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THE VIRGINIA ADVISORY COMMITTEE
TO
THE U. S. COMMISSION ON CIVIL RIGHTS
FACTFINDING MEETING AND COMMUNITY FORUM

DATE: March 7, 1997

LOCATION: City Council Chambers
2400 Washington Avenue
Newport News, VA 23607

COMMISSION MEMBERS: Mrs. Jessie M. Rattley, Chair
of Newport News

Dr. Azizah al-Hibri
of Midlothian

Mr. Roger A. Galvin
of Alexandria

Reverend Curtis W. Harris
of Hopewell

Mr. Philip Y. Huang
of Blacksburg

Mrs. Anece F. McCloud
of Lexington

ORIGINAL

Mr. Richard E. Patrick
of Alexandria

Ms. Naomi Zeavin
of Falls Church

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I N D E X

1			
2	Welcome address by Newport News Vice Mayor Charles Allen	5
3			
4	Presentation by the Honorable Congressman Robert C. Scott	7
5	<u>PANEL 5: "Is Justice Equal For All?"</u>		
6	Howard E. Gwynn, Commonwealth Attorney City of Newport News	.....	57
7			
8	Major Wyche, Hampton Police Department	.....	61
9	<u>PANEL 6: "The Search for Solutions: A Community Perspective"</u>		
10			
11	Clyde Cristman, Director, Community Criminal Justice Board	.....	105
12	Reverend Marcellus Harris, First Baptist Church Morrison	.....	112
13			
14	<u>COMMUNITY FORUM</u>		
15	<u>SPEAKERS</u>		
16	Roy Palmer	.....	147
17	Gregory Bullock	.....	153
18	Frederick Carter	.....	165
19	William Roberts	.....	178
20	Joe King	.....	187
21	LCDR. Robert Cobb	.....	191
22	Dr. Warthell Browne-Iles	201
23	Reverend Helen Williams	211
24	Gene Melton	217
25	John Jop	226

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1
2
3
4
5
6
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8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

COMMUNITY FORUM SPEAKERS (Continued)

Paul Blowe	.....	236
David Williams	.....	242
Sheila Bryant	.....	250
Clarence Pierce	.....	256
Stewart Fleming	.....	268
C. Jerome Neal	.....	271
Henry Upton	.....	279
Reginald Mitchel	291
Pamela Briggs	308
Deon Robinson	316
Brian Harris	321

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1
2 MS. RATTLEY: We want you to know
3 that the U.S. Commission on Civil Rights is
4 established as a fact-finding agency within the
5 Executive Branch. It is authorized by statute, by
6 law. That's the Civil Rights Commission Amendment
7 Act of 1994, Public Law 103-419, 108 statute 4348, to
8 study and to collect information concerning legal
9 developments constituting discrimination or denials
10 of equal protection of the laws under the
11 Constitution because of race, color, religion, sex,
12 age, handicap, or national origin, or in the
13 administration of justice.

14 This is the statutory authority for
15 collection of information on individuals. Any
16 information supplied to staff members on the U.S.
17 Commission on Civil Rights is on a voluntary basis.
18 The commissioners are authorized to hold hearings, to
19 issue subpoenas, and take testimony under oath; and
20 this is found in section 3E, Public Law 103-419.

21 Now, the information requested of
22 individuals by the commissioners, and the
23 Constitution -- the commission staff on behalf of the
24 commission is collected and will be maintained in
25 accordance with the Notices of Systems and Records

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1 published in the Federal Register to meet the Privacy
2 Act requirements. And you may check that under the
3 Federal Register, September 3rd, 1975 and October the
4 2nd, 1975.

5 Now, any information obtained by
6 interview, or letter, from you, any of you, as part
7 of the Commission's project, may be used routinely as
8 set out in the Systems Notice entitled Civil Rights
9 Commission-004, Commission Project. This system
10 includes reports, hearings, statements, conferences,
11 commentaries, or legislation, and possibly referrals
12 to other agencies.

13 Now, for any further information
14 regarding this act, you can contact the General
15 Counsel at 624 Ninth Street, Washington, D.C.
16 Northwest in Room 620, or you may call Area Code 202
17 376-8351.

18 Are there any questions?

19 At this time, we're honored to have
20 with us the Vice Mayor of the City of Newport News in
21 the person of Charles Allen, and we would like to
22 call on you, Mr. Allen, to make our welcome remarks,
23 or anything else you would like to say.

24 Thank you very much.

25 MR. ALLEN: Good morning.

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1 MS. RATTLEY: Good morning.

2 MR. ALLEN: Welcome to Newport News.

3 I bring you that welcome from Mayor Joe Frank and
4 City Council, City Manager Rooney, and the citizens
5 of Newport News. We in Newport News tend to be proud
6 of the last thirty years of achievements in the City
7 of Newport News, especially in noting that the term
8 and experience of councilmen and councilwomen, and
9 subsequently Mayor Rattley, Commonwealth Attorney,
10 Mr. Gwynn. We have department heads in the city that
11 have progressed, Newport News School Board members,
12 from admission to private clubs in the city.

