 and shoved, and you had to survive. That's why you  
13 took a lot of this stuff down in Louisiana.

11:52A

14 When I was young, as you ladies and  
15 things that are here, see, when I was a kid, it was a  
16 survival technique for you not to respond to the mess  
17 that we're getting here at ADOT. It's against the  
18 law. It's uglier than anything I've ever seen in my  
19 life what is going on over here. They had dinners --  
20 I'm in the Department -- that I did not know about  
21 unless I went back to the tool room to get equipment  
22 or tools.

23 Now, if I'm ad hocking too much, you  
24 know, it doesn't seem like continuity, ask me a  
25 question later. Make me to straighten it out. I

1 want you to understand where I'm going with this.

2 ADOT, they had parties, dinner parties  
3 at work. I didn't know anything about them, and I  
4 was at work. All right.

11:53A

5 Some of the atrocious things, like any  
6 missing tool, they came up with, I'm just throwing  
7 these little things so we can cover it all. I want  
8 to get it down. You write down your notes and make  
9 me answer it.

10 As I am saying, if a tool went missing  
11 in the agency in the whole warehouse, "You know that  
12 nigger stole that tool. That's where that tool  
13 went."

14 If some damage came up to a truck or a  
15 car, it was written and the special investigators had  
16 to clear me of one of them. And the only  
17 justification was I wasn't even at work when the darn  
18 thing was wrecked. But I was accused of doing these  
19 things.

11:54A

20 I don't want to be too fragmented here.  
21 Maybe I better read some of it.

22 THE HONORABLE MANUEL PENA: Go ahead.

23 MR. ARTHUR STANLEY: All right. Okay.

24 Plaintiffs were given unusual job assignments by the  
25 defendant. I'm calling the defendant ADOT. Can I

1 call this fellow's name that was my supervisor?

2 Hello?

3 MR. RUDY GARCIA: He wants to know if  
4 he can say the name of the supervisor.

5 THE HONORABLE MANUEL PENA: In what  
6 context did you want to?

7 MR. ARTHUR STANLEY: The fellow that  
8 was my supervisor.

9 MR. RUDY GARCIA: Just for the record.

10 MR. ARTHUR STANLEY: Roy Sukanik was my  
11 supervisor, and he gave any a mandatory assignment.  
12 I was to demolished a portion of a building. And I  
13 was to refurbish that section of the building. Then  
14 brick, masonry, drywall, plaster and rerun the wiring  
15 through that building.

11:56A 16 Now, doesn't that sound like quite a  
17 bit for a fellow that is supposed to be a Maintenance  
18 I and Maintenance II? These fellows talk about 23s.  
19 We're talking about 10s, you know, level of pay,  
20 level of pay. It was a 10.

21 But anyway, this one big old black  
22 fellow, they gave him all of this work to do with no  
23 assistance. But I had some great, great assistance.  
24 I called great assistance, friends in the company.

25 They knew I was no goof-off because I



1 did the work of these two or three men every day  
2 because I didn't want them --

3 This is my son back here in the corner.  
4 I just look old. I'm not really old. See. That's  
5 my baby. All right. Well, I want him -- I wanted  
6 him to see daddy going to work every morning so he  
7 can tell the kids at school my daddy works for the  
8 State and tell the teachers that his daddy has a job.  
9 That's why I did all of these hard things. This  
10 work.

11:58A

11 But as God will bless you if you put  
12 forth the effort, I don't want to call any of these  
13 fellows' names that are still working at ADOT.

14 But any of you folks been in the  
15 military?

16 THE HONORABLE MANUEL PENA: Well, yes.

17 MR. ARTHUR STANLEY: When you've been  
18 in the military, and you've never gotten in trouble,  
19 your stripes were solid gold. They weren't red, and  
20 they weren't white. They're solid gold.

21 Well, they got that kind of a man back  
22 there. See that -- I don't know what he is over  
23 there. I'm going to the big one over there next to  
24 my son, that Mexican. That man took me through it.  
25 He helped me. Don't call his name. I don't want you

1 to know his name.

2 But this man with all the hate there  
3 was for this black fellow in this organization that  
4 you have over here, they put me to work with him,  
5 because, see, they had laid a paper trail.

6 All of you been an administrator you  
7 know what a paper trail is. That's justification to  
8 get rid of the sucker that you don't want anymore.  
9 That's what the paper trail is.

11:59A 10 Well, they had laid the paper trail,  
11 but the black boy was not as ignorant as people  
12 thought he was. He could write and his wife was a  
13 doctor, and she went to school to be a lawyer, but  
14 she didn't like the law, because there was no truth  
15 in the law. That's what the law is. She became a  
16 doctor so she could help people.

17 Now, she also helped me with my writing  
18 and taking notes. That's why I have notes here for  
19 almost every week I was at ADOT.

20 But anyway, this young man here, he  
21 helped me to take what I -- to work. He took me, you  
22 know, under his arm there. I had gone to electronics  
23 school, but, you know, if you don't use it, you lose  
24 it.

25 You all see where I am. I'm a little

1 hitting and missing here. What I am saying is I went  
2 to electronics school. But being big and black here  
3 in L.A. -- this is not L.A. This is Phoenix. They  
4 wouldn't hire you.

12:00P

5 You ever look at the ADOT people out  
6 here working on the streets? How many black folks do  
7 you see out there? How many black people do you see  
8 in those buildings downtown with a tie on behind one  
9 of those desks? I'm talking about somebody making  
10 the decision about selecting people in those  
11 organizations. There are none, not in ADOT.

12 Well, but I wanted to work so I could  
13 keep the job anyway with this atrocious organization.  
14 I would never sue ADOT because you couldn't get a  
15 lawyer to take your case.

16 This is the most assistance that we've  
17 got in all of these years I've been here, and how  
18 I've been mauled and misused. Discriminated against.  
19 You know, you go to your management and tell them  
20 about how these people are treating you, and the  
21 manager of these departments will tell you, "Don't  
22 you ever come back to my department again telling me  
23 that discrimination is in one of my units."

12:02P

24 Well, I know I just want to hit all of  
25 this stuff, you all, and if you don't understand what

1 I am saying, you make me answer the questions.

2 MR. RUDY GARCIA: You're doing fine.

3 MR. ARTHUR STANLEY: Due to the  
4 discrimination, retaliation and unfair treatment  
5 committed by the defendant -- and I call them the  
6 defendant, ADOT -- the plaintiff, that's me, suffered  
7 and continues to suffer emotional distress, mental  
8 anguish, even physical harm, including arbitrary and  
9 unnecessary weight gain.

10 I would like to just touch on the  
11 physical harm. As I stated it, they had me working  
12 in the basement of the building. Have you folks ever  
13 been to ADOT over here, the old, old, MVD building?

12:03P

14 THE HONORABLE MANUEL PENA: We're all  
15 from Arizona.

16 MR. ARTHUR STANLEY: Okay. I just want  
17 you to get a picture. Say, for instance, this is the  
18 ground level here. This is the back of the step.

19 Well, to get into the basement of ADOT  
20 here there is a stairwell here you go down in inside  
21 the building. We have a forklift sitting up here,  
22 with tearing down some walls in there. We call it  
23 demolition. We're tearing out these walls.

24 And you got to hang a bucket, big old  
25 trash bucket, trash barrel on run, a chain around it

1 and put it on the hoist, the fork, different prongs  
2 so it can lift the thing out of there for you, and  
3 you can take it out and dump it. Dump the cement  
4 that you're tearing down inside there.

12:04P

5 Do you know my director never having  
6 gone to school for a forklift, driving a forklift,  
7 saw me down in that hole, hit that lever while I was  
8 in that hole. He wasn't helping me. I'm the worker.  
9 I was operating the forklift.

10 Do you know he hit the lever and that  
11 barrel came down, and I just happened to look up and  
12 that barrel is coming down loaded with cement. And  
13 it hit me ever so slightly, but it sent me to the  
14 hospital. But I have a paper showing that that was  
15 an accident.

16 Well, he also left a man in charge one  
17 evening after he left. This man threatened to shoot  
18 me. Went to his truck to get his gun to shoot me.

12:05P

19 Well, I don't know how brave you folks  
20 are. I think I'm pretty brave because I was raised  
21 in a family where I was the only boy. I had to  
22 protect those girls.

23 But I flew, I ran out of that building  
24 to tell the police. And I went to EEO office, too,  
25 right there, ADOT EEO office. They did nothing, but

1 I went to call the police, and they came back with  
2 me, and they sent me home.

3 And the man that went to get his gun,  
4 he never went home or anything else. He didn't go to  
5 jail, either, but they let me go home for the rest of  
6 the day. When I came back to work the next day, I  
7 was shocked to death that the man was still there.

8 But I just hope you folks can visualize  
9 the things that I'm trying to give you. It's awful  
10 over there, and I don't know. You might be lucky to  
11 not get Mexican or black because it's awful over  
12 there, folks, for minorities.

13 Now you don't even have any minorities  
14 working. They got rid of the lady that helped the  
15 poor folks, the little people. This lady here.

16 I would say I want to go back to my  
17 friend over there, this young Spanish man. They put  
18 me to working with him because that was my ticket out  
19 of there for them. They went and interviewed him.  
20 After he worked with me for about a month and said  
21 would you write -- help us with this evaluation. He  
22 said sure. But when -- I guess he shocked them to  
23 death. He said it's the best man I ever had. Can  
24 you imagine that? Here is a big old fella that  
25 worked. Just don't scare me none, never did.

12:08P

1                   How do you think I loved that fellow  
2                   after he told these people I was the best worker he  
3                   ever had. I know he might have had some good ones.  
4                   He never had anything better than me. That's just  
5                   life. If you know you're good, you might be just as  
6                   good as you want to be. But you're not going to be  
7                   better than me. That's the attitude I have. That's  
8                   why I want me son to be like that.

9                   But anyway, see, and I just took this  
10                  job in the first place to matriculate up through the  
11                  system because my profession is administration, you  
12                  understand. I came here to be an administrator, and  
13                  I will be darned I couldn't get the job no place.

14                 The first job I went to, they was going  
15                 to hire me at a warehouse, but I had no idea what the  
16                 pay was. But when they told me \$5 an hour, I knew I  
17                 had to do something different. I couldn't work for  
18                 that kind of money. I didn't want it.

19                 But I should have taken the job because  
20                 I've had to go to work -- what do you call it? --  
21                 from the employment office they ship you out to these  
22                 little jobs, and you work day by day, part time or  
23                 something, what whatever you call it. Place you on  
24                 jobs and you get \$3 and something an hour minimum  
25                 wage.

12:09P

1 But anyway, that's what forced me to go  
2 to work with ADOT. I thought I would matriculate  
3 right up through that system.

4 I was hired in as a Maintenance I. I  
5 was a Maintenance I for four years. And the manager  
6 came through the Department and said elevate this  
7 fellow to a Maintenance II.

8 Now, they also promised to send me to  
9 school and teach me all the things there was to learn  
10 about building these walls and things. But I  
11 didn't -- not before they put me to building the  
12 wall.

13 They put me to build that wall by  
14 myself. All I got was a blueprint. You have to go  
15 pick up your own material and nobody to show you what  
16 to do, what kind of nails to use, what kind of tape  
17 you might need. I got the blueprint, a screwdriver  
18 and a hammer. And they sent me on that job by  
19 myself.

12:10P

20 But as God will -- you all know God,  
21 hopefully you do -- you know I built that wall with  
22 that junk. It's still up there, too. The wall is  
23 still up there.

24 Okay. I'm going to hurry and get  
25 through with this. You got me nervous looking at me



1 so quiet, and I don't know if you're intrigued or  
2 what.

3 THE HONORABLE MANUEL PENA: We have  
4 some questions for you.

5 MR. ARTHUR STANLEY: Before you get to  
6 the questions, these differential terms and  
7 conditions of the Department, including harassment  
8 not experienced by whites, similarly -- whites  
9 similarly situated. In other words, in that  
10 organization, they had to know nothing. They come to  
11 work, and they put them -- when they did realize I  
12 could put the wall up, I taught the white boys how to  
13 tear the wall down and how to put the walls up.

12:12P

14 Now, hopefully, you folks aren't  
15 offended by these things. I have no -- there is no  
16 ill feelings in my heart. It's just like you folks  
17 sitting there. You look just like my sisters. I  
18 don't have any brother. All of my sisters are just  
19 as light as you folks are. You know that.

20 My mama is lighter than most of you  
21 because we are Creole, and I'm one of the unique ones  
22 in the family. Don't be offended. I'm not ashamed.  
23 I'm just as happy as I want to be. We got some help  
24 here. How you all feel about that? We got some help  
25 here. You folks listening because you can help me?

1           If you don't help me, you're going to  
2 help somebody eventually because you're going to  
3 correct that situation down there. That's what your  
4 job is, I think. Isn't it? Okay, boys.

12:13P

5           Before I irritate my son back here, I'm  
6 going to get through.

7           THE HONORABLE MANUEL PENA:

8 Mr. Stanley, could we ask you some questions now?  
9 Would you like to summarize?

10          MR. ARTHUR STANLEY: There is a couple  
11 things I want to say and then okay.

12          I want you to know I mentioned this  
13 paper trail earlier. Paper trails are normally  
14 highlighted with EPAs. Are you familiar with that  
15 term, folks? If you're not, I'll explain it to you.

16          EPA is an evaluation form. What people  
17 do when they are malicious, wrongdoing people, they  
18 go and get these forms, have not interviewed you at  
19 all, and they got all of this information in your  
20 folder.

21          This is what we found over here at  
22 ADOT. On me, a man has never told me anything about  
23 how to build a wall or how he wanted a wall. But we  
24 find here in one of the EPAs I got some notes from  
25 the EPA, but we won't go into it. No basis of truth

1 in any of this stuff. I mean this is just  
2 wrongdoing, man. Wrongdoing.

12:15P

3 And then when you think about not only  
4 your director but his boss, you go and tell his boss  
5 about the discrimination in his department, and what  
6 you're trying to do is just work out the problem,  
7 because you want him to correct the fellow that is  
8 over you. You want the manager to correct this  
9 fellow here, and you know you couldn't get any of  
10 that kind of satisfaction. You get chewed out for  
11 saying he had somebody in there discriminating  
12 against you.

13 Okay. But I want you folks to know  
14 that everything I have said with you is the truth and  
15 I haven't said it all. It's almost like the Bible.  
16 They didn't write everything that Jesus did in that  
17 Bible, but everything in there is true. That's what  
18 I think. Okay.

19 Come on with the questions.

20 THE HONORABLE MANUEL PENA: All right.  
21 Let me thank you for your statements. We really  
22 appreciate it. I think you were talking about Manny  
23 Hernandez as the person who helped you on the job?

12:16P

24 MR. ARTHUR STANLEY: All right.

25 THE HONORABLE MANUEL PENA: Okay.

1 MR. ARTHUR STANLEY: That was a very  
2 good choice you made. But any of the fellows back  
3 there is the one that I was talking about. They all  
4 know how atrocious it was for me, how scared I was  
5 coming to work when in the wintertime you're coming  
6 to work, being at work in 6:00 in the morning. It's  
7 dark out there, and folks talking about shooting you,  
8 hanging your head on a totem pole someplace. It's  
9 scary.

10 You almost feel like bringing a gun to  
11 work but you need the job. You need a job. See?  
12 But you know it's all the fellows that was in that  
13 organization that were non-majority. They were all  
14 good, but Manny is an outstanding man. He has no  
15 fear.

12:17P 16 THE HONORABLE MANUEL PENA: Let me open  
17 it for questions from the members.

18 Richard?

19 MR. RICHARD ZAZUETA: Mr. Chairman and  
20 Mr. Stanley, you reported all of these attempts on  
21 your life, these racial slurs? Did you report all of  
22 them?

23 MR. ARTHUR STANLEY: Let's say I  
24 reported everything that happened to me to Mr. -- I  
25 don't want to call his name. I reported it, and he

1 wrote it up. To Ron Courter. Ron Courter told me on  
2 numerous occasions, but I kept going back to him. I  
3 had no place to go. You can't go to Ron Courter's  
4 boss, but you had to go to the boss of somebody.

5 I reported everything that happened to  
6 me to Mr. Ron Courter. But these people have gotten  
7 so arrogant in their mistreatment, they don't have to  
8 hide and do anything to you.

2:18P 9 MR. RICHARD ZAZUETA: What did  
10 Mr. Courter do about them?

11 MR. ARTHUR STANLEY: He wrote me up one  
12 time. He wrote me up and told me -- one time, the  
13 last time, which was just before I had the last heart  
14 attack, that he wrote me up and told me not to come  
15 back in his office no more with any of that  
16 discrimination crap.

17 MR. RICHARD ZAZUETA: Thank you.

18 THE HONORABLE MANUEL PENA:  
19 Mr. Echeveste?

20 MR. ADOLFO ECHEVESTE: Mr. Chairman,  
21 Mr. Stanley, how long were you employed with the  
22 Department of Transportation or the State?

23 MR. ARTHUR STANLEY: February of '84 to  
24 February of '93.

25 MR. ADOLFO ECHEVESTE: '84?

1 Mr. Chairman.

2 THE HONORABLE MANUEL PENA: Doctor?

3 DOCTOR JUNE WEBB-VIGNERY: Thank you,  
4 Mr. Chairman and Mr. Stanley. You say you had a  
5 stroke. Did you have the stroke come after your  
6 employment?

12:20P

7 MR. ARTHUR STANLEY: No. I just -- I  
8 had just picked me boy up from the baby-sitter,  
9 driving home, and let me tell you, I've heard the  
10 fellow. I heard it said that no one knows about the  
11 pain of a lady having a baby. Heart attack is  
12 painful. It's painful. And I don't know which one  
13 of those rascals are worse.

14 DOCTOR JUNE WEBB-VIGNERY: Could I  
15 clarify that? You had a heart attack and then was  
16 that followed by a stroke?

17 MR. ARTHUR STANLEY: In the car? I was  
18 in the car, and I don't know -- well, I tell you. I  
19 believe God took care of me because he wanted me to  
20 come here and have you folks to come and help the  
21 folks coming after me to work for ADOT to serve our  
22 citizens. See. That's the only reason I think I'm  
23 still living.

24 And I want to see this old boy of mine  
25 get through this school. He's the last one of mine

1 that is not out of school, so all of my kids are  
2 doctors except him. I have two college professors  
3 and three doctors and one C.P.A. and I want him to  
4 get his education, too.

5 Okay. But back to your question, I had  
6 just left work, went by the baby-sitter, picked him  
7 up and going up Ray Road, and it hit me just across  
8 before I got to Rural. And I don't know how I did  
9 it, but I got home. Let me tell you. It's awful.  
10 It was awful.

11 I think I must have -- it's just  
12 instinctive. I thought I was gone. It's one of the  
13 most atrocious feelings that I've ever had in my  
14 whole life.

15 DOCTOR JUNE WEBB-VIGNERY: Thank you,  
16 Mr. Chairman.

12:22P 17 MR. JONES OSBORN: Mr. Chairman,  
18 Mr. Stanley, in the literature that the Commission  
19 has been provided with, it mentions that Ku Klux Klan  
20 literature and symbols were left in your work area?

21 MR. ARTHUR STANLEY: Yes, sir.

22 MR. JONES OSBORN: Was that just on one  
23 occasion, or was it more than one occasion?

24 MR. ARTHUR STANLEY: Well, they found  
25 some Ku Klux Klan stuff in my supervisor's desk.

1 This was put over the area you have to go to to get  
2 your equipment to work. And I guess --

3 MR. JONES OSBORN: So are you saying  
4 that it just was on one occasion or more than one  
5 occasion?

6 MR. ARTHUR STANLEY: Well, I went and  
7 got the police, you know. They wasn't going to do it  
8 any more, I hope.

9 MR. JONES OSBORN: Did you know who put  
10 it there?

11 MR. ARTHUR STANLEY: They never told  
12 me.

13 MR. JONES OSBORN: Okay. Thank you.

14 MR. RUDY GARCIA: Mr. Chairman,  
15 Mr. Stanley, you said that you had numerous EEOC --  
16 you referred to them as resolutions.

17 Were those actual complaints that had  
18 been filed on your behalf?

12:24P 19 MR. ARTHUR STANLEY: It's possible that  
20 I can have you forks reproduce this and get a copy  
21 and give it back too me.

22 MR. RUDY GARCIA: I think we were going  
23 to get copies of everything. What were the outcome  
24 of those complaints?

25 MR. ARTHUR STANLEY: Normally if the



1 resolution is favorable, you get a right to sue. And  
2 I have resolution here, action, settlement and then  
3 one of them they arbitrarily took some time from me  
4 because the man didn't -- there is a policy when you  
5 have taken off sick, if you get sick, you got sick  
6 and something happened to you and you went home, went  
7 to the doctor or you didn't go, but you could come  
8 back to work tomorrow.

9 But for me this is the first time I got  
10 sick. They told me I needed a doctor's slip to come  
11 back to work.

12:25P

12 MR. RUDY GARCIA: So was that the  
13 complaint that you filed?

14 MR. ARTHUR STANLEY: This was just a  
15 for instance, I think. I was just talking about the  
16 incident. I got a couple with me.

17 MR. RUDY GARCIA: You did get responses  
18 from your complaints?

19 MR. ARTHUR STANLEY: Do you want the  
20 actual grievance? I just have the resolution here.

21 MR. RUDY GARCIA: I'm curious if they  
22 ever did follow through and provide you a response to  
23 the complaints that you had?

24 MR. ARTHUR STANLEY: Some of them.  
25 Now, I hate to say this, man, ADOT is awful. But you

1 also might need to go down the street right there and  
2 I'm going to shut up. I'm going to leave that alone.  
3 I'm going to deal with ADOT.

4 You're right. Maybe they didn't  
5 respond to all of them. Maybe they did. But  
6 whatever they didn't respond to, you will find out  
7 after you see my folder. I have a stack of paperwork  
8 at home like so, sir, in reference to ADOT. And  
9 everything is in it from grievances to say refuting  
10 stupid reprimand letters. I don't want to bring  
11 anybody else into this today.

12:26P

12 MR. RUDY GARCIA: My only closing  
13 question is you left in '93 because you had retired  
14 or you had a stroke and had to leave. Do you have  
15 any knowledge of anything having changed since you  
16 left?

17 MR. ARTHUR STANLEY: Yes, sir, yes, I  
18 do have a little knowledge.

19 MR. RUDY GARCIA: And what would that  
20 be, no improvement?

21 MR. ARTHUR STANLEY: Well, when I left,  
22 they did have some Spanish guys over there. They're  
23 not over there now. There is no blacks. Since '84  
24 they had two blacks in there, and three or four  
25 Spanish guys. There are no Spanish guys in there.

1 So don't ask about the blacks.

2 MR. RUDY GARCIA: Thank you.

3 THE HONORABLE MANUEL PENA:

4 Mr. Echeveste?

5 MR. ADOLFO ECHEVESTE: Mr. Stanley, you  
6 said when you were describing an incident before, you  
7 said there was Ku Klux Klan materials in your  
8 supervisor's --

12:27P 9 MR. ARTHUR STANLEY: And paraphernalia  
10 in my work area.

11 MR. ADOLFO ECHEVESTE: You said in your  
12 supervisor's desk?

13 MR. ARTHUR STANLEY: They took that  
14 from his desk. But now they took it. They didn't  
15 give it to me. They didn't explain any of it to me.  
16 But I think you can get that information from the  
17 police.

18 MR. ADOLFO ECHEVESTE: Was it on the  
19 desk?

20 MR. ARTHUR STANLEY: In the desk.

21 MR. ADOLFO ECHEVESTE: In the desk.

22 That's all I wanted to know.

23 THE HONORABLE MANUEL PENA: Any other  
24 questions?

25 If not, we thank you, Mr. Stanley, for

1 being with us today.

2 MR. ARTHUR STANLEY: Thank you.

3 THE HONORABLE MANUEL PENA: Is Hope  
4 Hernandez present? Is Mr. Perez in? Would you come  
5 forward. We were hoping that Hope Hernandez would  
6 testify with you, and she may step in while you're  
7 talking. And we'll have her sit with you and  
8 participate.

9 We're going to make a temporary  
10 appointment. Ms. Olivas will chair the meeting until  
11 I get back.

12 Go ahead.

13 (The Honorable Manuel Pena and Doctor  
14 June Webb-Vignery left the hearing room.)

15 DOCTOR JAVIER PEREZ: I'm Javier Perez.  
16 I'm a psychologist in Phoenix. I work with  
17 15 clinicians providing mental health services to  
18 individuals, families and organizations.

19 In 1993 I was contracted by Suzanne  
20 Sales of ADOT to do a diversity training program.  
21 And we concluded that program about two months later.  
22 The first session held was January 19 of '94 -- I'm  
23 sorry. 1994 we started. And we did the last session  
24 on March 30th, 1994.

12:30P 25

I spent 68 hours in direct contact with

1 administration and supervision and employees. The  
2 initial plan was to work with a total group of  
3 employees at general operations, GOG, general  
4 operation group, which I think was a facilities  
5 maintenance kind of a group, and the whole group was  
6 supposed to get diversity training.

7 It was evident in the first meeting,  
8 which was facilitated by Tom Moore of the Affirmative  
9 Action Office that the sentiments amongst the  
10 co-workers was extremely negative and angry.

11 Comments were made by all members of  
12 that group that any new program is likely to be a  
13 waste of time just as other programs had been.

12:31P

14 At least moderate to severe anger was  
15 evident in the group. Several individuals, at least  
16 I would say six of the twenty employees felt that a  
17 potential for violence was a very real likelihood in  
18 this situation.

19 Confounding the issues of diversity  
20 training were issues of reports of preferential  
21 treatment.

22 (Doctor June Webb-Vignery re-entered  
23 the hearing room.)

24 DOCTOR JAVIER PEREZ: What we did after  
25 the first meeting is to decide to do a different

1 program than a canned program for training, and we  
2 asked the employees, the workers -- there were 20 of  
3 them -- to tell us what they wanted to have occur in  
4 this program.

5 They wanted to find information about  
6 all of the other co-worker's feelings, so we designed  
7 in a meeting two surveys, basically designed by the  
8 employees about information that they wanted to hear.

12:32P 9 (The Honorable Manuel Pena re-entered  
10 the hearing room.)

11 DOCTOR JAVIER PEREZ: The result of  
12 that survey, which was about sixteen questions about  
13 preferential treatment, witnessing discrimination in  
14 the workplace, et cetera, the results were that as to  
15 discrimination was perceived, and had been reported  
16 witnessed by about twelve of the twenty participants.

17 Regarding preferential treatment,  
18 approximately sixteen of the twenty respondents  
19 responded that at least a few times too often  
20 preferential treatment occurred.

21 So basically what I perceived was this  
22 was not a group of three or four minority group  
23 members complaining with a majority seeing it as  
24 frivolous complaints, but there were actually  
25 numerous Angelo or mainstream individuals who

1 supported that they had witnessed events.

2 So basically because of the negativity,  
3 we decided to meet with a group of minorities and  
4 with other groups in which the minorities would be  
5 interspersed according to pulling a name out of a hat  
6 or a number out of a hat.

7 The meetings with the minorities --  
8 basically the purpose was or ended up being to  
9 document years of incidents that had been alleged by  
10 them, and probably many of them had not been reported  
11 by them because it was a complete sense of  
12 hopelessness that anything could be done that would  
13 ever resolve any issue.

14 But many apparently had been reported.  
15 In my report there are about six pages specifically  
16 discussing events which the minority group members  
17 considered to be major concerns.

18 One of the anger events -- I'm just  
19 going to read what I have in my report, one of the  
20 events that demonstrated the anger, an angry exchange  
21 between a minority worker and Angelo worker.

22 The minority told the Angelo, "I need  
23 your support. Why don't you say what is going on  
24 here? Haven't you got any balls?" This is the  
25 intensity emotionally. The minority in a pleading

1 manner says, "Don't you understand it would be the  
2 end of my job?"

12:35P

3 Because of that we decided to separate  
4 those groups, and I was hoping to empower the  
5 minorities to organize. Not so the Department of  
6 Transportation could explore what had been going on,  
7 even though it had not been reported.

8 I believe it may be helpful to just go  
9 over a few of the items recently -- that was three  
10 years ago -- recently to that time, the KKK  
11 information had been placed on minority worker's  
12 desk. That seemed to be within the last six months  
13 of my having been there. This was three-and-a-half  
14 years ago. Ropes were hung and crosses were placed  
15 in office windows.

16 The terms nigger lover, destroyer,  
17 thief had been utilized by Angelo workers to minority  
18 workers frequently. That management and supervision  
19 would use terms or make comments such as we won't  
20 hear the word discrimination here, and many Angelos  
21 concurred with the minorities that that was  
22 incorrect. That the term ought to be that we won't  
23 have discrimination here, but they felt that  
24 everything was covered for numerous years and through  
25 numerous investigations.



12:37P

1 In my first meeting with the  
2 Affirmative Action personnel, they had -- I was  
3 provided with a report that they had done about  
4 incidents at GOG, and I met with the staff to clarify  
5 the meaning of the report.

6 Ron Courter was at the time the manager  
7 for GOG. I'm not sure of the levels of  
8 administration or management or supervision of these  
9 individuals.

10 By the way, Ron Courter with Suzanne  
11 Sales contracted me. She was in administration.  
12 Basically she put me in contact with Courter, who  
13 then became my main contact to provide the services.

14 Ron Courter told me that EEO had  
15 provided a report indicating that what was going on  
16 that was perceived as discrimination, in fact, that  
17 it had not occurred.

18 So to make sure I understood that  
19 correctly and Ron's interpretation was correct, I  
20 asked for a meeting with Eddie Edison and Tom Moore,  
21 two Affirmative Action employees at the time.

22 They reported to me that, in fact,  
23 discrimination had occurred and that because there  
24 may have been the filter -- they used the term --  
25 that a filter exists in which perhaps even events

1 that may not be discriminatory but perhaps  
2 preferential treatment just by personality, that many  
3 events were being perceived as discrimination that  
4 were not. However, that they felt, in fact, that  
5 discrimination had occurred.

6 Toward the end of the second month, I  
7 felt that I had had very clear support or I thought I  
8 was getting very clear support from the people I had  
9 worked with, meaning Suzanne Sales and Ron Courter.

10 Toward the end of the second month I  
11 was investigating, I believe that this position put  
12 me in the role of teacher, therapist, investigator,  
13 group facilitator. We had had several meetings,  
14 Suzanne Sales, Ron Courter and I, about the need to  
15 investigate a couple of events at least.

16 In the minority groups meetings, they  
17 said that things were not investigated or not  
18 investigated sufficiently or just covered up. So I  
19 suggested that at least one or two events would be  
20 investigated fully by administration.

12:39P 21 A second request by Suzanne Sales to  
22 Ron to investigate it had not gotten any action from  
23 Ron yet.

24 So at a third meeting we decided I  
25 would do some investigating. What I ran into at that

1 time was specifically the cover up. Things were  
2 being said, a lot of triangulation, somebody said  
3 that somebody said that you said. And this was the  
4 modus operandi at this point at that facility.

5 When I was investigating a report about  
6 a problem between a secretary and one of the workers,  
7 I investigated it with Roy Sukanik, and I went back  
8 to the individual. Roy had informed me that he had  
9 spoken to this individual about his problem behavior.

10 In fact, when I asked about that, he  
11 pointed to many files -- a stack of files and said  
12 somewhere in there is documentation of my having  
13 counseled with him.

12:40P

14 So I went back to the individual, the  
15 worker, who said the man never approached him, and if  
16 he did approach him about that problem, to request  
17 his signature.

18 So then I went back to Ron Courter, who  
19 was the administrator and the manager to tell him  
20 that he needed to step in and request documentation  
21 of that prior intervention.

22 We're dealing with the issue of  
23 progressive discipline. That the complaints about  
24 the minorities came, but I saw no documentation that  
25 there had been progressive discipline.

1 I asked Ron to ask Roy to provide  
2 documentation of that progressive discipline. When  
3 Ron went to Roy, Roy responded to Ron that I had  
4 never addressed the issue with him.

5 So when I said to Ron, who was actually  
6 the person who had contracted me, "What do you think  
7 this means?" and he responded, "One of you is lying."

8 And I said to him, "Do you believe that  
9 it could be me?" And he said, "I don't know."

12:42P 10

11 So I realized at that point that my  
12 ability to make any impact in a positive way there  
13 was just about over, and I decided to write my  
14 report, which it's probably not as good as I would  
15 like it to have been. It's seventeen pages. I made  
16 recommendations.

17 I met with Suzanne Sales, who did not  
18 want to let it go. "We must continue with this," and  
19 she put me in charge of a new person who had taken  
20 Ron Courter's place. Because of a person having been  
21 moved around and et cetera, the meetings fell by the  
22 wayside, and we could not continue. And here I am  
23 three years later.

24 THE HONORABLE MANUEL PENA: Mr. Osborn?

25 MR. JONES OSBORN: Thank you,

Mr. Chairman.

1 Dr. Perez, the initial diversity  
2 training program group that you dealt with, how were  
3 they selected? Do you happen to know?

4 DOCTOR JAVIER PEREZ: Basically it  
5 seemed to be a division or a unit which included all  
6 co-workers under a couple of supervisors, a manager  
7 and et cetera.

8 MR. JONES OSBORN: And they were what?

9 DOCTOR JAVIER PEREZ: About twenty of  
10 them who participated so everyone was mandated to  
11 participate.

12 MR. JONES OSBORN: I see. And you were  
13 working directly with someone named Ron?

12:46P

14 DOCTOR JAVIER PEREZ: Ron Courter.

15 MR. JONES OSBORN: What was his  
16 position?

17 DOCTOR JAVIER PEREZ: I believe he was  
18 manager for that GOG, General Operations Group.

19 MR. JONES OSBORN: Thank you.

20 MR. RICHARD ZAZUETA: I have a  
21 question, Mr. Chairman.

22 THE HONORABLE MANUEL PENA: Go ahead.

23 MR. RICHARD ZAZUETA: Dr. Perez, you  
24 made a report -- you stated you made a report. What  
25 specific recommendations did you have and what has

1       been done with those recommendations as far as the  
2       Department was concerned?

3                   DOCTOR JAVIER PEREZ:   Because I was  
4       basically out of the program or the procedures with  
5       my report -- I believe maybe one more meeting trying  
6       to set up the continuation of the program.  I do not  
7       know what has happened.

8                   So basically I was -- I basically was  
9       called to ask if I would come and support the  
10      information in my report.

11                   I do not know what has occurred in the  
12      past three years since I was last there at ADOT, but  
13      I did make recommendations, which were:

14                   To establish a mechanism by which all  
15      allegations of discrimination and preferential  
16      treatment be expeditiously and thoroughly  
17      investigated.  A panel which includes minority crew  
18      members may hear a complaint and make  
19      recommendations;

20                   Two, consider that a new position may  
21      be developed which identifies a representative, or  
22      ombudsman for this new mechanism that is positively  
23      perceived as neutral and fair;

24                   Three, provide intensive, ongoing  
25      training and extremely close and immediate

1 supervision of the interactions and interventions  
2 carried out by Richard, Roy, Andy and Ron or others  
3 in those positions that are relevant to the areas of  
4 culture diversity and/or preferential treatment of  
5 employees;

6 Four, consider hiring individuals who  
7 are already trained and highly skilled in the  
8 management of these issues;

9 Five, promote the acceptance of  
10 cultural diversity in the workplace by providing  
11 continuing intervention in the form of training and  
12 mediation at all levels of the organizational  
13 structure.

14 Six, ongoing rap sessions, in  
15 quotations, for the purpose of exploring issues and  
16 increasing group cohesiveness and teach stress and  
17 anger management skills to this group;

18 And seven, monitor the potential for  
19 violence.

20 Those, were my recommendations.

12:48P

21 THE HONORABLE MANUEL PENA: Ms. Julien?

22 MS. ANGELA JULIEN: Mr. Chairman,

23 Dr. Perez, you said that the original plan was to  
24 have the full group to be involved. And by "full  
25 group," you mean all of ADOT employees?

1 DOCTOR JAVIER PEREZ: No.

2 MS. ANGELA JULIEN: Who are you talking  
3 about?

4 DOCTOR JAVIER PEREZ: The group at GOG,  
5 which meant the workers and two or three supervisors  
6 and the management.

7 MS. ANGELA JULIEN: All right. And  
8 then you said that it became apparent that there was  
9 a lot of anger and some feelings that a new program  
10 would be a waste of time. After the first meeting a  
11 different program was planned.

12 Who attended that first meeting?

13 DOCTOR JAVIER PEREZ: All of them did,  
14 all twenty or twenty-four of them, workers and their  
15 supervisors.

16 MS. ANGELA JULIEN: And so was the  
17 different program agreed upon by consensus in that  
18 meeting?

19 DOCTOR JAVIER PEREZ: I believe it was  
20 at the first meeting or perhaps at the next meeting  
21 in which we began to develop the questionnaire. They  
22 needed -- the workers wanted to explore how they all  
23 felt, if there was a consensus about work ethic  
24 issues was sufficient or not, administrative  
25 intervention with these problems with preferential



1 treatment and discrimination.

2 Basically Suzanne Sales allowed me the  
3 opportunity to devise a program that was tailored to  
4 the needs of this group, and so we went from what was  
5 expected to be a canned program, such as you might  
6 get twelve hours of training to whatever was  
7 necessary.

8 And that is why we broke the groups  
9 down, is to try to reassure the groups in smaller  
10 groups and that handled the anger of twenty  
11 employees. It was easier to handle the anger in  
12 smaller groups.

50P 13 MS. ANGELA JULIEN: Did that end up  
14 being more than 12 hours?

15 DOCTOR JAVIER PEREZ: Yes. I believe  
16 we did approximately 30 hours of group intervention  
17 and perhaps more, but it was a total of 68 in  
18 consultation with Suzanne Sales and administration  
19 supervision.

20 Probably at least 30 to 36 in direct  
21 group work with the workers, the employees.

22 THE HONORABLE MANUEL PENA:

23 Mr. Echeveste?

24 MR. ADOLFO ECHEVESTE: The question has  
25 been answered.

MR. RUDY GARCIA: Mr. Chairman, Dr. Perez, this report that you put together, who received copies of that?

DOCTOR JAVIER PEREZ: I believe I submitted it to Suzanne Sales and the office of Affirmative Action.

MR. RUDY GARCIA: So specifically Suzanne Sales?

DOCTOR JAVIER PEREZ: Right.

MR. RUDY GARCIA: Do you know if she is still with the Department?

DOCTOR JAVIER PEREZ: I don't know.

MR. RUDY GARCIA: Going back to the hours, you mentioned there was a total of 68 hours. You just mentioned that 36 of that approximately was in actual training?

DOCTOR JAVIER PEREZ: Uh-huh.

MR. RUDY GARCIA: And that, I assume, was with a mixed group of supervisors, managers and also hourly employees?

DOCTOR JAVIER PEREZ: Yes. Towards the end of those hours, we went from groups of five or six to groups of ten or twelve. So we began to collapse the groups. And we were bringing the group back to a total group in attendance.

1 MR. RUDY GARCIA: In your opinion is  
2 that sufficient time to really get any substantial  
3 value out of that training? I don't know if that was  
4 cut short.

5 DOCTOR JAVIER PEREZ: Extremely short.  
6 It was probably not even the completion of the  
7 beginning.

8 MR. RUDY GARCIA: Thank you.

9 THE HONORABLE MANUEL PENA: Doctor?

10 DOCTOR JUNE WEBB-VIGNERY: Thank you,  
11 Mr. Chairman.

12 Dr. Perez, what do you think are the  
13 next steps that the Department of Transportation  
14 should take in light of your recommendations in your  
15 report?

16 DOCTOR JAVIER PEREZ: My thought at the  
17 end of the program, which occurred to allow the  
18 restructuring where the groups were being -- the  
19 groups by the way -- the group was all there in one  
20 location. Towards the end half they were being sent  
21 to another facility or another building.

12:52P 22 The workers basically set what their  
23 needs were to begin to heal or to begin to trust that  
24 they were not going to be discriminated against or  
25 treated unfairly.

1                   And it was to fully investigate one or  
2 two events, not the thirty that they had reported,  
3 but one or two so that they could feel that a fair  
4 and sufficient investigation had occurred.

5                   That is the time that Suzanne Sales had  
6 allowed me to begin to do some investigation myself.  
7 And that is the time that Ron Courter told me that  
8 Roy Sukanik had reported that I had never  
9 investigated it with him. So basically it was a  
10 total breakdown at that point.

11                   I believe that recommendation may still  
12 be appropriate. That events that are alleged are  
13 fully explored and where they find a discrimination  
14 exists, that appropriate action be taken.

15                   DOCTOR JUNE WEBB-VIGNERY: Thank you,  
16 Dr. Perez. Mr. Chairman?

12:53P 17                   THE HONORABLE MANUEL PENA: Any other  
18 questions? If not, thank you.

19                   Would you stay in case we have other  
20 questions later?

21                   DOCTOR JAVIER PEREZ: Today I'm  
22 covering the clinics because the clinician is gone,  
23 and I need to get back to the office, but I'll be  
24 glad to come back if necessary.

25                   THE HONORABLE MANUEL PENA: Thank you

1 for being here. We'll hear from Hope Hernandez who  
2 is from AFSCME.

3 MS. HOPE HERNANDEZ: My name is Hope  
4 Hernandez, and I'm with the AFSCME, American  
5 Federation of State County & Municipal Employees.

6 The function -- the reason I'm asked  
7 here is I have gone through the trials and  
8 tribulations of the majority of the people in this  
9 room. And I am the representative for the ADOT  
10 employees among the DES, DHS, DOA, you name it.  
11 Majority of the employees.

12 I was asked specifically to find out.  
13 In 1996 I had 48 intakes. Every time a member calls  
14 in or has problems or something, they have to have an  
15 intake with their name, address, social security  
16 number, so on and so forth.

17 I have 48 intakes for ADOT employees.  
18 Out of these there were 37 Hispanics, four blacks and  
19 the balance were Angelo. Some of these I would get  
20 relief, be it by talking to the supervisor or giving  
21 them advice.

22 The majority would not file grievances  
23 due to fear of retaliation or retribution. The ones  
24 that did file, we did not reveal due to the  
25 managements is always right, even if they're not.

1                   So far I have intakes of six ADOT  
2 members, two have spoke to management. Two I did not  
3 have knowledge of lack of knowledge on their behalf.

12:56P

4                   I was hearing Dr. Perez. I was part of  
5 that twenty employee thing that happened several  
6 years back where I was almost assaulted by one of the  
7 first -- we had a meeting of all the Hispanics, and I  
8 was part of it.

9                   So then Ron Courter called me and says,  
10 "You had a meeting with all the Hispanics. Now we  
11 want a meeting with all of my men, the Angelos." I  
12 said okay. So I went.

13                   They attacked me and called me Mexican,  
14 stupid, dumb, everything they could think of at that  
15 meeting. Finally, I got angry and I cussed them out,  
16 and I walked out. And a man followed me. He was  
17 going to hit me, one of the workers. He didn't get  
18 to hit me. I wish he had of.

19                   Anyway, I was part of that. And I've  
20 seen there is a lot of discrimination in ADOT. I see  
21 it personally. I have the people come to me. They  
22 cry. I have grown men with tears coming down their  
23 eyes -- their face. They're afraid.

24                   They need their jobs. Even if they see  
25 me at a workplace and I drive up to the workplace or

1 go to the workplace, they don't want to be seen  
2 talking to me because they're scared to death.

3 They will call me. They want me to  
4 meet them at the restaurant or they call me at work  
5 from a pay phone or something because they're afraid.

6 And I mean mostly I sent a letter, one  
7 to Jerry Moreland, who is the personnel manager,  
8 director of ADOT. It hasn't been too long, and I  
9 told him I had some -- I don't know what it was. I  
10 guess I was venting or something. I told him out of  
11 all the agencies for the State that I represent, ADOT  
12 was the most biased and prejudiced that I had to deal  
13 with.

12:58P

14 I don't have a copy of that letter. I  
15 don't know what I did with it. I'm not very  
16 organized with my paperwork. But I did send him a  
17 letter like that.

18 But I guess basically their interest in  
19 asking me to be here is to tell them what I have to  
20 put up with and endure with the members.

21 They do go through the grievance  
22 procedures. They make a point. They don't prevail  
23 in grievances.

24 I see where Hispanics have tried to get  
25 promotions. They don't get them. They come to me

1 and we fight and fight, and we still don't get the  
2 promotions.

3 And they -- some of them -- I have some  
4 that are born in Mexico, and they come out here, and  
5 they don't know our language very well and don't know  
6 how to fight for the rights.

7 So they tell me things and they believe  
8 them, and they don't know any better. They come to  
9 me, and then I straighten them out. I call the  
10 supervisors. That's how we can get things done.  
11 They're afraid to grieve because they know that there  
12 will be retaliation and retributions. 99 percent of  
13 the time there is.

12:59P

14 And I have to disagree with somebody  
15 that said something -- I think that Mr. Puente said  
16 that discrimination -- that he felt more  
17 discrimination now about Mr. Bonine. I felt it more  
18 when Mr. Creedon.

19 Mr. Puente doesn't have to deal all the  
20 ADOT employees which I do. It was worse when  
21 Mr. Creedon was on. Not with Mr. Bonine.

22 I have heard a lot of stories. I know  
23 a lot of things that are going on. Mr. Bonine, in a  
24 sense, he cuts it off. There isn't any because he  
25 doesn't want to hear about it, but with Mr. Creedon I



1 did have more problems. Very blatant with  
2 Mr. Creedon.

3 That's his experience, but my  
4 experience in dealing with all the ADOT members, I  
5 have found Mr. Puente does not deal with all of them  
6 like I do.

7 So I know that there is more  
8 discrimination. There was more discrimination with  
9 Mr. Creedon. What I can't understand is why do they  
10 have an Angelo representing Affirmative Action. They  
11 don't understand our problems, our cultures be it  
12 Hispanic, black or whatever. They don't understand.

OP 13 I never have understood it.

14 Are there any questions?

15 MR. RICHARD ZAZUETA: You made a  
16 statement that the Department of Transportation was  
17 the most biased and prejudice of all the State  
18 agencies you cover?

19 MS. HOPE HERNANDEZ: Yes.

20 MR. RICHARD ZAZUETA: Do you have facts  
21 to back that up?

22 MS. HOPE HERNANDEZ: We have  
23 grievances, and we have folders and that we keep,  
24 yes.

25 MR. RICHARD ZAZUETA: You do have the

1 facts?

2 MS. HOPE HERNANDEZ: Yes.

3 MR. RICHARD ZAZUETA: Thank you.

4 THE HONORABLE MANUEL PENA:

5 Mr. Echeveste?

6 MR. ADOLFO ECHEVESTE: Mr. Chairman,  
7 Mrs. Hernandez, you stated that you met with the --  
8 one time with the Hispanic employees and then they  
9 asked you to meet with the Angelo employees.

10 Everything that you described, was it  
11 as a representative of the AFSCME? I wasn't sure  
12 whether you were an employee of the Department at one  
13 time.

1:01P 14 MS. HOPE HERNANDEZ: No. I was the  
15 representative of AFSCME.

16 THE HONORABLE PENNY WILLRICH:

17 Mr. Chairman, I would like to excuse myself from the  
18 Commission at this time. As I told you are earlier,  
19 I have to return to court for an afternoon calendar.

20 I want to express my regrets to you and  
21 the rest of the panel that I will not be able to stay  
22 for the rest of the forum.

23 THE HONORABLE MANUEL PENA: Thank you  
24 for being here.

25 (The Honorable Penny Willrich left the

1 hearing room.)

2 MR. JONES OSBORN: Just one question,  
3 Ms. Hernandez. In your opinion has there been any  
4 appreciable change in the attitude of management at  
5 ADOT in recent months or in the past year?

6 MS. HOPE HERNANDEZ: I would say there  
7 is some changes, yes, and I would say they were for  
8 the better, but we're still -- they are for the  
9 better. I would say there are some changes in ADOT,  
10 yes.

11 MR. JONES OSBORN: Thank you.

12 MS. HOPE HERNANDEZ: It hasn't been  
13 fixed completely, but there have been changes that I  
14 can notice with my membership and my people.

1:02P 15 MR. JONES OSBORN: Thank you.

16 MS. OFELIA QUIJADA-OLIVAS:  
17 Mrs. Hernandez, the changes that you recognize that  
18 have occurred, are they things that can be  
19 identified, or is it window dressing, or can you  
20 identify some areas?

21 MS. HOPE HERNANDEZ: They have removed  
22 some of the district engineers that blatantly made  
23 the point that they do not like Hispanics. They have  
24 transferred them or gone out or whatever so the  
25 management is better for the workers.

1           Mostly I deal with construction. I  
2 don't have too many people that are engineers or  
3 whatever. Just the construction or the landscape or  
4 the grounds or whatever out there.

5           And they have a chain of command, but  
6 their district engineers or whatever they call them,  
7 they're the ones that start bringing them. They  
8 don't like how you treat them.

9           They have removed some. They have gone  
10 to other things, better things so they put some  
11 others that are more empathetic to the needs of the  
12 people or the men.

13           I can discuss with them things -- they  
14 don't even go to personnel or they don't have to. If  
15 they're in trouble, they call me and let me know that  
16 there are these things happening. How can we help  
17 them? Which is administration, management or  
18 supervisor out in the construction sites. So I can  
19 help them.

20           We get those things straightened out,  
21 whereas I was not given that privilege when we had  
22 Mr. Creedon, Dan Powell and several others.

1:04P

23           MR. RICHARD ZAZUETA: I have a  
24 follow-up question. This statement that you made  
25 about the Director, top management not wanting to

1 hear complaints, does this encourage or discourage  
2 complaints?

3 MS. HOPE HERNANDEZ: Discourages.

4 MR. RICHARD ZAZUETA: Thank you.

5 THE HONORABLE MANUEL PENA: Mr. Garcia?

6 MR. RUDY GARCIA: Mr. Chairman, just  
7 one question.

8 Mrs. Hernandez, you mentioned that you  
9 had written a letter to Jerry Moreland?

10 MS. HOPE HERNANDEZ: Uh-huh.

11 MR. RUDY GARCIA: What was his  
12 capacity; was he --

13 MS. HOPE HERNANDEZ: What was it?

14 MR. RUDY GARCIA: What it last year?

15 MS. HOPE HERNANDEZ: I think he's the  
16 personnel director for the Department of  
17 Transportation. I'm not sure.

18 MR. RUDY GARCIA: You mentioned that  
19 you were kind of venting. Could you disclose the  
20 content of that letter and what kind of response were  
21 you expecting from him and how did you did feel he  
22 could potentially help?

23 MS. HOPE HERNANDEZ: I don't remember.  
24 I tried looking for the letter. I couldn't find it,  
25 and I might have a copy or might have thrown his copy

1 away. I don't know. And I don't know the contents  
2 of it. I really couldn't tell you what it was, why I  
3 wrote that letter.

4 Maybe he remembered about it. You talk  
5 to him. And his response was he sent me back a  
6 letter, and his response was apologetic, and he said  
7 that we had misunderstood each other or there was a  
8 misunderstanding. I really could not go back. I  
9 really don't -- I can't specifically state what his  
10 response was.

1:06P

11 THE HONORABLE MANUEL PENA: Any other  
12 questions? Thank you.

13 We will now take a 15-minute recess.  
14 Should be back by twenty after.

15 (Recess ensued from 1:06 until 1:27.)

16 THE HONORABLE MANUEL PENA: The meeting  
17 will reconvene, and I want to change the lineup a  
18 little bit because Mr. Moreno has an appointment he  
19 has to keep. So we're going to ask him to present  
20 his statement now if he would.

21 MR. MICHAEL MORENO: Thank you,  
22 Mr. Chairman and Members of the Commission.

23 I am Michael Moreno. I'm the Director  
24 of the Governor's Office of Equal Opportunity. And  
25 I'm going to try to be brief, and if you would like

1 to ask some questions, I would be happy to entertain  
2 them.

3 In my assigned role as the Director of  
4 the Governor's Office of Equal Opportunity, I have  
5 the responsibility for monitoring and overseeing the  
6 human resource management of major State agencies.

7 Some of those strategies include  
8 reviewing each of the agency's missions and progress  
9 in accordance with the federal and state EEO laws.

10 I operate under an executive order  
11 issued by the Governor of the State of Arizona. Part  
12 of that order -- I won't read it totally --  
13 authorizes my office to provide training for and to  
14 give me authority to explore and offer alternative  
15 resolution in employment-related grievances and  
16 allegations. And this is employment related not just  
17 to discrimination with regard to sex, race, religion  
18 but all employment related issues.

1:28P

19 Over the past three years we have  
20 designed, developed and effectively implemented an  
21 Alternate Dispute Resolution system -- ADR I will  
22 refer to it from now on -- for the State of Arizona,  
23 which involves establishing program and policy goals.

24 The program has recently been approved  
25 by personnel and is going to be incorporated into the

1 State of Arizona Policies, Rules and Procedures, and  
2 will be an option or alternative to the existing  
3 grievance process of the State of Arizona.

4 We have successfully negotiated and  
5 secured a memorandum of understanding between the  
6 State and its federal counterpart, the EEOC, to defer  
7 cases to my office for resolution through mediation.

8 We recently met with Mr. Casellas, who  
9 was the Commissioner of EEOC appointed by President  
10 Clinton. We presented the program to him in  
11 Washington D.C. his district in Phoenix, Arizona, was  
12 also are provided with the presentation.

13 We submitted all the information to  
14 them for review and approval. Our main goal was to  
15 try to see if we could get cases that had been filed  
16 by State employees returned to our office for the  
17 possibility of mediating them.

18 The reason we felt that should be done  
19 are twofold. One is to preserve the integrity of the  
20 State, but also to provide the Arizona employee an  
21 opportunity to successfully try to mediate a problem  
22 that they are having whether they filed with EEOC or  
23 if it's an existing grievance that they have within  
24 their State agency.

1:30P 25

We did about a year's research. We



1 went off all over the country. We looked at the  
2 success of mediation. I know that some of you  
3 members of the Commission are very aware of some of  
4 the successes. Nationally there is about an  
5 85 percent success rate associated with mediation.

6 The program is modeled after the  
7 Attorney General's mediation program for the State of  
8 Arizona. Because the Attorney General represents the  
9 State of Arizona, they mediate consumer complaints.

10 They cannot mediate or defend employees  
11 of the State of Arizona because they represent the  
12 State agencies, so it's a conflict of interest. So  
13 they have to contract outside or they have to go  
14 through other means or the State has to hire  
15 mediators or individuals to come in and try to help  
16 resolve some of these issues that they're being  
17 charged with.

1:31P

18 To date we have mediated over 50 cases  
19 with about a 75 percent success rate. Presently we  
20 have about 54 cases pending. Most of these cases are  
21 cases that have been referred to us by EEOC, the  
22 Phoenix District Office in hopes of resolving the  
23 issues. EEOC has agreed if the parties come to a  
24 resolution, to terminate the charges.

25 We're very excited about the fact that

1 they've entrusted us with providing mediation to  
2 State employees. And I want to talk a little bit  
3 about the credibility of my office.

4 I am appointed by the Governor of the  
5 State of Arizona, but that doesn't mean that I'm  
6 influenced. I mean, you have rules. You have  
7 ethics.

8 You cannot come into my office and tell  
9 me you don't want me to investigate this charge or  
10 this case ethically, morally or legally. You just  
11 can't do it. It has never been done.

12 I've worked for two United States  
13 Senators, and I've worked two EEOC cases in those  
14 offices. They never came up to me. I know it's very  
15 political because it has the name Governor's Office.

16 I want to assure you also what I have  
17 done, I've hired -- I have in my employment the  
18 former district director of the Phoenix office of  
19 EEOC, over twenty years of experience that I consider  
20 to be an expert in the field of Title Seven  
21 investigations and mediations. There is no other  
22 better person.

23 I think some of you know Edward  
24 Valenzuela. He is the expert. I trust him. He is  
25 very ethical. He would not allow that office to be

1       compromised or influenced in any way, shape or form.

2               I have Phil Austin who was the former  
3       director of the Arizona Civil Rights Division of the  
4       Attorney General's Office. He is providing the  
5       training for the pool of mediators who will be  
6       mediating the cases before us together with the State  
7       employees who agree to go through mediation.

1:33P

8               He is on contract with my agency, and  
9       he will remain there because he provides technical,  
10      legal, all the assistance that I need to ensure that  
11      this program is successful. It's very important to  
12      us. That we provide.

13              I know that in the past once again, the  
14      inferences in terms of the conflict of interest I  
15      have gone over and spoken to you, Mr. Chairman, when  
16      you were Senator regarding the mediation program.

17              My funds that are appropriated for my  
18      agency -- I do not receive funding from the  
19      Governor's Office. I have to go to the State  
20      Legislator to receive my funding. I have to show  
21      them what I am doing is legitimate, and they can  
22      approve it, and we can continue on with the work that  
23      we want to do.

24              I feel that it was very important today  
25      to come here and to let you know this, because as

1 some of the statements have been made in the past in  
2 terms of the confidence in my office. We have worked  
3 very hard with the people that we have employed with  
4 us with the things that we are doing with the  
5 agreements that we have with the Federal Government.  
6 It's unprecedented in the State of Arizona.

7 This is the first time in the history  
8 of the State that we have had this type of an  
9 agreement.

10 And it also reduces the time that  
11 individuals have to wait for EEOC to give them a  
12 right to sue or even to look into the matter. This  
13 shortcuts that and provides a very effective  
14 successful win/win situation for both parties.

15 And if I'm in a situation that is kind  
16 of difficult, it's because I do have to preserve the  
17 integrity of the State, but I also have an obligation  
18 to the employee of the State of Arizona to make sure  
19 that they have -- that their rights are being  
20 protected, and that they have an avenue to pursue, to  
21 get some resolution or get some satisfaction to  
22 complaints that they have.

1:35P 23 I have attempted on numerous occasions,  
24 and it's very amicable from the standpoint that the  
25 individuals -- some of whom are here today -- I have

1 spoken with them and I have asked them if they would  
2 not like to participate in mediation. I have left  
3 that door open. We still want to.

4 The State of Arizona, the Department of  
5 Transportation I spoke with them. They also have  
6 indicated a willingness to pursue mediation.

7 So in the end I would just like to  
8 state that if there is any possibility in your  
9 recommendations or conclusion that you draw that you  
10 look at our program as maybe an objection to pursue  
11 to try to resolve some issues that are being brought  
12 to you today. With that I would like to thank you  
13 for your time.

14 THE HONORABLE MANUEL PEÑA: Richard?

15 MR. RICHARD ZAZUETA: Mr. Chairman. I  
16 would like to go back to a question I asked  
17 Ms. Canales.

18 On your program alternative dispute  
19 resolution system that you mentioned, Mr. Moreno, she  
20 mentioned -- Ms. Canales mentioned from her view  
21 point that there was a conflict of interest in  
22 resolving her problem, their problem. I guess that  
23 was her perception.

24 MR. MICHAEL MORENO: Mr. Chairman,  
25 Mr. Zazueta, I believe I spoke with her. I believe I

1        tried to explain the process. In that process we  
2        have built-in components. If there is a conflict, if  
3        there is any kind of a conflict, we have in the  
4        component something that says we can take a recess.  
5        We can take a break. You can step out of mediation.  
6        You can consult with whomever you like to consult  
7        with before you make a decision, before you make a  
8        statement, before you have any question about the  
9        process.

10                    I don't know the particular instance,  
11        Mr. Zazueta, but I know the process allows for  
12        individuals to take a time out, so to speak, to go  
13        and consult and then come back so that they feel  
14        comfortable about either continuing or not  
15        continuing.

16                    The process isn't 100 percent. It will  
17        not resolve 100 percent of any of the issues or all  
18        of the issues that are brought here. It may not be  
19        appropriate.

20                    One instance may be a crime. Somebody  
21        commits a crime. We can't mediate a crime. We can't  
22        mediate a blatant act of sexual discrimination or  
23        sexual harassment. I can't specifically recall what  
24        the conflict was, but we didn't have an opportunity  
25        to address it.

1:38P

1 MR. RICHARD ZAZUETA: Thank you.

2 THE HONORABLE MANUEL PENA: Ms. Kraus.

3 MS. PATRICIA KRAUS: Mr. Moreno,

4 although the people that have testified here today  
5 have not availed themselves of the services of your  
6 offices, have other ADOT employees?

7 MR. MICHAEL MORENO:-- Yes, they have,  
8 Mr. Chairman, Ms. Kraus. We have pending right  
9 around 65 cases from all State agencies, boards and  
10 commissions. My area covers all of those. There is  
11 over 100 agencies boards and commissions.

12 MS. PATRICIA KRAUS: And that includes  
13 ADOT employees?

14 MR. MICHAEL MORENO: Yes, that includes  
15 ADOT employees.

16 THE HONORABLE MANUEL PENA:  
17 Mr. Echeveste?

18 MR. ADOLFO ECHEVESTE: Mr. Chairman,  
19 Mr. Moreno, help me understand the breadth of the  
20 authority of your office. I understand and you're to  
21 be commended for putting together a very clear and  
22 well-defined what you call program to facilitate the  
23 process of trying the mediation process. Thank you.  
24 That's what I was trying to say.

1:40P

25 But how do you address -- what

1 authority do you have to address the appearance or  
2 what might appear to be institutional racism? Give  
3 me an example of how you can address that, how you  
4 are addressing that?

5 MR. MICHAEL MORENO: Mr. Chairman,  
6 Mr. Echeveste, I previously spoke to the alternative  
7 dispute resolution of my executive order. The order  
8 also allows me to look into any situation, whatever  
9 the subject matter is, if it is a problem in terms of  
10 employee versus employer.

11 One of the reasons why my office was  
12 set up is to provide the employee an opportunity if  
13 they feared any retaliation, if there was any fear of  
14 termination, and I have expressed this to anyone who  
15 calls the office that they can file their grievance  
16 with the agency and that at the same time file that  
17 grievance with my office.

1:41P

18 What I then do is contact that agency  
19 and let them know that that individual has filed with  
20 my office. And basically it's an unwritten notice to  
21 that agency that they should not and will not conduct  
22 any activity or make any statements to that employee  
23 to give that employee the feeling that there is going  
24 to be some kind of negative conclusion.

25 With regard to institutional racism, it



1 hasn't been brought on our attention in terms of a  
2 request, but like any other issue, if it does, we  
3 have people on staff who do management assessment,  
4 who do agency assessments, who can go in and conduct  
5 those assessments, not investigations, but come back  
6 with the recommendation to me, and I can make that  
7 recommendation to the Agency Director.

8 MR. ADOLFO ECHEVESTE: All right.  
9 Mr. Chairman, Mr. Moreno, let's take an example that  
10 say you found something that clearly was  
11 inappropriate, some discrimination, some harassment,  
12 a pattern of that.

13 What authority, if any, do you have?  
14 You mentioned you can point out, you can recommend to  
15 the Director of the Department.

16 What if the Director of the Department  
17 refuses to respond in an affirmative way to correct  
18 the problem? What can you do at your office?

1:43P

19 MR. MICHAEL MORENO: What I can do and  
20 what I have done in the past with other agencies, I  
21 have gone to the Deputy Chief of Staff for Operations  
22 who is over all Agency Directors.

23 I also make recommendations to that  
24 Deputy Chief regarding any assessments, any  
25 investigations that my office has conducted. And I

1 have basically said that this is why this decision  
2 has to be made, because, and based upon the because.

3 When I have said or made a  
4 recommendation, the Deputy Chief calls the Agency  
5 Director in, and at that point if the Deputy Chief  
6 feels that my recommendation needs to stand, then my  
7 recommendation stands.

8 MR. ADOLFO ECHEVESTE: So then your  
9 office then has -- really it's a facilitator,  
10 mediator, but you have no legal -- you have no legal  
11 authority that you can exert and assert if, in fact,  
12 as you say, the Deputy Director of the Governor's  
13 Office or the Governor choses to ignore; that matter  
14 ends there?

1:44P

15 MR. MICHAEL MORENO: Mr. Chairman,  
16 Mr. Echeveste, the executive order is the  
17 Constitutional authority. It's given by the State  
18 Legislature. There are rules and regulations that  
19 must be abided by.

20 It gives me the authority to make those  
21 recommendations and there is a responsibility to  
22 respond to those recommendations, because some of  
23 those recommendations may be to prevent them from  
24 committing something illegal or to correct something  
25 that is very wrong, and I have that authority to make

1 that recommendation, and there is an obligation  
2 Constitutionally to do so something about that  
3 recommendation.

4 MR. ADOLFO ECHEVESTE: One more  
5 question, Mr. Chairman.

6 Mr. Moreno, do you track -- do you  
7 track various types of key indicators to try and  
8 pinpoint potential institutional racism?

9 Let me be more specific. For example,  
10 do you track to see how administrators in the various  
11 departments and even by the administrators hiring  
12 employees from the personnel registers that are sent  
13 to them? Do you track to see if, in fact, those  
14 registers do reflect the diverse society that we  
15 have?

16 Do you have those kind of tracking  
17 management tools in place to track those kind of  
18 things as well as the number of complaints from a  
19 specific supervisor?

1:46P

20 MR. MICHAEL MORENO: Mr. Chairman, I'm  
21 going to defer to Mr. Valenzuela. His responsibility  
22 is that.

23 MR. EDWARD VALENZUELA: Mr. Chairman,  
24 Mr. Echeveste, the area you're talking about tracking  
25 or monitoring the progress lies with the Governor's

1 Office of Equal Opportunity in that it is the one  
2 office, the one agency in the entire State that is  
3 responsible to coordinating all Affirmative Action  
4 plans by all agencies, commissions and boards.

5 Each commission, board and agency and  
6 department is required to submit an annual  
7 Affirmative Action plan indicating the status or the  
8 progress of the Affirmative Action plans.

9 If there is underutilization of  
10 protected class individuals and if there is no  
11 progress made in the year, they have to give a reason  
12 for that, and that's reported to the Governor's  
13 Office.

14 The Governor's Office then has to make  
15 reports to the Federal Government in the form of an  
16 EEO-4 report. It has its own authority to make those  
17 corrections.

1:47P

18 MR. ADOLFO ECHEVESTE: Mr. Valenzuela,  
19 Mr. Moreno, Mr. Chairman, do you pay particular  
20 attention to, say, let's say, the hiring process, the  
21 people doing the selection in all of the departments  
22 of employees? Do you monitor that?

23 I guess for example, let me just give  
24 an example. I'm asked earlier how is it -- I asked  
25 what is the composition of a key component in a

1 department that we've heard lots of testimony about  
2 today. That has not one Latino in that component  
3 which is responsible for administering, as you do in  
4 your agency, the whole Department of Transportation  
5 when the population of Arizona what, is 25, 30  
6 percent minority.

7 This is an office to oversee that  
8 activity in a Department. Do you oversee these  
9 components? Do you have any authority to input into  
10 these kind of situations?

1:48P

11 MR. MICHAEL MORENO: Mr. Chairman,  
12 Mr. Echeveste, until recently we had no direct  
13 responsibility or direction to be involved in the  
14 hiring process. About a month ago at our last  
15 meeting that I had with our chief of staff, one of  
16 the -- that specific issue came up.

17 My office will in the very near future  
18 play a more active role in ensuring kind of a diverse  
19 representation or hiring people based upon their  
20 ability to produce and not hiring people because  
21 they're a friend of somebody and all of the issues  
22 that were used to give examples of how minorities  
23 weren't given opportunities.

24 I feel very comfortable from the  
25 standpoint that we are going to be taking a more

1 active role in the hiring process in the very near  
2 future.

3 To date the personnel department of  
4 each agency if it was a large agency, they have that  
5 responsibility to ensure diversity in the employment  
6 work force.

7 MR. EDWARD VALENZUELA: In the chart,  
8 if I may add to that. In chart you have, we are  
9 responsible for looking at the entire profile of all  
10 the agencies together.

11 This will reflect a fairly good  
12 representation of the protected groups in that it's  
13 probably only 2 percent below the recommended goals  
14 set by the Department of Labor, and their goals that  
15 they've based on civilian labor force.

1:50P

16 With regards to the specific ones, I'll  
17 respond, again, by saying that the annual Affirmative  
18 Action plans that are submitted by every individual  
19 department shows underutilization of a group. That's  
20 how we know.

21 It's up to the Governor's Office to  
22 approve or disapprove that plan. If there is a  
23 feeling that that plan is not an aggressive effort --  
24 an aggressive effort has not been made to correct  
25 that situation, at that time that would be brought

1 out.

2 As you see, the overall aggregate looks  
3 good, and it's up to date to look at individual  
4 agencies. Some agencies may be doing better than  
5 others. We have to look at the ones that are  
6 deficient and put some emphasis in that area.

7 MR. ADOLFO ECHEVESTE: One final  
8 question. I'm sorry. This is an area of particular  
9 interest to me.

10 Can you as the Affirmative Action  
11 Office guarantee that individuals that testified in  
12 hearings such as these, can you guarantee they will  
13 not be subjected to any retribution, any harassment,  
14 any termination and/or being even kept at the same  
15 salary, same classification but being put to, let's  
16 say, a Grade 21, 23, to clean windows or to sharpen  
17 pencils at the same pay rate? Can you guarantee that  
18 those kind of things do not occur?

1:52P

19 MR. MICHAEL MORENO: I can guarantee  
20 that no retaliation will be taken against any of the  
21 employees today, none whatsoever. I can guarantee  
22 that. I'm precluded by personnel rules to engage in  
23 any kind of a conversation regarding salary,  
24 regarding positioning, regarding restructuring. I'm  
25 precluded by statute from doing that.

1 MR. ADOLFO ECHEVESTE: But you're  
2 guaranteeing if there are employees that have  
3 testified that, in fact, have been kept at their  
4 classification, have retained their title, but are  
5 sharpening pencils or pushing papers, way below their  
6 pay level, that you can correct those problems?

7 MR. MICHAEL MORENO: Mr. Chairman,  
8 Mr. Echeveste, I can make sure that the law is  
9 complied with. Once again, I don't want to get into  
10 job duties, job responsibilities and how people  
11 change. I just cannot engage in that kind of a  
12 situation where I'm there day to day. It's  
13 impossible for me to be there.

1:53P

14 MR. ADOLFO ECHEVESTE: Thank you, Mr.  
15 Chairman, Mr. Moreno.

16 THE HONORABLE MANUEL PENA: Let me  
17 follow up with more of the questions.

18 You might have responded to it, but I  
19 didn't catch it. Mr. Echeveste asked about the  
20 Affirmative Action Office, the makeup the components,  
21 and what you could do to make kind of a change,  
22 noting that all of these are appointments by the  
23 Governor. And apparently once the Governor makes an  
24 Affirmative Action Administrator appointment, that  
25 person appoints the rest of them.



1 How do you fit in?

2 MR. MICHAEL MORENO: Mr. Chairman, I'm  
3 very proud of the fact that I've had the opportunity  
4 and the flexibility to hire unique individuals. I'm  
5 Pasquayaqui. I have a Navajo. I have Mr. Valenzuela  
6 who I gave you his experience. I have an Angelo in  
7 my office.

8 And it's very important to me that my  
9 office not be perceived as a token office and that  
10 you and I feel that my employees represent the total  
11 community as well as the work force, have a very good  
12 representation.

13 I have individuals in my office who are  
14 from a different party. I'm only concerned with  
15 hiring people who can do the best job possible who  
16 can provide the best situation for the best interests  
17 of everybody.

1:55P 18 THE HONORABLE MANUEL PENA: You're  
19 commended for that, but you didn't respond to my  
20 question.

21 What do you do about the Affirmative  
22 Action Office of the Department of Transportation,  
23 the makeup that Adolfo talked about, the components?

24 MR. MICHAEL MORENO: Mr. Chairman, the  
25 makeup I can't address that. I can't tell you that

1 I'm going to go over there and hire, you know -- I  
2 don't believe in even dealing with having at least  
3 two Mexicans, two blacks, two whites. I think that's  
4 awful.

5 -- I think even the Affirmative Action  
6 plan itself, the Federal Government did not say, it  
7 did not say that you had to hire two of everything...  
8 It says you have to make an attempt to diversify your  
9 employment, to diversify. It did not say to hire.

10 And I can't go over there and tell them  
11 to put one of each in any position. I think that  
12 they need to be sensitive to that. I'm sure that  
13 they're being made aware of it today, and I think  
14 they will keep that in mind.

1:56P 15 THE HONORABLE MANUEL PENA: You're in  
16 the Governor's Office. He's the one that makes these  
17 appointments, and you can't go to the Governor and  
18 tell him the ADOT Affirmative Action Office is not  
19 representative of the cultural diversity of the State  
20 and to make some changes?

21 MR. MICHAEL MORENO: Mr. Chairman, I  
22 can make a recommendation regarding employment to  
23 positions that we have more -- to make  
24 recommendations over.

25 The Department of Transportation has a

1 statutory authority to set up their organization and  
2 a process to hire. I can't go in there and tell them  
3 who to hire.

4 I think an example that we use is the  
5 Motorola example. When we see an area, when there is  
6 a vacancy, and we see an area that maybe they don't  
7 have a minority in that area, we can make a  
8 recommendation to the Department of Transportation  
9 that they consider hiring either a female or a  
10 Hispanic or Afro American, we can make that  
11 recommendation.

12 I think that's better than going to the  
13 Governor and trying to recommend to the Governor that  
14 he go tell them. I just think that can be dealt with  
15 at that level.

16 MS. ANGELA JULIEN: Mr. Chairman,  
17 Mr. Moreno, you said that what you do is make sure  
18 that an attempt is made.

19 If in a department it appears that  
20 repeatedly that attempt, whatever the attempt is  
21 designed as, is not being made to diversify the  
22 Affirmative Action department or other appropriate  
23 department, what steps do you take or can you take if  
24 under your definition the attempt is clearly not  
25 being made?

1:58P

1 MR. MICHAEL MORENO: Mr. Chairman,  
2 Ms. Julien, most of the time I haven't had that  
3 experience to date. If there is a blatant -- if it's  
4 obvious, if I'm talking to them and I'm reviewing  
5 their Affirmative Action report and I make some  
6 suggestions, I make it because I see a pattern. And  
7 I make that recommendation.

8 If they don't take that recommendation,  
9 then we end up in situations like this. That's the  
10 reason why I went to EEOC, to see if we couldn't  
11 bring those things up and see if we couldn't solve  
12 those at an earlier stage and work with them.

13 And I am also trying to insert my  
14 agency as a very positive force within State  
15 government. And I will tell you that in the past  
16 that office has been seen as a dumping ground for  
17 those on the way out and the watering hole for those  
18 on the way up. It has been seen as a "them" office.  
19 I don't think anybody is excluded from experiencing  
20 some kind of form of not feeling any worth.

1:59P

21 MR. RICHARD ZAZUETA: Mr. Chairman,  
22 could I follow up on that question of Mr. Echeveste  
23 and yourself?

24 THE HONORABLE MANUEL PENA: Sure.

25 MR. RICHARD ZAZUETA: Could you

recommend to the Governor, Mr. Moreno, when he has his cabinet meetings to recommend to the Department of Transportation to resolve some of these office problems of Affirmative Action or whatever or some of these complaints? Could you recommend that to the Governor?

MR. MICHAEL MORENO: Mr. Chairman, Mr. Zazueta, I can and I will.

THE HONORABLE MANUEL PENA:  
Dr. Vignery?

DOCTOR JUNE WEBB-VIGNERY: Thank you, Mr. Chairman, and Mr. Moreno. I would like to ask you a couple of questions about your legal mandate.

Under your legal mandate, do you require that each department head, including the head of the Department of Transportation, have the Affirmative Action officer report directly to him or her?

MR. MICHAEL MORENO: Excuse me, Mr. Chairman, Dr. Vignery. Report to whom?

DOCTOR JUNE WEBB-VIGNERY: Report to the Department head of each department?

MR. MICHAEL MORENO: Mr. Chairman, Dr. Vignery, I think they do in some instances. I'm pretty sure that the Department of Transportation has

1 meetings, and they do meet about the Director.

2 DOCTOR JUNE WEBB-VIGNERY: Do these  
3 report directly to the Director?

4 MR. MICHAEL MORENO: I don't know the  
5 organizational flow.

6 DOCTOR JUNE WEBB-VIGNERY: And under  
7 your legal mandate, do you have subpoena powers?

8 MR. MICHAEL MORENO: Mr. Chairman,  
9 Dr. Vignery, we do not have subpoena powers.

10 DOCTOR JUNE WEBB-VIGNERY: Versus the  
11 Civil Rights Division of the Attorney General's  
12 Office which represents the administrative functions  
13 which does have subpoena powers.

14 MR. EDWARD VALENZUELA: Mr. Chairman,  
15 Dr. Vignery, the power or the authority that the  
16 Governor's Office of Equal Opportunity has is that  
17 which is delegated from the Governor himself based on  
18 Constitutional powers, executive powers that the  
19 Governor has. The Governor may delegate so many  
20 powers, which he has done in this case.

2:02P

21 When you refer to the Office of Civil  
22 Rights, that is enforcing a statutory law, Arizona  
23 Revised Statutes, which provides prohibition of  
24 discrimination based on race, religion, class, sex,  
25 national origin. That's statutory law which is

1 legislative.

2 As opposed to the executive branch, the  
3 Governor's Office. The Governor may delegate down to  
4 this office -- and it depends on the Governor.

5 The authority that is exercised by the  
6 office is that investigation, preparation and  
7 exploration of methods to resolve disputes, employee  
8 disputes and employment related disputes with regard  
9 to correcting the situation. That authority hasn't  
10 been delegated directly to the office. It still lies  
11 with the Governor.

12 The Governor has the sole authority  
13 over all Agency Directors, all members and all  
14 branches of the executive branch of the State  
15 government.

16 Therefore any recommendations that are  
17 going to be made has to go back up to the Governor,  
18 who make the sole decision of the corrective action.  
19 Recommendations are made on a regular basis from this  
20 office to the Governor's cabinet or the Governor  
21 himself to make corrections.

22 DOCTOR JUNE WEBB-VIGNERY: Thank you.

2:03P

23 MR. JONES OSBORN: Mr. Chairman,  
24 Mr. Moreno, did I understand you to say that your  
25 office of alternative dispute resolution has 65 cases

1 pending?

2 MR. MICHAEL MORENO: Mr. Chairman,  
3 Mr. Osborn, I believe I said 54 cases.

4 MR. JONES OSBORN: 54. Thank you. And  
5 of that 54, do you happen to know how many are in the  
6 Arizona Department of Transportation?

7 MR. MICHAEL MORENO: I believe the  
8 number is 27.

9 MR. JONES OSBORN: 27?

10 MR. MICHAEL MORENO: Not of the 54, but  
11 of the total 300 that are pending at EEOC currently.

12 MR. JONES OSBORN: 300 pending?

13 MR. MICHAEL MORENO: This is out of 100  
14 agencies boards and commissions, 40,000 employees.  
15 We have approximately --

16 MR. JONES OSBORN: I'm having trouble  
17 distinguishing between the 300 and the 54.

18 MR. EDWARD VALENZUELA: May I correct  
19 that? May I clarify that? I have the figures. I  
20 just worked on them today.

21 Overall there are about 300 cases,  
22 State Agency charges pending at EEOC. Of those State  
23 Agency charges pending at EEOC, approximately 27 or  
24 28 are against the State Department of  
25 Transportation.



1           Out of that number of 27 or 28, letters  
2           have gone out from the EEOC to those charging  
3           parties, inviting them to contact us to mediate.

4           Of that number, at least seven  
5           individuals have contacted our office and are willing  
6           to mediate. And these six or seven charges have been  
7           forwarded to the Department of Transportation, asking  
8           the Department if they're willing to sit down and  
9           mediate those cases.

2:04P 10           MR. JONES OSBORN: And have you had a  
11           response from ADOT on any of them?

12           MR. EDWARD VALENZUELA: They are just  
13           recently contacted.

14           MR. JONES OSBORN: Fairly recently?

15           MR. EDWARD VALENZUELA: Within the past  
16           week.

17           MR. JONES OSBORN: Within a week?

18           MR. EDWARD VALENZUELA: Yes.

19           MR. JONES OSBORN: Uh-huh. Let me give  
20           you a hypothetical case if I may, Mr. Moreno.

21           Suppose that an ADOT employee came to  
22           you and said, "My job site has been littered with  
23           Ku Klux Klan literature. Someone hung a noose on my  
24           work station, and there is a burning cross," and so  
25           on. And you were able for determine who was

1 responsible.

2 What options do you have for dealing  
3 with that rather extreme situation?

4 MR. MICHAEL MORENO: Mr. Chairman,  
5 Mr. Osborn, when an employee comes to my office and  
6 says that, I have a responsibility to immediately  
7 respond. The first thing I do is I contact the  
8 Agency.

9 And then I work together with the  
10 Agency, depending upon the severity. If it's  
11 blatant -- it's crime, sexual harassment, cross  
12 burning, I think that the Agency -- I assure you they  
13 need to take immediate action to investigate, to look  
14 into it to go and make sure that that employee is  
15 safe, that the environment is safe and that there is  
16 no illegal activity taking place because of that  
17 report that was made to me.

2:06P

18 MR. JONES OSBORN: Then if the guilty  
19 party was identified beyond any reasonable doubt, any  
20 action that might be taken goes back then to ADOT;  
21 it's not your office's prerogative?

22 MR. MICHAEL MORENO: Mr. Chairman,  
23 Mr. Osborn, correct, the Agency must take care of  
24 that.

25 MR. JONES OSBORN: Thank you.

1 THE HONORABLE MANUEL PENA: Any other  
2 questions? If not --

3 MR. RUDY GARCIA: I have one question.  
4 Mr. Chairman, Mr. Moreno, this program the ADAR  
5 program is relatively new as far as being in place.

6 Is there still additional training to  
7 be done with this?

8 MR. MICHAEL MORENO: Mr. Chairman,  
9 Mr. Garcia, we are continuously updating our pool of  
10 mediators. We have received training from the  
11 Arizona Attorney General's Office, as I mentioned  
12 earlier.

13 Mr. Phil Austin is our senior trainer  
14 in terms of making sure that we offer not only the  
15 40-hour mediation training for mediation pool, but  
16 also we have another component that goes into the  
17 agencies and trains managers and supervisors  
18 regarding mediation.

19 The experience, the research that we've  
20 done shows that if you have managers as supervisors  
21 who are trained and aware about mediation, there is a  
22 percentage, right around 25 or 30 percent of those  
23 that would have gone to a grievance process can be  
24 taken care of at that point.

25 Some of these just take an apology.

1 Some of these may be just a change in shift schedule  
2 that end up becoming mountains that were mole hills  
3 to begin with.

2:08P

4 The program is relatively new. We run  
5 the pilot for a year, and we recently got  
6 authorization to run it full scale offering it to all  
7 major agencies, all agencies boards and commissions.

8 MR. RUDY GARCIA: So you feel that the  
9 resources are available and in place actually on  
10 these cases that are relatively new as far as coming  
11 into this program to take care of them?

12 MR. MICHAEL MORENO: Mr. Chairman,  
13 Mr. Garcia, yes, I do. Gloria Ybarra, who is the  
14 current director for the Arizona Civil Rights  
15 Division, has allowed me to take on mediators until  
16 we can build up our pool of mediators.

17 They're State employees who do EEO  
18 responsibilities in their agencies, and if an agency,  
19 if an employee --

20 I'll give you a quick example. If an  
21 employee doesn't have confidence in a mediator who  
22 comes from their agency, they can request a mediator  
23 from the pool that may come from another agency that  
24 will come in and facilitate the process.

25 We're trying to build confidence.

1 We're trying to give both parties the assurance they  
2 can go in there and come out with a mutual agreement.

2:09P 3 MR. RUDY GARCIA: But you can't do that  
4 unless the parties agree that is the route they want  
5 to take? If they elect not to, can you proceed on  
6 your own?

7 MR. MICHAEL MORENO: Mr. Chairman,  
8 Mr. Garcia, both parties must agree to mediation.  
9 One cannot be forced to attend. Both parties must  
10 agree. It's completely voluntary on both parties.

11 If you understand mediation, it's not  
12 arbitration. It's not a right or wrong. It's not  
13 courtroom drama. There are no -- nobody is taking  
14 notes. Nobody is building a case. The facilitator  
15 ensures that that is not the process.

16 It's trying to come to a mutual  
17 agreement regarding an issue, a behavior that had  
18 some impact on somebody.

19 MR. ADOLFO ECHEVESTE: Mr. Chairman,  
20 before they leave, I just want to make sure who else  
21 will be here representing the State? Is this it?  
22 There are others here from the Department of  
23 Transportation. Mary Peters is here?

2:10P 24 THE HONORABLE MANUEL PENA: Yes. Thank  
25 you.

1 MR. ADOLFO ECHEVESTE: Thank you.

2 THE HONORABLE MANUEL PENA: Any other  
3 questions? If not, thank you for being here.

4 MR. MICHAEL MORENO: Thank you.

5 THE HONORABLE MANUEL PENA: We will now  
6 hear from Mary Peters, who is Deputy Director of the  
7 Department of Transportation.

8 We also want Lisa Wormington to come up  
9 and sit in the panel. She is the Affirmative Action  
10 director of ADOT, and we would like to invite Eddie  
11 Edison to sit in on the panel. He is the EEO  
12 specialist for the transportation support group,  
13 Affirmative Action of ADOT.

14 What we'll do is we will allow all  
15 three to make a statement if you wish. And then we  
16 can proceed with questions that we may have of any of  
17 the three or all three.

18 Mary Peters?

19 MS. MARY PETERS: For the record, my  
20 name is Mary Peters, and I am the Deputy Director of  
21 the Arizona Department of Transportation. I have  
22 served in this capacity since July 1995.

23 In my position I operate as Chief  
24 Operating Officer for the Agency. I report directly  
25 to the Agency Director and Chief Executive Officer,

1 Larry Bonine.

2 I am responsible in this position for  
3 all operational and administrative aspects of the  
4 Agency to include Intermodal Transportation Division,  
5 the Motor Vehicle Division, and all administrative  
6 and support functions supporting these activities.

7 Specific aspects of these duties  
8 include setting strategic policy related to  
9 transportation for the State of Arizona, including  
10 motor vehicle functions, development of the Agency  
11 strategic plan and performance measures.

12 In addition, I chair the Priority  
13 Planning Committee, which prioritizes projects as  
14 part of the five-year highway construction program.

2:12P

15 The Arizona Department of  
16 Transportation is responsible for the 6,000-mile  
17 state highway system and the \$2.6 billion five-year  
18 highway construction program. This program supports  
19 the statewide transportation network.

20 The Agency is further responsible for  
21 all vehicle registration and title registration  
22 activities as well as driver's license functions in  
23 our Motor Vehicle Division.

24 This includes motor carrier licensing  
25 and the tax collection functions that are related to

1 that. Direct responsibilities include management of  
2 the Agency's operating budget of approximately \$200  
3 million and direct management of the Transportation  
4 Support Group.

5 Prior to my current position, I served  
6 in the Director's Office as the Deputy Director for  
7 Administration when he had a separate position and  
8 performed those functions, and I also served as the  
9 Executive Assistant to the Director when hired by Jim  
10 Creedon in 1992.

11 My employment at the Arizona Department  
12 of Transportation originally began in 1985 in the  
13 Engineering Consultants Services section of the  
14 Highways Division. I served in several positions in  
15 that area, including that of Contracts Administrator.

16 In that capacity I managed the Agency's  
17 professional services consultant program, consisting  
18 of approximately 750 contracts and agreements valued  
19 at approximately one billion dollars annually.

20 This section is responsible for the  
21 selection, management, and administration of  
22 consultants providing engineering and architectural  
23 services, or in other words, professional services to  
24 the Agency.

25 Duties included the development of



1 proposal and administration procedures to enact  
2 enabling legislation for privately financed  
3 transportation projects.

4 Additional responsibilities included  
5 providing strategic direction and guidance to a staff  
6 of approximately 25 in the development of consultant  
7 selection procedures in compliance with the national  
8 Brooks Act.

9 While serving in this position, I  
10 developed and administered the program in compliance  
11 with the Federal Highway Program Manual, the Code of  
12 Federal Regulations, the Federal Acquisition  
13 Regulations, and Disadvantaged Business Enterprise  
14 Program guidelines.

15 Additional duties included development  
16 and monitoring of consultant program funding within  
17 the Agency's five-year highway construction program,  
18 establishing partnering concepts in engineering  
19 consultant contracts, and developing a consultant  
20 outreach program to facilitate better communication  
21 and coordination with the consultant community, and  
22 this would have included the disadvantaged business  
23 consultant community as well.

24 The Arizona Department of  
25 Transportation employs well over 4,000 persons

2-15P

1 including seasonal and temporary positions, in three  
2 divisions and the transportation support group. ADOT  
3 headquarters are located here in Phoenix, and we have  
4 field offices located in virtually every community  
5 throughout Arizona.

6 As part of the executive branch of  
7 government, the Agency operates under authority  
8 granted by Title 28 of the Arizona Revised Statutes.  
9 The Agency operating budget comes primarily from the  
10 Highway User Revenue Fund and is appropriated on an  
11 annual basis by the Arizona State Legislature.

12 In operating the Agency, we're  
13 responsible for accomplishing the organizational  
14 mission, which is directed as Title 28 with direction  
15 set by the Agency guiding vision and strategic plan  
16 goals and objectives. The Agency values, which were  
17 developed by a team of employees with input in the  
18 work force as a whole to ensure the rightness of our  
19 direction in accomplishing this mission.

20 Our organization has undergone  
21 substantial change in the past ten years as have most  
22 organizations. The organizations that each of you  
23 are involved with have done so as well.

24 In fact, you can hardly pick up an  
25 edition of The Wall Street Journal or management

1 magazine and not find that an organization has gone  
2 through a substantive change in the past few years  
3 and ours is no exception. This sometimes caused  
4 stress on the work force, and again, our agency is  
5 not an anomaly in that respect.

6           However, the Arizona Department of  
7 Transportation does not discriminate in its  
8 employment and promotional policies against any  
9 group -- Hispanic, African-Americans,  
10 Asian-Americans, Native Americans, women, or those  
11 with disabilities.

2:16P 12           ADOT, in fact, prides itself on  
13 supporting equal opportunity for all employees and  
14 maintaining a workplace environment that is free from  
15 discrimination at all levels.

16           I believe that our numbers speak for  
17 themselves.

18           As of January 1st of this year, there  
19 were 4,172 ADOT full-time employees. Of that number,  
20 1,279 are Hispanic, African-American, Asian-American,  
21 or Native American. In fact, over thirty percent of  
22 our work force is represented by these minority  
23 groups.

24           These minority employees are also by no  
25 means relegated to the bottom rungs of the

1 advancement ladder of our organization. For example,  
2 there are 868 Hispanic employees, representing  
3 approximately 21 percent of our work force. Of that  
4 number 304, or just over 35 percent, are in  
5 professional positions or management level positions.  
6 That compares with only 9.9 percent of the private or  
7 civilian work force in such positions.

8 Women have also made significant  
9 progress within the Department of Transportation. In  
10 fact, 56.14 percent of the Agency's professional  
11 employees are women, which compares with just under  
12 half of the civilian work force.

13 Our record, I believe, demonstrates a  
14 zero tolerance attitude toward any form of  
15 discriminatory behavior. We have in place training  
16 programs, processes and procedures that emphasize our  
17 strong commitment to this policy.

18 Discriminatory behavior is simply not  
19 tolerated at any level in our organization. Our  
20 record shows that we have aggressively rooted out  
21 such behavior and dealt with it quickly and  
22 decisively whenever we have been made aware it  
23 existed in our organization.

24 Toward that end, ADOT maintains an  
25 Affirmative Action office with a full-time director

1 who has been nationally recognized for her competence  
2 and expertise in this area.

3 I need to clarify some discussion that  
4 occurred earlier. This position reports directly to  
5 the Agency Director's Office, and this position has  
6 full access to the Director and myself as Deputy  
7 Director at all times. This is the only exempt  
8 position within our Affirmative Action Office and by  
9 the word "exempt," I mean exempt from Civil Service  
10 hiring practices.

11 The remaining positions in this office  
12 are filled by a competitive process, a competitive  
13 process where its applicants make application for  
14 open positions within that office.

2:19P

15 Lisa Wormington has been our  
16 Affirmative Action Director since 1985. She was  
17 appointed by the Director and approved by the  
18 Governor's Office of Affirmative Action at that time.

19 We also have in place a number of staff  
20 who are well qualified to do their jobs within this  
21 area and have substantial experience in the areas of  
22 Affirmative Action and Disadvantaged Enterprise  
23 program, and Lisa will speak to that as she makes her  
24 remarks a little later.

25 We also have in place a comprehensive

1 Affirmative Action policy that states ADOT's  
2 commitment to affording equal opportunity to all  
3 current and future employees.

4 This agency has maintained an  
5 aggressive Affirmative Action program consisting of  
6 specific policies and practices in recruitment,  
7 hiring, training, promotion, and always other aspects  
8 of employment and employment benefits.

9 I'd like to quote to you, if I could,  
10 directly from our Affirmative Action policy. Quote,  
11 It is the fundamental policy of the Arizona  
12 Department of Transportation to provide Equal  
13 Employment Opportunity to all persons in all aspects  
14 of employment and benefits without regard to race,  
15 religion, color, sex, age, national origin, or  
16 disability. Employment decisions will be based on  
17 the individual's ability and qualification, end  
18 quote.

2:20P

19 Our work force is representative of a  
20 broad cross-section of society here in Arizona. ADOT  
21 recognizes that, as in society as a whole, there will  
22 be instances in our agency where people do not treat  
23 each other with the dignity and respect that must be  
24 afforded to every human being. In a work force as  
25 large and diverse as our own, there may be

1 circumstances in which individual employees become  
2 victims of either actual or perceived discrimination.

3 That is precisely why the organization  
4 has established a comprehensive complaint procedure  
5 for those who feel they may have been victimized.  
6 This procedure affords those who have complaints an  
7 opportunity for resolution along several fronts.

8 Again, Lisa Wormington will speak  
9 strictly to those policies. Employees who use this  
10 system have their concerns addressed and valid issues  
11 resolved under this process.

12 The Arizona Department of  
13 Transportation is proud to stand on our record. We  
14 have policies and procedures in place that represent  
15 our best effort to provide equal protection and  
16 opportunity to each of our employees in the  
17 Department of Transportation.

18 I appreciate the opportunity to make  
19 this statement to you, and I would be pleased to  
20 answer any questions you may have.

2:21P 21 THE HONORABLE MANUEL PENA: We would  
22 like to have a copy of that.

23 Lisa Wormington do you have a  
24 statement?

25 MS. LISA WORMINGTON: I'm Lisa

1 Wormington. I'm the Affirmative Action Administrator  
2 with the Arizona Department of Transportation.

3 I joined ADOT in 1985 as the Assistant  
4 Affirmative Action Administrator. Joe Eddie Lopez  
5 was the Administrator at the time.

6 Coming from the Governor's Office of  
7 Affirmative Action, I had experience in Affirmative  
8 Action issues. I was fortunate to work with Joe  
9 Eddie as he served as my mentor.

10 In 1986 Joe Eddie resigned to run for  
11 elected office, and I was appointed Administrator in  
12 July 1986.

13 The ADOT Affirmative Action Office is  
14 responsible for the administration of five different  
15 Civil Rights programs. They are: The Internal  
16 Affirmative Action Program, the Disadvantaged  
17 Business Enterprise Program.

18 Highway legislation since 1982 has  
19 required we expend no less than 10 percent of our  
20 federal money with small business concerns that are  
21 owned and controlled by socially and economically  
22 disadvantaged businesses.

23 Our external Affirmative Action  
24 Program, which is also called the Contract  
25 Compliance, requires that contractors working on



1 federal aid projects greater than \$10,000 have an  
2 Affirmative Action Program. They are also required  
3 to train minorities and women to full journeyman  
4 status in skilled crafts.

5 We have the Title 6 program. Title 6  
6 and related acts require that no person on the  
7 grounds of race, color, gender, national origin, age,  
8 or disability be excluded from participation in, be  
9 denied benefits of, or otherwise be subjected to  
10 discrimination under any program or activity of ADOT.

11 Lastly, we're responsible for the  
12 Americans for Disability Act. We're responsible for  
13 not only the employment aspect of it, but also that  
14 our programs, services, and activities are  
15 accessible.

2:23P

16 Since 1986, the agency and I have  
17 received the following honors:

18 In 1987 we received the DBE Liaison  
19 Officer of the Year from the Federal Highway  
20 Administration.

21 In 1990 we received the Outstanding  
22 Minority Business Enterprise Award, the Federal  
23 Highway Administration, for accomplishments and  
24 contributions to the U. S. Department of  
25 Transportation in Minority and Women-Owned Business

1 Programs.

2 In 1992 we won the Glass Ceiling Award  
3 in the Federal Highway Administration, for  
4 outstanding achievements ensuring equal employment  
5 opportunity, which increased the number of women and  
6 minorities in senior level management positions in  
7 the Agency's work force.

8 Public Advocate of the Year, from the  
9 National Center for American Indian Enterprise  
10 Development in 1994.

11 And in 1996 we were proud to receive  
12 the Arizona DBE Certification Partnership Award by  
13 the Federal Highway Administration.

14 Let me talk a little about the Internal  
15 Affirmative Action Program.

16 During my tenure in this office, the  
17 representation of all protected classes has grown.  
18 Only women are not represented at or above parity  
19 figures.

20 In 1989 Hispanics comprised  
21 17.5 percent of ADOT's work force. As of January 1st  
22 they comprised 20.8 percent. African Americans were  
23 at 3.2 percent and are now at 3.9. American Indians  
24 made up 3.2 percent of the work force and are now  
25 3.7. Asians have exceeded parity since 1989, going

1 from 1.6 percent to 2.2 percent. Women, although  
2 below parity, have increased in representation from  
3 30.9 percent to 39.1 percent.

2:25P

4 Classes in preventing sexual harassment  
5 and EEO/Affirmative Action are mandatory for all  
6 employees in the agency. The cultural diversity  
7 class is also mandatory for all supervisors.

8 A team was created in 1993 to develop a  
9 program to increase the representation of minorities  
10 and women in pay grades 17 and above. Since that  
11 time there has been positive movement in this  
12 direction. This is measured by considering the  
13 distribution of positions among the pay grades and  
14 then considering the same distribution of protected  
15 class members.

16 For example, in 1993, 23.1 percent of  
17 ADOT's African American work force was in pay grades  
18 16 through 30. Today 26.5 percent are. For  
19 Hispanics, the number has increased from 24.3 percent  
20 to 31.3 percent. For American Indians, it's grown  
21 from 19.4 percent to 20.7 percent and women have  
22 grown from 24.4 percent to 25.8 percent.

2:26P

23 To assist in investigating allegations  
24 of unlawful discrimination, two individuals with  
25 significant experience in this field were hired in

1 1989.

2 Eddie Edison currently serves as the  
3 Equal Opportunity Specialist IV. He is responsible  
4 for the internal Affirmative Action program, the  
5 day-to-day operations of the office, and issues  
6 relating to the Disadvantaged Business Enterprise  
7 program. Mr. Edison has 13 years of experience,  
8 including five years with the Alaska Human Rights  
9 Commission, a 706 agency.

10 Tom Moore was also hired in 1989. He  
11 is an Equal Opportunity Specialist III and is  
12 responsible for coordinating the certification  
13 portion of the DBE program. He conducts the  
14 EEO/Affirmative Action and sexual harassment  
15 training, and he investigates allegations into  
16 unlawful discrimination, too.

17 Mr. Moore came to ADOT from the Arizona  
18 Civil Rights Division of the Attorney General's  
19 office, where he began his career in civil rights in  
20 1979.

21 As a certified mediator he has used  
22 this skill to resolve conflicts in our workplace, and  
23 I would also like to add that Mr. Moore is a Vietnam  
24 veteran as well.

2:27P

25 ADOT has an EEO Counselor program,

1 patterned after the federal program. This program  
2 has always received the greatest support from top  
3 management. There are currently 40 counselors from  
4 all over the State that participate.

5 The counselors serve as our first line  
6 approach to issues and concerns arising in the field.  
7 They receive bimonthly training in Phoenix, and when  
8 we have people that are coming from Kayenta and  
9 Chambers for training, that does involve expense on  
10 the Agency's part.

11 They receive bimonthly training in  
12 topics such as investigation techniques, counseling,  
13 insurance changes, age discrimination, et cetera.

14 ADOT is one of a few state agencies who  
15 continue to participate in the Summer Youth  
16 Employment program offered by a variety of the  
17 community based organizations here in town, such as  
18 the Phoenix Urban League and the Phoenix OIC.

19 We talk a little bit about our  
20 Disadvantaged Business Enterprise Program. ADOT's  
21 DBE program is respected as a model by other state  
22 highway departments and by other local governments  
23 within the State of Arizona. I also serve as an  
24 instructor for the Federal Highway Administration's  
25 DBE Program Administration course.

1                   Some significant accomplishments  
2 include: Exceeding our 10 percent commitment every  
3 year since 1982, except for last year. This year's  
4 participation rate is at 15 percent as of the end of  
5 January.

6                   Partnering with local governments to  
7 create a single DBE application and on-site review  
8 form. This eliminates a great deal of duplication of  
9 efforts for those minority and women owned businesses  
10 who wish to work with as many different governments  
11 as possible.

12                   We participate in workshops throughout  
13 the State to explain the certification process to  
14 individuals who may need certification to participate  
15 in other entities' programs, such as APS, Southwest  
16 Gas, and some of the banks.

17                   And lastly, we obtain federal funds to  
18 work with the tribal governments to identify Indian  
19 owned businesses and assist them in working on ADOT  
20 highway construction projects.

21                   With respect to our External  
22 Affirmative Action Program/Contract Compliance -- as  
23 of July 1995, which is the most recent numbers that  
24 the Federal Highway Administration has provided to  
25 us, minorities comprised 42.9 percent of the total

1 contractors work force and 45.5 percent of the  
2 skilled work force on those federal aid projects.

3 The goal in the following crafts was  
4 exceeded: Equipment operators, mechanics, iron  
5 workers, carpenters, cement masons, electricians,  
6 pipe fitters, and painters. Only truck drivers were  
7 below the goal.

8 The national goal for women is  
9 6.9 percent. In Arizona, 5.1 percent of the workers  
10 were women. ADOT is one of 17 states who have  
11 elected to use a portion of its federal funding to  
12 implement a training program for minorities and  
13 women.

2:30P

14 The pre-apprenticeship program is  
15 administered by the Governor's Division for Women.  
16 Partnerships have been created among contractors,  
17 unions, ADOT, other community organizations, and the  
18 Maricopa Skills Center to ensure the program's  
19 success. Approximately 60 percent of those who have  
20 completed the course are working in the highway  
21 construction industry.

22 The Contract Compliance program is  
23 administered by Travis Benton. Mr. Benton is a  
24 Certified Compliance Administrator by the American  
25 Contract Compliance Association and the University of

1 Minnesota. This certification was paid for by the  
2 agency.

3 ADOT has also developed relationships  
4 with the Tribal Employment Rights Officers in order  
5 to facilitate the employment of American Indians on  
6 highway construction projects. This office  
7 participated in the development of FHWA's Partnering  
8 for Indian Employment in Highway Construction and  
9 sponsored one pilot course.

10 With respect to Title 6: In the past  
11 the emphasis on Title 6 has been on the impacts of  
12 proposed projects. ADOT is in the process of  
13 revising its current Title 6 program with assistance  
14 from the Arizona Center for Law in the Public  
15 Interest, various ADOT offices, the Federal Highway  
16 Administration, and the councils of government to  
17 reflect a change.

18 The new emphasis will be on the  
19 planning and programming process. The transportation  
20 disadvantaged -- historically minorities and low  
21 income families -- must be sought out and encouraged  
22 to participate. Their needs must be fairly  
23 considered during the programming process.

24 Federal Highway Administration has  
25 indicated this approach is new and that ADOT may be a



1 leader in the nation.

2 The Affirmative Action Office  
3 addresses, with respect to the ADA, we address  
4 requests for reasonable accommodations, issues in the  
5 workplace, and concerns about the accessibility of  
6 ADOT's services.

7 The letter I received asked that I  
8 discuss specifically or acknowledge incidents of  
9 discrimination, and this office has been involved in  
10 addressing general and specific instances of alleged  
11 discrimination.

12 I cannot provide the number of  
13 complaints quite simply because they weren't tracked.  
14 The instances involved alleged discrimination on the  
15 basis of race, national origin, gender, sexual  
16 harassment, retaliation, and disability.

17 These allegations did not indicate a  
18 pattern or a practice of discriminatory actions  
19 within the agency. They were isolated instances  
20 occurring in a diverse work force located throughout  
21 the entire state.

22 Highway departments have historically  
23 been white male dominated, and bringing cultural  
24 change to these organizations takes time. I believe  
25 ADOT has made significant strides in changing the

1 corporate structure.

2 How these issues are addressed: When  
3 an employee believes he or she has been discriminated  
4 against for an unlawful reason, he or she can choose  
5 to pursue it through an informal or formal process.

6 When filing an informal complaint, the  
7 employee may go to an EEO Counselor for assistance.  
8 EEO Counselors come to the Affirmative Action Office  
9 for assistance when working these complaints. Or the  
10 employee may come directly to the Affirmative Action  
11 Office.

12 When an employee comes to the  
13 Affirmative Action Office, our process is that a  
14 staff member will interview this individual. They  
15 will explore the nature of the complaint to draw out  
16 whether unlawful discrimination may have occurred.

17 A decision will be made whether there  
18 are grounds to investigate the complaint. If there  
19 is no indication of discrimination, the employee will  
20 be advised of what other options are available.

21 Occasionally, this office will assist  
22 employees with other concerns not related to  
23 discrimination, and mediation has also been used to  
24 solve conflicts.

25 The investigation consists of two

2:33P

1 separate processes. First, all possible and  
2 potential witnesses are interviewed. Sometimes  
3 second interviews are needed. Second, any and all  
4 relevant documentation is read. Examples of  
5 documentation can include personnel files, training  
6 reports, other investigations, and any notes from  
7 meetings and so on that someone may have with them.

8 If the investigator believes there may  
9 be cause, a report is prepared. This report includes  
10 a statement of the complaint, what our investigation  
11 was, our findings, and our recommendations.

12 If there is no cause, the complainant  
13 will be so advised and again other options are  
14 explored. If we determine that other issues not  
15 related to discrimination are found, the appropriate  
16 people are notified within the agency.

17 Employees have two choices for filing  
18 formal complaints. We have the ADOT employee problem  
19 solving procedure, or the employee can go directly to  
20 EEOC.

21 The Employee Problem Solving procedures  
22 consist of five steps when an allegation of  
23 discrimination is made. The Affirmative Action  
24 Office is notified of the grievance at Step 2.

25 Then sometime prior to the Agency

1 Director responding, which is Step 4, to the  
2 grievance, the Affirmative Action Administrator will  
3 review the complaint to determine if there is reason  
4 to believe discrimination may have occurred. If so,  
5 an investigation is conducted and a report is  
6 prepared.

7 The fifth step is the Arizona  
8 Department of Administration, where another  
9 investigation may be conducted.

10 Employees may bypass all of these steps  
11 and go directly to EEOC. When this is done, the  
12 Agency responds to EEOC's request for additional  
13 information. We do not conduct a separate  
14 investigation into the matter.

15 And we have also indicated that we are  
16 interested in mediation. And in the event it's  
17 necessary, we will pay for an outside mediator to  
18 come in and conduct those mediations, because of the  
19 concern there is a conflict of interest between the  
20 Governor's Office and the complainants.

2:35P 21 When a finding of discrimination is  
22 made by the Affirmative Action Office, a  
23 recommendation for disciplinary action is made.  
24 These actions have ranged from letters of concern to  
25 dismissals. Agency managers have been demoted or

1 fired over an unlawful discrimination issue. We do  
2 not tolerate unlawful discrimination.

3 You asked for a general statement of  
4 Affirmative Action. The Agency continues to work to  
5 ensure that this is a workplace free of  
6 discrimination and harassment. This emphasis has not  
7 changed since I joined ADOT in 1985.

8 My recommendations. When an employee  
9 uses the internal processes for resolving complaints,  
10 there is a better chance for addressing whatever  
11 problems are occurring. This is true whether the  
12 complaints involve discrimination or other work  
13 related problems. Only after internal processes are  
14 used, should an employee go outside of the Agency to  
15 seek relief.

16 Thank you. And I do have these  
17 written, since I spoke rather quickly.

2:36P

18 THE HONORABLE MANUEL PENA: Eddie  
19 Edison?

20 MR. EDDIE EDISON: I don't have a  
21 prepared statement. I was asked to participate in  
22 answering any questions. I didn't know I was going  
23 to have to make a statement until I got here today.

24 THE HONORABLE MANUEL PENA: What is  
25 your position with the ADOT.

1 MR. EDDIE EDISON: I'm the EEO  
2 specialist, and I report to Lisa Wormington, and I  
3 handle the internal investigation of any complaint  
4 efforts of discrimination and also coordinate and  
5 manage the Disadvantaged Enterprise Program.

6 THE HONORABLE MANUEL PENA: How long  
7 have you been in that position?

8 MR. EDDIE EDISON: With ADOT? Been  
9 with ADOT going on nine years.

10 THE HONORABLE MANUEL PENA: Doing what  
11 you're doing?

12 MR. EDDIE EDISON: No. This  
13 position -- I've been in this position since 1985 --  
14 '95 excuse me. I was promoted up from EEO Specialist  
15 III. Trinky Madrid, he used to be the EEO Specialist  
16 in before I was promoted into it.

2:38P 17 THE HONORABLE MANUEL PENA: Members?

18 DOCTOR JUNE WEBB-VIGNERY: Thank you  
19 Mr. Chairman. I wanted to clarify something. Did  
20 you make the statement that you have not tracked the  
21 complaints that flow through your office?

22 MS. LISA WORMINGTON: Mr. Chairman,  
23 Dr. Vignery, that is correct. We deal with not  
24 formal complaints -- informal, and there are the  
25 formal charges with EEOC. We have tracked the formal

1 charges that EEOC. We have only recently been  
2 tracking informal complaints.

3 DOCTOR JUNE WEBB-VIGNERY: But you've  
4 tracked formal complaints that have come through your  
5 office, the ones that haven't gone to EEOC?

6 MS. LISA WORMINGTON: The ones that  
7 have gone to.

8 DOCTOR JUNE WEBB-VIGNERY: Only the  
9 ones that have gone to EEOC?

10 MS. LISA WORMINGTON: That's correct.

11 DOCTOR JUNE WEBB-VIGNERY: You don't  
12 have a historical analysis of the what complaints  
13 have been from what area?

14 MS. LISA WORMINGTON: No.

15 DOCTOR JUNE WEBB-VIGNERY: Or what has  
16 happened within the organization?

17 MS. LISA WORMINGTON: That's correct.  
18 My best ability being there 12 years, I remember -- I  
19 have a fairly good memory of what came through.

20 MS. MARY PETERS: Mr. Chairman,  
21 Dr. Vignery, if I could please, we do have a tracking  
22 mechanism for formal grievances, and in most cases if  
23 an employee makes a complaint, a formal grievance  
24 alleging discrimination, those are tracked through  
25 our personnel office.

1 DOCTOR JUNE WEBB-VIGNERY: Thank you.

2 THE HONORABLE MANUEL PENA: Are there  
3 any other questions?

4 MR. RICHARD ZAZUETA: Yes. I have a  
5 couple of questions. First for Ms. Peters.

6 I'm very happy to hear that your agency  
7 has such high goals and performance this morning for  
8 Affirmative Action.

9 This morning we heard quite a bit of  
10 testimony that ADOT was the most biased and  
11 prejudiced agency in the State, and there were some  
12 specifics to that.

13 When Ms. Canales spoke, she spoke of  
14 some scores tampering on some evaluations. And some  
15 retaliation and reporting some of her complaints to  
16 you.

17 Do you remember any of these items?

18 MS. MARY PETERS: Mr. Chairman,  
19 Mr. Zazueta, I do have some knowledge.  
20 Unfortunately, this is the first time I've heard of  
21 those specific allegations against the Agency and  
22 against myself specifically.

23 I can probably answer some specific  
24 questions of some circumstances in that time frame.  
25 For instance, with regard to the allegation that



1 scores were changed on an evaluation, those scores --  
2 we have at the Agency --

3 Part of what we're trying to implement  
4 in our organization is a culture that values every  
5 employee. As such we have changed our employee  
6 evaluation process from the one that we used that we  
7 called 360 degree evaluation process.

8 In that process subordinates, peers and  
9 supervisors all rated an employee on an annual basis.  
10 We think it's very important to have that kind of  
11 broad based representation.

12 With regard to Ms. Canales' specific  
13 evaluation, there was a score rendered by a  
14 subordinate. After talking to Ms. Canales, I did not  
15 feel it fairly represented what should be on her  
16 evaluation because of some specific circumstances  
17 that had occurred between she and the subordinate  
18 and, in fact, raised those scores.

2:42P

19 MR. RICHARD ZAZUETA: Thank you. And  
20 for Ms. Wormington, I'm very familiar with the  
21 Affirmative Action Office. Many years back we fought  
22 to open that office and had to have lawsuits to get  
23 that office opened, even before Trinky Madrid and  
24 Mr. Joe Eddie Lopez.

25 We had quite a few suits by the general

1 contractors and others, not to open that office, even  
2 though there was a federal mandate of some  
3 Affirmative Action Program, federally. I'm glad that  
4 you have overcome some of those real large obstacles.

5 But the perception still is that the  
6 office is not doing its job. I'm sure that you have  
7 a lot of problems to do your job in the affirmative  
8 area and minority business enterprise area  
9 especially.

2:43P 10 But with one specific question, why are  
11 there no Hispanics in your office?

12 MS. LISA WORMINGTON: Mr. Chairman,  
13 Mr. Zazueta, quite truthfully there is currently a  
14 Hispanic in the office. The report that you got is a  
15 little old.

16 Our continuing education -- Continuing  
17 Office of Education student is Hispanic. Otherwise  
18 the reason why there are no Hispanic professionals,  
19 as many other State agencies and offices throughout  
20 ADOT, my office has lost two positions over the last  
21 several years, diminishing the opportunities to hire  
22 people.

23 In addition to that, all of you have  
24 received a copy of the diversity team report, and one  
25 of their recommendations is that we should promote

1 from within wherever possible. I have chosen to  
2 practice that.

3 . When I hired Eddie and Tom, I went to  
4 the inside -- I hired them from outside. Since  
5 they've been hired in '89 -- since '93 I've had one  
6 position available, and that was when Mr. Madrid  
7 retired, and there were three candidates for the  
8 position. Eddie, Tom and Travis Benton in my office.  
9 And so I promoted from with within and promoted one  
10 of them.

11 There has not been another position  
12 that's been available except for my secretary, who  
13 retired last year. We received a certification list  
14 of many, many candidates.

15 One individual chose to interview out  
16 of all of those candidates. And she's African  
17 American.

18 Otherwise if I can speak a little bit  
19 to who has worked in the office in the past. Because  
20 I feel there is a perception that perhaps  
21 opportunities have not been there.

22 In the past I've had a Filipino  
23 individual work in there. There have been two Native  
24 Americans, one Navajo, one a Alabama Coushatta  
25 individual.

1 I've also had an another  
2 African-American, Art Loring. Trinky Madrid retired  
3 there after a great deal of service, and Carlos  
4 Avelar worked there for an extensive period of time  
5 until he chose to move to the County for promotional  
6 opportunities. I still maintain contact with Carlos.

2:45P

7  
8 MR. JONES OSBORN: Mr. Chairman,  
9 Ms. Wormington, I think I heard you mention the  
10 report on the glass ceiling initiative by the United  
11 States Department of Labor in 1991 report. Did you  
12 refer to it?

13 MS. LISA WORMINGTON: Chairman Pena,  
14 Mr. Osborn, I believe the reference to the report is  
15 in the diversity team report. I didn't speak of it  
16 today.

17 MR. JONES OSBORN: Pardon me. My  
18 mistake then. Are you familiar with the report?

19 MS. LISA WORMINGTON: Yes, ma'am, I am.

20 MR. JONES OSBORN: Would you consider  
21 that a favorable review of the ADOT's minority hiring  
22 and promoting practices?

23 MS. LISA WORMINGTON: I'm sorry. I'm  
24 confused.

25 MR. JONES OSBORN: I'm speaking of a

1 report on the glass ceiling initiative by the U. S.  
2 Department of Labor in 1991. I realize that's five  
3 or six years ago. But you've been there 12 years?

4 -- MS. LISA WORMINGTON: Yes, sir. --

5 MR. JONES OSBORN: Well, I just want to  
6 go into a couple points and get your reaction to  
7 them.

8 It says here ADOT requires managers and  
9 supervisors to attend EEO and AA courses. However,  
10 this is not being enforced.

2:46P

11 Also, the Affirmative Action Office has  
12 not been asked to speak at staff meetings and  
13 conferences and et cetera on Affirmative Action and  
14 equal employment in two years.

15 Now, that was a 1991 report. Do you  
16 recall anything like that?

17 MS. LISA WORMINGTON: Yes, sir. I  
18 believe the report you're referring to is our  
19 diversity team report.

20 Since that report was prepared in 1993,  
21 this office has been involved in speaking at staff  
22 meetings and participating, for example, in the  
23 Executive Quality Council.

24 We have a given talks to top level  
25 management about their Affirmative Action and EEO

1 responsibilities. And at least in the Highway  
2 Construction Districts, there has been much greater  
3 emphasis on ensuring that all of their employees  
4 attend Preventing Sexual Harassment class and the EEO  
5 Affirmative Action class.

6 MR. JONES OSBORN: You're talking about  
7 a diversity -- culture diversity report?

2:48P

8 MS. LISA WORMINGTON: Yes, sir.

9 MR. JONES OSBORN: That's what you're  
10 referring to?

11 MS. LISA WORMINGTON: Yes, sir.

12 MR. JONES OSBORN: I want to further  
13 quote from that then.

14 "Managers and supervisors are not held  
15 accountable for their efforts in Affirmative Action.  
16 ADOT does not have a process in place to monitor  
17 managers' and supervisors' Affirmative Action  
18 efforts."

19 Again, I acknowledge this is an old  
20 report. It's like five or six years old. That  
21 situation has been corrected in your opinion?

22 MS. LISA WORMINGTON: It was corrected  
23 for one year. It is not currently corrected.

24 DOCTOR JUNE WEBB-VIGNERY:

25 Mr. Chairman?

1 THE HONORABLE MANUEL PENA:

2 Dr. Vignery?

3 DOCTOR JUNE WEBB-VIGNERY: Has there  
4 been any effort to include that particular  
5 requirement in directors' evaluation components, for  
6 example?

7 MS. LISA WORMINGTON: That particular  
8 criteria was included for a year in everyone's  
9 evaluation within the Agency. I don't know why it  
10 was removed.

11 MS. MARY PETERS: I could speak to  
12 that, Mr. Chairman, Dr. Vignery.

13 Criteria was removed as I spoke to  
14 earlier. We changed evaluation processes within the  
15 organization, and unfortunately that particular  
16 criterion was removed as part of converting from the  
17 prior employee evaluation system process to the one  
18 we're using today, which is a 360 degree process.

19 A team of employees developed the new  
20 process and the new criteria and did not include  
21 that. It has been noted as an oversight. That  
22 process is undergoing evaluation as we speak, and it  
23 will be included again in the future.

24 DOCTOR JUNE WEBB-VIGNERY: Can I follow  
25 up on that?

2:49P

1 THE HONORABLE MANUEL PENA: Sure.

2 DOCTOR JUNE WEBB-VIGNERY: Following up  
3 on that, does the Affirmative Action for ADOT sit on  
4 the advisory group to the Director when these types  
5 of issues with being discussed?

6 MS. MARY PETERS: They did not in the  
7 past. I was told there were monthly meetings with  
8 Ms. Wormington and other managers of the Transport  
9 Support Group. We talk about issues such as this,  
10 and have an opportunity to get broad spread input  
11 from the group, including Ms. Wormington on issues  
12 such as this.

13 DOCTOR JUNE WEBB-VIGNERY: Thank you.

14 THE HONORABLE MANUEL PENA: Mr. Osborn?

15

16 MR. JONES OSBORN: That's all I have.

17 Thank you.

18 MS. OFELIA QUIJADA-OLIVAS:

19 Mr. Chairman, I have a few.

20 THE HONORABLE MANUEL PENA: Ms. Olivas.

21 MS. OFELIA QUIJADA-OLIVAS: Ms. Peters,  
22 you indicated in your statement that until this  
23 morning you were not aware of some of the allegations  
24 made against ADOT.

25 My question was as the Deputy Director,



1 were you aware of the hiring and the evaluations or  
2 consulting work that took place by Dr. Perez and his  
3 recommendations to the Department which he indicated  
4 he is working with some personnel and at some point  
5 he reached what I would interpret as dead end? Were  
6 you not aware of his performance and his  
7 recommendations and the fact that it, in fact,  
8 covered some solutions to the problem?

9 MS. MARY PETERS: Yes, I was aware of  
10 his recommendations. What I spoke to earlier, if I  
11 could clarify, some allegations which I was not aware  
12 of were -- some of those made by Ms. Canales or  
13 Mr. Puente I just had not been aware of those  
14 specifics.

15 With regard to Dr. Perez's testimony,  
16 absolutely, yes. And, in fact, our office was  
17 involved with Ms. Sale in looking for additional  
18 solutions to the problems in the general operations  
19 area.

20 And she certainly counseled with us  
21 closely in the decision to bring in Dr. Perez from  
22 the outside to help us look at that area, and the  
23 problems that were in that area.

24 She briefed the Director and myself on  
25 a regular basis as that process went about, including

1 the early change in direction when they had use a  
2 standardized training program. Then once I got in  
3 there and had an opportunity to meet with a work  
4 group and change that to a more specifically directed  
5 program that would deal with the problems in the  
6 area.

7 I would, however, say that I do not  
8 feel on behalf of the Agency that his efforts were  
9 shortcut or short changed.

10 In fact, Dr. Perez, as he testified,  
11 completed his initial analysis of the area and did  
12 some investigation on his own and issued a report.

13 He did confer with Ms. Sale and myself,  
14 in fact, about some of his concerns and with  
15 Mr. Courter and Mr. Sukanik in terms of their  
16 responsiveness to him.

17 And Ms. Sale was instructed and did  
18 take steps to make sure that interference did not  
19 occur. Mr. Perez issued his report, in fact.

20 Following that Ms. Sale met with him  
21 and urged him to continue and not make it final after  
22 that point in time.

23 As he also testified, the organization  
24 was going through some rather large organizational  
25 change at that time. He agreed to come back because

1 the organization was changing and that was not  
2 followed through with by himself as well.

3 MS. OFELIA QUIJADA-OLIVAS: Keeping  
4 that in mind, you indicated that was a change in the  
5 evaluation process, and it was inadvertently left  
6 off. Wasn't this a mechanism that was very fresh and  
7 the recommendations very evident to ADOT when the new  
8 evaluations were put in place?

9 MS. MARY PETERS: It was an issue that  
10 had still continued to be fresh on in our minds.  
11 However we were actively working that issue.

12 When we were endeavoring to develop  
13 this 360 degree performance evaluation, it was  
14 something quite different for State agencies, and we  
15 also were under a rather tight time line to put that  
16 in place.

17 The team -- and it was a team of  
18 employees who developed that. In fact, they received  
19 some information from other organizations who were  
20 using that type of performance evaluation. And,  
21 again, simply did not include it. The oversight has  
22 been recognized and is being corrected.

23 MS. ANGELA JULIEN: Mr. Chairman,  
24 Ms. Peters, you say a team of employees changed the  
25 evaluation system. Couple questions on that.

1 First, what do you remember the date  
2 that that was changed the year?

2:54P

3 MS. MARY PETERS: Mr. Chairman,  
4 Ms. Julien, I believe we're in our second full year  
5 of using that evaluation system, just approaching the  
6 second year.

7 MS. ANGELA JULIEN: What was the makeup  
8 of the team of employees? Specifically was anyone  
9 from the Affirmative Action Office involved?

10 MS. MARY PETERS: Mr. Chairman,  
11 Ms. Julien, I do not recall that they were. I would  
12 defer to Ms. Wormington.

13 MS. LISA WORMINGTON: Mr. Chairman,  
14 Ms. Julien, I don't believe anyone from my office was  
15 involved in that process.

16 MS. ANGELA JULIEN: Ms. Wormington, to  
17 whom do you report?

18 MS. LISA WORMINGTON: Mr. Chairman,  
19 Ms. Julien, I report to Mary Peters.

20 MS. ANGELA JULIEN: And Mr. Chairman,  
21 Ms. Peters, to whom do you report?

22 MS. MARY PETERS: I report to the  
23 Director of the Department, Mr. Larry Bonine.

24 MS. ANGELA JULIEN: If I'm an employee  
25 with a complaint about either Ms. Peters or

1 Mr. Bonine, is my only recourse to go to the office  
2 that reports directly to you, or is there another  
3 avenue?

4 MS. LISA WORMINGTON: Mr. Chairman,  
5 Ms. Julien, what we have done in the past in  
6 instances where there has been a conflict of interest  
7 such as that, we've asked an external agency to  
8 conduct the investigation because of that problem.

9 However, I've never felt compelled not  
10 to stand up and say what is correct. And you heard  
11 Ms. Canales speak to you this morning when Mary and I  
12 met with her regarding incidents of discrimination,  
13 you know, I would have preferred at that time had she  
14 told us that she felt she was being discriminated  
15 against to at least give the Affirmative Action  
16 Office the opportunity to address those issues that  
17 she was experiencing. For whatever reason she has  
18 told you why she felt that she couldn't do that, and  
19 I respect those reasons.

2:57P

20 However, I've been known to stand up  
21 and say things that people have disagreed with in the  
22 past, and I would do it again if I felt that it was  
23 appropriate.

24 MS. ANGELA JULIEN: And just one last  
25 question. Ms. Wormington, you said a couple of

1 times, "I hired this person. I hired that person."

2 When the process of hiring is taking  
3 place, are you responsible singularly for doing the  
4 interviewing and the hiring, or do you use a team?

5 MS. LISA WORMINGTON: Chairman Pena,  
6 Ms. Julien, up until my most recent appointment when  
7 I appointed Eddie Edison, I had done the interviewing  
8 myself and hired myself.

9 When this past instance came up, I  
10 heard through the rumor mills within the Agency that  
11 there was a great deal of concern about preselection  
12 within my office.

13 And so I based the decision to hire on  
14 past work experience, past performance appraisal  
15 scores and then the interview scores from four  
16 separate people.

17 I had Dr. Valenzuela participate in the  
18 interview panel and Rudy Rodriguez participated.  
19 Clem Webb, who works in our Motor Vehicle Division is  
20 an African American woman and Dave Schmitt, who was  
21 working out of the Director's Office actually  
22 interviewed and scored the individuals. And I then  
23 appointed the individual who had the highest score.

24 MS. ANGELA JULIEN: Thank you.

25 THE HONORABLE MANUEL PENA: Mr. Garcia?

2:58P

1

2

MR. RUDY GARCIA: Mr. Chairman,

3

Ms. Wormington, had you -- at the time that I assume

4

Ms. Canales approached you regarding a concern, had

5

you thought of meeting with her by yourself rather

6

than having Ms. Peters present at the same time?

7

MS. LISA WORMINGTON: Chairman Pena,

8

Mr. Garcia, Ms. Canales never approached me directly

9

with her concerns.

10

MR. RUDY GARCIA: So the meeting you

11

had was initiated or came about because of what?

12

MS. LISA WORMINGTON: Chairman Pena,

13

Mr. Garcia, I was asked to attend the meeting with

14

Mary to try to resolve these problems.

15

MS. MARY PETERS: If I could,

16

Mr. Chairman and Mr. Garcia, I will clarify. As

17

Ms. Canales has testified this morning. She came to

18

me with some concerns about the Director, Mr. Bonine.

19

She and I met and talked about those, and I was

20

concerned.

21

As I always do when an employee comes

22

to me about concerns, even if they don't speak

23

directly to the issue of discrimination, I try to be

24

cognizant if I'm hearing things that might infer they

25

feel discrimination based on gender, race, age,

1 things like that.

2 I often ask the employee if they feel  
3 that those issues are there, even if they don't  
4 specifically mention that. I almost always will  
5 consult with Ms. Wormington or her staff after a  
6 meeting where I'm not clear if there has been  
7 disclosed an issue of discrimination. I feel we have  
8 a responsibility to act on those situations.

9 In this particular case, after I  
10 concluded my conversation with Ms. Canales, even  
11 though she said to me that she did not want me to  
12 speak to Mr. Bonine about the issue other than to  
13 caution him about not patting people or hugging  
14 people, which I certainly did, I spoke to him about  
15 that.

16 I did speak with Ms. Wormington and  
17 told her I did have some concerns that perhaps there  
18 were issues of discrimination that I did not feel I  
19 had the luxury not to deal with in spite of the fact  
20 that Ms. Canales suggested that I not, other than to  
21 suggest to Mr. Bonine that he not hug or pat or touch  
22 people.

3:01P

23 So that is the point in time where I  
24 contacted Ms. Wormington, discussed it with her, and  
25 we felt perhaps there could be issues of



1 discrimination, and it was important to talk directly  
2 to Ms. Canales. We felt she had an opportunity, if  
3 she did feel there was discriminatory behavior, to  
4 disclose it to the professional.

5 MR. RUDY GARCIA: You didn't feel it  
6 would be intimidating, her response, if you were in  
7 that meeting?

8 MS. MARY PETERS: Mr. Garcia,  
9 Mr. Chairman, I did not. Ms. Canales had at that  
10 point a very open relationship, as evidenced by the  
11 fact that she came and consulted me about behavior  
12 that she felt was inappropriate.

13 So we met often on a weekly basis. We  
14 had a very open relationship, and I did not feel that  
15 I myself would be intimidating.

16 MR. RUDY GARCIA: One more question.  
17 Earlier we heard testimony from Mr. Puente about a  
18 reprimand that he received. I believe that was from  
19 you. Can you go into the details?

3:02P

20 MS. MARY PETERS: Because this is a  
21 closed issue, personnel issue, and because Mr. Puente  
22 brought it up this morning, I am free to discuss it,  
23 while we don't normally discuss personnel issues.

24 The particular situation involved an  
25 employee, an Hispanic employee, as he mentioned, in

1 the Winslow area. The employee had been for a number  
2 of years a Maintenance Technician III, which is the  
3 top level of a maintenance position and going into a  
4 supervisory position.

5 The particular employee, as Mr. Puente  
6 testified, had a club foot, a disability, if you  
7 will. And this particular disability-affected his  
8 ability to wear steel-toed safety shoes, which are  
9 required in the type of work that the employee was  
10 performing.

11 MR. RUDY GARCIA: Can I interrupt? Was  
12 that requirement brought in after he had been in that  
13 position?

14 MS. MARY PETERS: Mr. Chairman,  
15 Mr. Garcia, to my recollection, no, it was not. It  
16 had been a long-standing requirement, but I can't say  
17 because he was such a long-term employee that that  
18 requirement had been in a place when he was  
19 originally employed.

20 This particular employee has another  
21 problem in that he was also a diabetic and very  
22 subject to lesions or problems with his feet.

23 We were working very actively with the  
24 District Office and with Ms. Wormington and, in fact,  
25 had referred this particular employee out to be

1 evaluated and fitted with a special type of shoe that  
2 he might be able to continue and would not endanger  
3 his foot condition and still be comfortable because  
4 of the club foot but not endanger the diabetic  
5 condition in his feet because he had had problem with  
6 foot lesions prior.

7 We were working this issue as ADA  
8 issue. One of the important thing we have to look at  
9 when we're working ADA issue, or Americans with  
10 Disability issues, is that we ensure that the Agency  
11 makes reasonable accommodations --

12 (Off-the-record interruption.)

13 THE HONORABLE MANUEL PENA: Sir?

14 THE ATTORNEY: I'm the attorney in that  
15 case which is in litigation now.

16 THE HONORABLE MANUEL PENA: Are you  
17 from the Attorney General's Office.

18 THE ATTORNEY: Yes.

19 THE HONORABLE MANUEL PENA: Make your  
20 statement.

21 THE ATTORNEY: I need to advise her  
22 now.

23 (The attorney confers with Ms. Mary  
24 Peters.)

25 MS. MARY PETERS: I apologize.

1 MR. RUDY GARCIA: You don't need to  
2 give me the details.

3 MS. MARY PETERS: Real quickly, at  
4 issue was the description to the doctor of the  
5 working conditions of this particular employee.

6 Mr. Puente was -- the reason that  
7 Mr. Puente received a letter of concern was because  
8 he became involved in describing the working  
9 conditions or what the employee was required to do on  
10 the job.

11 And because we were working it as an  
12 Americans With Disability Act issue, I felt the  
13 appropriate office to work that issue was  
14 Ms. Wormington's office and the supervisor in the  
15 area, which he worked with which had the best ability  
16 to describe his working conditions.

17 And when Puente inserted himself into  
18 the situation after I had asked him not to do that  
19 and that we wanted to work the disability issue, he  
20 inserted himself into that situation, even after I  
21 had asked him not to.

22 That is when I issued the letter of  
23 concern.

24 MR. RUDY GARCIA: Was he not requested  
25 initially to be included?

1 MS. MARY PETERS: Mr. Chairman,  
2 Mr. Garcia, I have no knowledge that he was  
3 originally requested to be included.

4 THE HONORABLE MANUEL PENA: Any more  
5 questions?

6 MR. ADOLFO ECHEVESTE: Mr. Chairman,  
7 I'll address it to any of you. You mentioned earlier  
8 that the only grievances you track are those that go  
9 to Federal EEOC.

10 MS. LISA WORMINGTON: Chairman Pena,  
11 Mr. Echeveste, I guess I didn't explain that clearly.  
12 In the past we didn't track that. We have begun  
13 tracking that in the last year.

14 MR. ADOLFO ECHEVESTE: All grievances?

15 MS. LISA WORMINGTON: Yes, sir.

16 MR. ADOLFO ECHEVESTE: Those that go  
17 out or stay in are in the process?

3:06P 18 MS. LISA WORMINGTON: Yes.

19 MR. ADOLFO ECHEVESTE: Okay. I think  
20 that's all, Mr. Chairman.

21 MR. RICHARD ZAZUETA: Mr. Chairman, I  
22 have one more followup.

23 Now that you have all heard all the  
24 testimony this morning, do you have any thoughts,  
25 Ms. Peters, of a corrective action?

1 MS. MARY PETERS: Mr. Chairman,  
2 Mr. Zazueta, I do. I think one thing that is very  
3 important for all of us to recognize, while these  
4 issues are very important and certainly very  
5 personal, people are hurting out there, that the sum  
6 total of the cases that have gone to the EEOC  
7 represent less than one-half of 1 percent of our  
8 total work force.

9 There are, as I said earlier, policies  
10 and procedures in place, numerous ones, to allow  
11 employees who feel they have not been treated fairly  
12 a place to go within our agency.

13 However, I do recognize that there are  
14 those who will not feel comfortable with those  
15 processes, and I believe that the procedures outlined  
16 by Mr. Moreno where we have an opportunity to bring  
17 in an independent outside mediator or alternative  
18 dispute resolution in, someone who is not connected  
19 with our Agency directly in any way, and bring in  
20 that mediation activity.

21 I think that very often these are  
22 issues of failure to communicate clearly with each  
23 other. And most of these issues can be resolved with  
24 clear communication and understanding with the  
25 issues, so I heartily support the mediation as an

1 alternative to help us resolve these issues.

2 MR. RICHARD ZAZUETA: One of the  
3 problems that was brought up with mediation is a  
4 perceived conflict of interest, although Mr. Moreno's  
5 office does not perceive that conflict of interest,  
6 as his office representing the Governor.

7 Some of the people that have testified  
8 feel that that is a conflict of interest, just like  
9 the Attorney General's Office stated before because  
10 they represent the State, they cannot get involved in  
11 these kind of issues. That's the same kind of  
12 analogy that was brought up.

13 MS. MARY PETERS: Mr. Chairman,  
14 Mr. Zazueta, I certainly can understand that that  
15 could be the case. We would be very open, in fact,  
16 to working with the employee to select even an  
17 outside arbitrator or mediator, someone that perhaps  
18 they would suggest.

19 Very often in working alternative  
20 dispute resolution in the past on contractual issues  
21 we as a State agency would recommend a group of  
22 mediators or arbitrators. We would invite the  
23 contractor or the consultant to do the same. Choose  
24 from those and then we would hopefully come up with a  
25 match.

1           But if not, we would continue to do  
2           that until we came up with someone who both sides  
3           felt had the ability to be absolutely impartial.

4           MS.--LISA WORMINGTON: Mr. Chairman,  
5           could I add something? With respect to the conflict  
6           of interest request that you asked, we would, of  
7           course, be willing to pay for what it costs to go  
8           outside.

9           Also, one of the suggestions that was  
10          made by another Hispanic employee -- who is not here,  
11          that the Agency thought was a very good idea, but he  
12          kind of asked us not to go forward with it until this  
13          issue was resolved with you -- was sitting up an  
14          advocacy panel of minorities in within the Agency to  
15          hear some of these complaints.

16          And lastly, with respect to some of the  
17          issues that you heard, the rest of the story, as Paul  
18          Harvey says, are several of the individuals that were  
19          involved in those were dismissed because of their  
20          actions or inaction. They didn't do anything to  
21          resolve the problems, or they have been transferred  
22          to other entities and have not been given the  
23          opportunity to move upward in the Agency.

24          MR. RICHARD ZAZUETA: On the rest of  
25          the story, there will be no retaliation, correct?



1 MS. LISA WORMINGTON: I offer you my  
2 sincerest promise that I will do everything I  
3 possibly can, including standing up and screaming.  
4 There will be no retaliation to any employee that has  
5 come forward to this Commission or filed a charge  
6 with EEOC.

7 MR. ADOLFO ECHEVESTE: I didn't hear  
8 the response from your superior on that. I heard  
9 you. I didn't hear your superior regarding  
10 Mr. Zazueta's question regarding retaliation.

11 MS. MARY PETERS: Mr. Echeveste, I  
12 apologize. I felt that the question was being  
13 directed to Ms. Wormington. Absolutely, there will  
14 not and has not been retaliation, nor will there be  
15 any in the future to anyone who feels they are  
16 bringing legitimate claims.

17 MR. ADOLFO ECHEVESTE: One final  
18 question. As I sit here and I listen to the  
19 employees this the morning and I listen to you in the  
20 afternoon, obviously from what we've heard there is a  
21 lot of hurt, a lot of pain, a lot of mistrust, a lot  
22 of distrust, a lot of conflict that seems to be  
23 coming forward.

24 From what you've heard -- and I'm sure  
25 it must be painful to you since you're up at the

1 top -- do you see any real opportunity to bridge the  
2 gap between those that either have been or perceive  
3 themselves to be wronged within the Agency by  
4 management, between them and management at this time?  
5 Do you see any ray of hope?

6 MS. MARY PETERS: I do. Mr. Chairman,  
7 Mr. Zazueta, I do; I absolutely too. I think what  
8 you said is so important. People are hurting. You  
9 heard that pain this morning. You heard the hurt  
10 from some of the people who testified this morning.

11 And I will tell you personally I've had  
12 a lot of pain over these situations as well. People  
13 who I thought were very close and very comfortable  
14 working with me, feeling that I personally have  
15 discriminated against them, that is not a comfortable  
16 feeling, and certainly they're experiencing some of  
17 that pain as well.

18 As I said earlier, communication; we  
19 must communicate with each other. Communicating  
20 through filing charges and responding to charges,  
21 certainly while that is a right and it's a very, very  
22 important right, it doesn't get us talking to each  
23 other in a manner in which we can resolve these  
24 issues.

25 I do feel firmly, just like the

1 partnering program works very well and we get to  
2 talking together, if we had an opportunity to talk  
3 together with an impartial third party who could help  
4 bridge this gap, I think we could resolve a lot of  
5 these issues.

6 We have tried in the Agency, for  
7 instance, a reference was made earlier to a LaVoz, a  
8 group of Hispanics, heartily supported by the Agency,  
9 supported by myself personally, in an effort to  
10 provide a forum where Hispanic employees can talk and  
11 raise issues, and we can interact.

12 We have made an effort to send a number  
13 of Hispanics employee to leadership training program.  
14 Come back and talk to us. Let's try to work on these  
15 issues. Unfortunately, we have had a major  
16 communication breakdown in these particular areas.

17 I appreciate your comments. You're  
18 right on target. There is a lot of pain. The  
19 solution is communication.

3:14P 20 MR. ADOLFO ECHEVESTE: If I may,  
21 Mr. Chairman, one final perspective. Communication  
22 is extremely important.

23 But sometimes perception, perception  
24 becomes realty. If one is perceived a certain way,  
25 no amount of anything one says can break that

1 perception. There has got to be a very, very great  
2 effort and energy extended and expanded and  
3 strategies to break that perception.

4 " Just a final thought on this, I think  
5 there is a very, very strong perception there. You  
6 know, only the findings will tell what the issues and  
7 problems are and who is right and who is wrong and  
8 whatnot, but I can't help but observe that there are  
9 some very strong perceptions that have to be cleared  
10 up before one can gain the trust and the confidence  
11 to be able to even be candid in terms of what they're  
12 feeling.

13 SP THE HONORABLE MANUEL PENA: A response  
14 is not necessary unless you would like to.

15 MS. MARY PETERS: That's fine.

16 MR. RUDY GARCIA: Mr. Chairman, one  
17 additional question.

18 Ms. Peters, what mechanism, if you  
19 could explain it to us, exists today within your  
20 department should any of these allegations that we've  
21 heard earlier -- let's say they happened last week.  
22 What mechanism do you have in place today that could  
23 address those issues and how would you go about it?

24 MS. MARY PETERS: Mr. Chairman,  
25 Mr. Garcia, first of all, awareness that the issues

1 are out there so that we have an environment of  
2 trust, as we spoke to earlier, where the employee  
3 would come forward and disclose these.

4 We do have the problem solving  
5 procedure. We have, as Ms. Wormington testified to,  
6 at least two direct avenues within the Agency that  
7 employees can bring the issue forward.

8 MR. RUDY GARCIA: Can I interrupt? How  
9 long has the problem solving procedure been in place?

10 MS. LISA WORMINGTON: Chairman Pena,  
11 Mr. Garcia, for as long as I've been with the Agency  
12 this process has been in effect.

13 MS. MARY PETERS: I would answer the  
14 same thing.

15 MR. RUDY GARCIA: If it was in place at  
16 the time I perceive some of these allegations  
17 occurred, why didn't it work?

18 MS. MARY PETERS: I wish I knew.

3:17P

19 MR. RUDY GARCIA: What mechanism exists  
20 today that would change if so it's more effective, is  
21 really what I'm trying to ask?

22 MS. MARY PETERS: Mr. Chairman,  
23 Mr. Garcia, it's important to note that in the  
24 preponderance of cases it does work. As I stated  
25 earlier, the active EEOC complaints that are out

1 there represent less than one-half of 1 percent of  
2 our work force. It has worked in the past.

3 If an employee felt that it would not  
4 work today under circumstances today, certainly they  
5 still have the opportunity to go outside the Agency,  
6 as Ms. Wormington testified, to the EEOC and open  
7 that process up.

8 We also have within our organization  
9 very, very open communication channels. There is no  
10 restriction, no problem at all of someone walking  
11 directly into my office, directly into Mr. Bonine's  
12 office if they perceive the system is not working for  
13 them at any levels of the organization.

14 In fact, that has happened, and we have  
15 interceded. Mr. Edison has been directly involved in  
16 some of those cases where we have interceded, where  
17 an employee did not feel that the process was giving  
18 them due process or an opportunity to be heard.

19 DOCTOR JUNE WEBB-VIGNERY: We've  
20 mentioned the glass ceiling report several times here  
21 this afternoon, and it just occurred to me that in  
22 the report, the statement was made that the Director  
23 of an agency has the power to change whatever is  
24 happening within his purview, his or her purview, and  
25 the Affirmative Action officer's suggestions to the

1 Director can be a very important mechanism.

2 I've heard that there is an mediator  
3 team, the Affirmative Action officer and the Director  
4 at the DOT, which is yourself, Ms. Peter, and perhaps  
5 there needs to be more discussion going on between  
6 the Affirmative Action officer and the Director.

7 Between the expertise of EEO and  
8 Affirmative Action and the Director's power there  
9 might be a mechanism for change.

10 MS. LISA WORMINGTON: Chairman Pena,  
11 and Dr. -- I don't want to butcher your last name.

12 DOCTOR JUNE WEBB-VIGNERY: You're not  
13 by yourself.

14 MS. LISA WORMINGTON: Mine get  
15 butchered, too.

16 I would like to make a comment. You've  
17 heard many individuals talk today about problems the  
18 Agency had in the past. Specifically, Mr. Stanley  
19 talked about past problems. Ms. Canales referred to  
20 some of the past problems. The managers involved  
21 with those problems, like I said, are no longer with  
22 ADOT. And not necessarily by choice.

3:20P

23 We did take action when that occurred.  
24 I would like to say that as a part of our changing  
25 culture, the emphasis from being a real fine engineer

1 administrator has changed.

2 In the past Agency decisions were made  
3 on whether or not you were a good engineer, whether  
4 or not you ran your agency well, and if you had  
5 people problems within your agency, that may have  
6 been secondary.

7 Since it's been my privilege to work  
8 with Mary Peters, I no longer have to go in there and  
9 dance when I feel a severe disciplinary action is  
10 required.

11 When I feel that someone needs to be  
12 demoted or someone should be terminated because of  
13 their actions whether they're related to unlawful  
14 discrimination or something else, that's none of my  
15 business, I'm heard fairly. And in many cases that  
16 action follows.

17 So as you heard Hope Hernandez say,  
18 from the union it seems that things are better and  
19 things are changed. That is correct. We are trying  
20 very, very hard.

21 I would ask that the employees in this  
22 room, if they feel that something occurs to them  
23 tomorrow or if it happened to them last week, that  
24 they would come talk to us without putting it in  
25 writing, without looking for a written statement from



1       them that creates the hassle factor. They require  
2       the employee to put everything in writing. You're  
3       creating a barrier.

4               They can feel free to come and say what  
5       their problem is so we can look into it. If we  
6       disagree whether it's unlawful discrimination, so be  
7       it. We at least get the opportunity to address it.  
8       In some of the cases brought to you today, we were  
9       not given the opportunity to at least address it.

3:22P 10               THE HONORABLE MANUEL PENA: Any other  
11       questions? If not, thank you for being with us  
12       today.

13               (Recess ensued from 3:23 to 3:35.)

3:35P 14               THE HONORABLE MANUEL PENA: The hearing  
15       will reconvene, and we will now here from the  
16       Attorney General's Office, I guess David Talamonte  
17       and Robert Sokol.

18               MR. DAVID TALAMONTE: Mr. Chairman,  
19       Members of the Advisory Committee, my name is David  
20       Talamonte, I'm the Chief Counsel Transportation  
21       Section of the Attorney General's Office.

22               We give advice to the Department of  
23       Transportation on a variety of issues, all within  
24       their statutory mandate in the Arizona statutes.

25               Mr. Sokol is one of the attorneys, one

1 of 14 attorneys in the section. He specializes in  
2 personnel matters with the section and with the  
3 Department of Transportation.

3:37P

4 Some -- there has been mention of the  
5 inherent conflict that does exist between us as  
6 Attorneys General giving assistance, giving rise to  
7 the Department and employees that may have personnel  
8 or grievance or some problem with the department.

9 To that extent we are prohibited from  
10 dealing directly with the employees on some of the  
11 matters and issues that are being discussed and  
12 raised here today.

13 But we do not operate in a vacuum. In  
14 discussing the issues that Ms. Youngblood, the  
15 analysis, I've told her that our section has both the  
16 professional -- and speaking for myself only -- I  
17 have a personal interest in these areas, this type of  
18 complaint.

19 I know that in the exercise -- I guess,  
20 I can tell this committee -- that in the exercise of  
21 legal advice that we provide to the Department, we  
22 are consultant, that these issues may arise and in  
23 the scope of giving advice to the Department, I can  
24 assure the Committee that our advice at all times  
25 would be to follow the law.

3:38P

1                   Also saying that, I have in the five  
2 months that I have been chief counsel for the  
3 Department of Transportation, I have not seen  
4 anything that would indicate to me that management,  
5 Mr. Bonine, Ms. Peters, that there would be any  
6 reluctance to follow any legal advice that our  
7 section may give in this area.

8                   Other than that, though, I have no  
9 prepared statement, but will be happy to answer any  
10 questions. As I said, Mr. Sokol may have some  
11 comments for you as well in this capacity as the  
12 primary Assistant Attorney General who handles  
13 personnel actions on behalf of the Department.

14                   THE HONORABLE MANUEL PENA: Mr. Sokol?

15                   MR. ROBERT SOKOL: Thank you,  
16 Mr. Chairman.

17                   I work closely with Mary Peters, with  
18 Lisa Wormington and the Affirmative Action people,  
19 with Jerry Moreland, who is the head of the ADOT  
20 human resources office.

21                   And I have a dual function as an  
22 Assistant Attorney General. One is to advise the  
23 Agency what I consider legal. The other is as a  
24 representative of the people of the State of Arizona  
25 to see that the law is followed, not only to defend

1       them, in other words.  It's to see that the law is  
2       followed.

3                       It sometimes occurred that employees  
4       are disciplined and it sometimes occurs that those  
5       employees are minorities.  Those two facts don't mean  
6       that there is a connection between the two of them.  
7       It doesn't mean that discrimination was an impetus or  
8       a causal factor in the discipline.

9                       I have to say that I worked with these  
10       individuals for several years, and I am very  
11       confident in stating that they are extremely  
12       sensitive to any suggestion of racial, sexual,  
13       religious or other type of discrimination.  If there  
14       is a whisper of it, they immediately react,  
15       investigate it and they take action.

16                      I have never had a problem with them  
17       not following any advice I've given them or doing  
18       anything that I thought was contrary to my  
19       conscience.

20                      I think that -- I didn't hear all of  
21       the testimony today since I arrived late.  I think  
22       there are some cases where there may have been  
23       inappropriate behavior, and I think there are some  
24       cases where employees were simply not happy with what  
25       was meted out to them by the circumstances, whether

1 it was a disciplinary action or loss of their  
2 position or modification of their position. I don't  
3 believe that in any of those cases there was any  
4 motive of discrimination.

3:42P

5 The employee that feels that he or she  
6 has been discriminated against has several avenues  
7 opened for them to pursue. One is internal, and  
8 that's the grievance procedure, or I think it's  
9 called the problem solving procedure.

10 That goes up to -- it goes up four  
11 levels to the Director of the Agency, and if  
12 discrimination is alleged, then it goes to the  
13 Department of Administration as well, which is a  
14 separate agency, and it's handled outside of ADOT.

15 In addition to that, if discrimination  
16 is alleged, Lisa Wormington's office investigates it  
17 independently and arrives at their own findings and  
18 conclusions.

19 The State employee who has been  
20 disciplined by more than a 40-hour suspension is  
21 entitled to appeal that to the State Personnel Board,  
22 which is an independent body of five individuals who  
23 assign a hearing officer, who is an attorney, to hear  
24 cases, to take evidence, to listen to witnesses.  
25 They have subpoena power. They make findings of fact

1 and conclusions of law which the State Personnel  
2 Board then rules on.

3:43P

3 So that would cover dismissals,  
4 demotions, suspensions of greater than 40 hours.

5 There is also the Whistle Blower  
6 statute in Arizona, which entitles an employee who  
7 sees abuse of power, abuse of authority,  
8 mismanagement of funds, to disclose this to a public  
9 official, and then to be heard on the same State  
10 Board if they are subsequently disciplined in  
11 evaluation for that.

12 There is the EEOC, which ADOT employees  
13 can take advantage of for filing claims. Finally  
14 there are the courts where they can go file a lawsuit  
15 as a last resort.

16 I'm not going to say that the system is  
17 perfect or that there aren't cases when people are  
18 subject to discrimination, but I think that it's  
19 improving, and I think that the motivation is there  
20 to make it as perfect as possible. Thank you.

3:45P

21 THE HONORABLE MANUEL PENA: Any  
22 questions?

23 MR. ADOLFO ECHEVESTE: Mr. Chairman, is  
24 it appropriate for this panel to ask a question  
25 related to some of the preliminary testimony that we

1 heard leading to this meeting? I'm thinking  
2 specifically about the contracting out of certain  
3 services.

4 THE HONORABLE MANUEL PENA: Certainly.

5 MR. ADOLFO ECHEVESTE: I thank you.

6 Mr. Chairman, Mr. Sokol and  
7 Mr. Talamonte, there were some allegations made in  
8 preliminary data gathering that extent -- well,  
9 strike extensive -- well, that they're in the process  
10 of, quote-unquote, privatizing. There are various  
11 things occurring that I got out of that that lead to  
12 potential illegal activity.

6P 13 Are there some good checks and balances  
14 there if, for example, an employee -- and it usually  
15 would come from an employee -- feels threatened that  
16 they're privatizing a particular function, and I'm  
17 sure they're the ones that would look more closely at  
18 how that process occurs.

19 If an employee came to you and said  
20 that they're privatizing this, and but there is  
21 collusion. The manager, supervisor that is in the  
22 position managing that is participating with the  
23 bidder, feeding information and, in fact, ends up as  
24 the key personnel staff once the contract is  
25 received, and if that employee comes to you with that

1 kind of allegation, is the Attorney General's Office  
2 prepared with the checks and balances to respond to  
3 those kind of allegations?

4 MR. DAVID TALAMONTE: The answer to  
5 your question is yes, the Attorney General's Office  
6 is empowered to investigate and look into  
7 allegations. I think we have an obligation to do so  
8 to some extent. It would depend on the nature of the  
9 privatization.

10 ADOT throughout is going through a  
11 privatization process in numerous areas, but I think  
12 that we would, in fact, speak to the Agency heads.  
13 We would look into the allegations. Depending on the  
14 nature of the complaint, we may feel it necessary to  
15 refer to another section of the Attorney General's  
16 Office rather than the transportation section. But  
17 it definitely would be pursued and investigated.

3:48P

18 MR. ADOLFO ECHEVESTE: Would the  
19 employee then be protected under the Whistle Blower;  
20 if he was in the process of being downsized out,  
21 privatized and therefore was either moved somewhere  
22 else or was given a severance, would the Whistle  
23 Blower statute cover that employee?

24 MR. ROBERT SOKOL: That's called a  
25 disclosure, if it was made in the proper forum to the



1 Attorney General, who is a public official under the  
2 statute, and the employee was subsequently affected  
3 in some way in their job, yes, they would be covered  
4 under that statute.

5 MR. ADOLFO ECHEVESTE: Thank you.

6 MR. DAVID TALAMONTE: I can also say,  
7 as a matter of course, if that employee were to ask  
8 an assistant Attorney General to keep their  
9 identity -- not disclose their identity, then I think  
10 that most Assistant Attorney Generals would respect  
11 that request unless there was some legal authority  
12 compelling them otherwise.

13 MR. ADOLFO ECHEVESTE: Thank you,  
14 Mr. Chairman. I'm satisfied with your answer. I  
15 frankly have to comment that I'm very confident in  
16 the current Attorney General. I've seen his efforts  
17 demonstrated against the closest staff at the  
18 Governor's level has been pursued, so I'm very  
19 comfortable with the checks and balances there and  
20 the integrity of your office.

21 THE HONORABLE MANUEL PENA: Richard?

22 MR. RICHARD ZAZUETA: Mr. Chairman,  
23 Mr. Talamonte, if, say, for instance an outside  
24 entity like the General Contractor's Association, for  
25 instance, would put a suit against the goals and

1 timetables of the Affirmative Action Program, would  
2 the Attorney General's Office defend the  
3 Transportation Department.

4 MR. DAVID TALAMONTE: The Attorney  
5 General's Office would. I don't believe the  
6 Transportation Section -- there is a separate section  
7 in the Attorney General's Office that is set up  
8 specifically to handle suits or claims that are filed  
9 against the State.

3:50P

10 It depends on the nature of the  
11 lawsuit. It might be handled by the Transportation  
12 Section. However, I think it would be handled by the  
13 Insurance Defense Section of the Attorney General's  
14 Office, and they would defend the position of the  
15 State in that type of an action.

16 MR. RICHARD ZAZUETA: Thank you.

17 DOCTOR JUNE WEBB-VIGNERY: I had two  
18 questions. Thank you, Mr. Chairman.

19 Mr. Talamonte and Mr. Sokol, there is a  
20 division that you talk about between employer and  
21 employee, and you represent the interests of the  
22 State and the administrative units, universities and  
23 departments, that we're speaking with about.

24 Is there a regulation or a law that has  
25 determined that the Attorney General has a conflict

1 of interest, or has that been declared by an existing  
2 Attorney General, or how did that come about?

3 MR. DAVID TALAMONTE: That is an  
4 ethical requirement imposed on attorneys by the State  
5 Bar because the Department of Transportation is our  
6 client and the nature of the dispute or claim puts  
7 our client, ADOT, and the affected employee in an  
8 adversary situation. Then ethically we are bound to  
9 represent only one client in an adversary proceeding.  
10 We could not give advice or counsel to the employee.

3:52P

11 I can say, however -- and Mr. Sokol can  
12 maybe also address this. I mentioned earlier we  
13 don't operate in a vacuum. If information comes to  
14 my attention that I think merits attention of my  
15 client, then I can -- I can go to my client.

16 One of the things we do is have an  
17 access to the Director and the Deputy Director, and  
18 we can go to them and talk to them about problems  
19 that we've heard or problems with a particular case,  
20 problems with a particular complaint, and we can help  
21 address the problem at that level because we have  
22 direct access to the individuals that are in the  
23 position to do something about that.

24 But the specific answer to the  
25 question, it's an ethical violation for us to also

1 give advice to the employee.

2 DOCTOR JUNE WEBB-VIGNERY: I'm speaking  
3 from a little bit of knowledge, because I was on the  
4 Arizona Civil Rights Advisory Board. The first time  
5 that particular delineation was murky, and I know  
6 that the universities were being assisted from both  
7 areas with employees and with the employer.

8 And then it was only when I came back  
9 on the board that that division had been clearly  
10 delineated. So there is a historical foundation for  
11 what you're talking about.

3:53P

12 My second question, though, is that the  
13 Civil Rights Advisory Board was set up for the  
14 specific reason to address complaints by people in  
15 Arizona, including the employees of State agencies.  
16 And it started out as a commission to do that  
17 particular bit of work.

18 And it seems that what exists now,  
19 there is no avenue for State employees to actually  
20 pursue, and they have to go to the bottomless pit of  
21 the EEOC in order to deal with their problems.

22 Is that not true, or is there another  
23 place that they can go besides the AG's office?

24 MR. DAVID TALAMONTE: Well, my guess,  
25 my first answer to that would be in the testimony

1 that I've heard today. I think I have heard  
2 expressed to this committee that there are, in fact,  
3 other avenues of redress that exist other than the  
4 Attorney General's Office. Mr. Talamonte explained  
5 the existence of some of those, and I believe  
6 Ms. Peters and Ms. Wormington did also.

7 You're right. The Attorney General's  
8 Office cannot create or participate in any type of a  
9 fact-finding or investigatory proceeding to assist  
10 that employee.

11 The Civil Rights Division of the  
12 Attorney General's Office is part of our,  
13 quote-unquote, law firm. We're all the same firm for  
14 purposes of conflict, conflicting purposes.

15 So yes, you're right and we simply  
16 don't have the ability to address an employee's  
17 concern in a manner that perhaps we may want to but  
18 are ethically not permitted to do so.

19 MR. ROBERT SOKOL: Yeah, there was one  
20 case within the last year where we have a mediation  
21 office in the Attorney General's Office, and they  
22 mediated a dispute between an employee and ADOT where  
23 there was, I think, a lack of confidence on the  
24 employee's part in the grievance procedure, the  
25 Agency's procedure.

1                   And that went from mediation, and there  
2 was an agreement. Unfortunately it didn't solve the  
3 problem, but we tried.

4                   DOCTOR JUNE WEBB-VIGNERY: Thank you,  
5 Mr. Chairmen.

3:56P

6                   THE HONORABLE MANUEL PENA: Mr. Osborn?

7                   MR. JONES OSBORN: I don't want to  
8 engage Mr. Sokol in a verbal jousting match, but I  
9 think I heard you say that in the normal course of  
10 events, it's sometimes necessary to discipline an  
11 employee. And in the normal course of events that  
12 employee could be a minority member.

13                   Is it not also possible in the normal  
14 course of events that a supervisor could behave  
15 inappropriately and take such actions short of  
16 violating the law that would create a kind of  
17 atmosphere of fear and apprehension among the  
18 employees? Is that not also possible?

19                   MR. ROBERT SOKOL: Certainly possible.

20                   MR. JONES OSBORN: Thank you. That's  
21 all I have.

22                   MR. RICHARD ZAZUETA: I have a  
23 question, Mr. Chairman, on the follow-up question.  
24 On the mediation process, we heard a lot about some  
25 new mediation programs and your mediation program,

1 Mr. Sokol.

2 How legally binding are these programs?

3 MR. ROBERT SOKOL: I think that depends  
4 on how the parties enter the mediation. If both  
5 sides agree on binding mediation, then whatever  
6 agreement comes out will be like an enforceable  
7 contract between them.

3:58P

8 I think Mr. Moreno was speaking about  
9 nonbinding mediation, unless I'm mistaken, where it's  
10 more of an attempt to conciliate the parties and get  
11 them to some resolution, which doesn't prevent either  
12 one from taking legal steps after that if they're not  
13 happy with the outcome.

14 So there are both possibilities.

15 MR. RICHARD ZAZUETA: But they have to  
16 go into the program --

17 MR. ROBERT SOKOL: You have to go in  
18 knowing which way.

19 MR. RICHARD ZAZUETA: Okay.

20 THE HONORABLE MANUEL PENA: Any other  
21 questions? If not --

22 MR. RUDY GARCIA: I have one,  
23 Mr. Chairman.

24 Mr. Talamonte, you mentioned that you  
25 were in the capacity of Assistant to the Attorney

1 General for five months.

2 MR. DAVID TALAMONTE: I've been in this  
3 position for five months, yes.

4 MR. RUDY GARCIA: What was your  
5 assignment prior to that?

6 MR. DAVID TALAMONTE: I was in private  
7 practice for 10, 11 years prior to that. I worked  
8 for State government in years past, but in the  
9 immediate preceding ten years, I was in private  
10 practice.

3:59P 11 MR. RUDY GARCIA: Mr. Sokol?

12 MR. ROBERT SOKOL: I had been with  
13 Transportation since 1994, I think. Before that I  
14 did child support enforcement prosecutions.

15 MR. RUDY GARCIA: In the current  
16 capacity since '94?

17 MR. ROBERT SOKOL: As assistant  
18 attorney.

19 MR. RUDY GARCIA: Regarding human  
20 resource issues?

21 MR. ROBERT SOKOL: With a different  
22 system.

23 MR. RUDY GARCIA: Regarding human  
24 resource issues?

25 MR. ROBERT SOKOL: Human resources I've



1       been dealing with for three or four years.

2                   MR. RUDY GARCIA: In regards to the  
3       Department of Transportation?

4                   MR. ROBERT SOKOL: Yes.

5                   MR. RUDY GARCIA: Regarding the  
6       testimony that we heard earlier today and even later  
7       this afternoon, in taking into account that based on  
8       your statements regarding your awareness of extreme  
9       sensitivity for the Department, all of these problem  
10      solving, stop gap procedures that exist and existed  
11      previously, are you surprised that all of that may  
12      have failed, hearing the testimony today of some  
13      people that feel they were very unfairly treated?

4:00P

14                  MR. ROBERT SOKOL: No. I'm not  
15      surprised. They're close to 5,000 employees at ADOT,  
16      and it's a very active organization. They have a lot  
17      of work to do. They've gone through several budget  
18      cutting periods, SLIM is one, and then there is a lot  
19      of reorganizations and that kind of thing causes  
20      dissatisfaction in general.

21                  MR. RUDY GARCIA: I assume there is  
22      also the possibility they could never get to your  
23      level in terms of you needing to represent the  
24      Department in any way because you're unaware of it;  
25      could that also be?

1 MR. ROBERT SOKOL: I'm aware of some of  
2 these problems. Is that your question?

3 MR. RUDY GARCIA: Yes.

4 MR. ROBERT SOKOL: Yeah, I was aware of  
5 some of these problems. In my opinion they were  
6 dealt with fairly by the Agency.

7 MR. RUDY GARCIA: One last question,  
8 Mr. Chairman.

9 Mr. Talamonte, you mentioned earlier  
10 that you had access or you currently have access to  
11 the Director and also the Deputy Director of this  
12 Department. That if you had information regarding  
13 some concerns, that you could go directly to them to  
14 discuss these issues?

4:01P 15 MR. DAVID TALAMONTE: That's correct.

16 MR. RUDY GARCIA: I would assume prior  
17 to any litigation or anything getting perhaps to the  
18 point where we're at today with this, is this  
19 something that you propose you will continue to do  
20 into the future?

21 MR. DAVID TALAMONTE: As indicated in  
22 my opening remarks. I would have not only a  
23 professional interest in doing so on behalf my  
24 client, ADOT, but a personal interest in doing so  
25 because I am an Hispanic attorney with a

1 long-standing interest in this issue generally. It  
2 is one of the reasons I went to law school, so yes.

3 MR. RUDY GARCIA: That's all.

4 THE HONORABLE MANUEL PENA: Any other  
5 questions?

6 If not, we thank you for being with us  
7 today.

8 Members, this morning I skipped over  
9 one individual who wanted to talk to us in Panel One,  
10 and I did so at his request. But he would now like  
11 to make a brief statement to the Committee.

12 Mr. Manuel Hernandez.

13 DOCTOR JUNE WEBB-VIGNERY:

14 Mr. Chairman, I will have to leave at this time, and  
15 I appreciate the effort you've put in today. Thank  
16 you.

4:03P 17 THE HONORABLE MANUEL PENA: Thank you  
18 for being with us.

19 (Dr. June Webb-Vignery left the hearing  
20 room.)

21 MR. MANUEL HERNANDEZ: I am Manuel  
22 Hernandez. I work for ADOT as a storage keeper at  
23 ADOT. And I've been there since 1990. I've been  
24 with the State for nine years now.

25 And when I came to that Department, I

1        could see there were problems right away because I  
2        started running a warehouse there. I could tell  
3        that -- some of the Angelos would tell me that since  
4        I got there the warehouse was a mess. That this  
5        warehouse was in good shape, but since I got there it  
6        was a mess.

7                    When I got there you couldn't find  
8        anything. I organized the warehouse. You could find  
9        anything you wanted to, materials or whatever.

10                   And then I could see, too, that the  
11        management, the people supervise, would kind of  
12        divide the minorities and the Angelos. And that's  
13        what happened to me, too.

14                   I had to go somewhere when I was there.  
15        So all of us would take breaks in different areas.  
16        They take breaks here. We take breaks here. And the  
17        problem started -- that they came after Arthur  
18        Stanley, and I could see what was going on.

19                   I testified for Arthur's behalf because  
20        I could see what was going on with him. And I  
21        started to get retaliation from that. Because the  
22        "N" word was used there very freely at any time. You  
23        could use it on the break.

24                   So at that point I made a point myself  
25        not to go to the break room anymore. Like I said,

1 Ms. Peters about it. About the problems that we  
2 still had. And she said, "I thought things were  
3 getting better." And I said, "No, they're not  
4 getting better. We're still in the same situation."

5 I was talked to about mediation, but we  
6 had two consultants come in there, and we went  
7 through this already. Can't go to Affirmative Action  
8 because if you go there within ADOT, your boss finds  
9 out about it, and they retaliate against you.

4:07P 10 So the trust there from us is not  
11 there. We can't trust them no more. So I had to go  
12 wherever I could outside of ADOT to ask for help,  
13 because I can't get help from them.

14 I had to walk across and see a senator  
15 for his assistance. I belong to the union, and the  
16 union, they can't do it for us. I was asked if I  
17 discussed it with the union, and I said, "Yes."

18 "What are they doing for you?" I said,  
19 "Nothing because they can't do anything." The doors  
20 were closed to the avenues they say we have. I don't  
21 see them. We don't have no avenues to go to.

22 Out of the group that started with us  
23 on these complaints, nine of those minorities are no  
24 longer there. Since 1990 they're gone.

25 About all the minorities they say they

1 see it there. That's why I will not go to  
2 Affirmative Action, because I don't trust them.

4:10P 3 What they done to us and the scars that  
4 I have, they don't heal that easy. Thank you.

5 THE HONORABLE MANUEL PENA: Are there  
6 any questions? None.

7 Thank you very much for being with us.

8 That concludes the people who wanted to  
9 testify today. I just want to remind folks that the  
10 record of this meeting will remain open for ten days,  
11 and the Committee welcomes additional written  
12 statements and exhibits for inclusion in the record.

13 And these should be submitted to the  
14 Western Regional Division, United States Commission  
15 on Civil Rights, 3660 Wilshire Boulevard, Suite 810,  
16 Los Angeles, California, 90010.

17 And that concludes the hearing for  
18 today. And the hearing is adjourned. We thank all  
19 of you for being with us today.

20 (4:20 p.m.)

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STATE OF ARIZONA            )  
                                  )  ss.  
COUNTY OF MARICOPA        )

BE IT KNOWN that the foregoing proceeding was taken before me, JoANN KLEMM, a Notary Public in and for the County of Maricopa, State of Arizona; that proceedings thereto were taken down by me in shorthand and thereafter reduced to print by computer-aided transcription under my direction; that the foregoing pages are a full, true and accurate transcript of all proceedings adduced upon the taking of said proceedings, all done to the best of my skill and ability.

I FURTHER CERTIFY that I am in no way related to nor employed by any of the parties hereto nor am I in any way interested in the outcome hereof.

DATED at Phoenix, Arizona, this 4th day of April, 1997.

\_\_\_\_\_  
JoANN KLEMM