13 We have representation on our many
14 boards and commissions, primarily spearheaded during
15 her term of over twenty years by Mrs. Rattley,
16 state-elected officials, and of course our
17 congressman, Robert Scott.

18 Our opportunities here appear to be
19 unlimited; however, there are problems in Newport
20 News as represented by problems in the workplace,
21 people in various jobs throughout our community. We
22 feel there are some double standards in terms of
23 promotions and evaluations of employees, both in the
24 city and in private industry, and also in the
25 awarding of contracts for professional services.

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1 We feel that these problems should
2 receive some attention in the future as commissioned
3 by the Board because we feel they are critical to the
4 economic and social welfare of our total community.

5 Once again, welcome to Newport News.
6 Hope your hearings here go well and will be
7 beneficial to us and the state at large.

8 Thank you very much.

9 MS. RATTLEY: Thank you very much.

10 We're ready now to move into our
11 special presentation. We're honored to have with us
12 the Honorable Robert C. Scott, who is a member of
13 Congress. He has consented to come and address this
14 meeting in reference to the criminal justice issues
15 affecting African Americans on the Peninsula, and I
16 understand that he serves on a Congressional
17 committee that is also charged with this
18 responsibility. Welcome.

19 MR. SCOTT: Thank you, Mrs. Rattley
20 and members of the Advisory Committee. It's
21 certainly a pleasure to be here, and I appreciate the
22 opportunity to address the Virginia Advisory
23 Committee of the U.S. Civil Rights Commission.

24 I presently serve as the ranking
25 Democrat on the house subcommittee on the

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1 Constitution of the Judiciary Committee, therefore
2 look forward to building a close working relationship
3 with the Commission. Although your work has been
4 extremely important, it seems that your independence
5 and fact-finding ability are in greater demand these
6 days when too many inaccurately contend that racial
7 discrimination is a feature only of our distant past.

8 In this Congress, the subcommittee
9 on the Constitution will address issues such as
10 affirmative action, voting rights, police brutality,
11 police profiling and church burning; and even though
12 a Neo-Nazi soldier has been convicted of hunting down
13 and killing a couple just because of their race, even
14 though dozens of racially motivated church burnings
15 have occurred in the past year or so, even after
16 federal, state, and local law enforcement officers
17 were caught participating in the "Good old boys'
18 roundup," and even after discriminatory practices
19 were exposed in the Department of Agriculture, you
20 still have the difficult task of reminding the public
21 that racism still exists today in our society. And
22 so you have to continue your important work.

23 The U.S. Civil Rights Commission is
24 scheduled to be reauthorized in Congress this year.
25 The Commission's research and recommendations are

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1 invaluable to policy makers at all levels of
2 government. Considering the Commission's important
3 role, I fully expect that you will receive the
4 necessary support when it comes up for
5 reauthorization.

6 Madam Chair, the hearings today have
7 focused on the issue of race and crime; and when we
8 discuss race and crime, we also have to add another
9 word to the discussion, and that's politics. Whether
10 we reference Richard Nixon's exploitation of urban
11 riots in his law and order campaign, or George Bush's
12 use of the Willie Horton ad, rich politics play
13 entirely too large a role in the development of
14 criminal justice policies. Unfortunately, many of
15 our policies are created as a reaction to
16 vote-getting appeal, as opposed to solid, dependable
17 research. Sensitivity to racial concerns is usually
18 among one of the first casualties of the political
19 process in which we develop our criminal justice
20 policies.

21 Some of the concerns begin with
22 police practices. For example, profiling is a type
23 of policy that is very difficult to implement without
24 unfair discrimination. Attaching a certain criminal
25 propensity to a person because of his race or age,

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1 and basing police practices on such profiles, is
2 bound to cast the net too broadly with the result
3 that many completely innocent people of the profile
4 of race and age are subjected to the indignities of
5 stops and searches.

6 A profiling is particularly
7 troublesome in light of the recent Supreme Court
8 ruling that provides that police officers do not have
9 to have any articulable reason for ordering
10 passengers to get out of a car during a routine
11 traffic stop. This carte blanche permission to act
12 arbitrarily, coupled with the inherently
13 discriminatory practice that profiling has, gives it
14 the potential to make a situation worse than it
15 already is. Although profiling practices are rarely
16 written, or even official, they do exist and deserve
17 your attention.

18 The crack cocaine/powder cocaine
19 disparity is another issue that deserves the
20 heightened Commission's attention. There is the
21 hundred-to-one disparity between the way we treat
22 crack cocaine and powder cocaine offenders. In other
23 words, one must sell 500 grams of powder cocaine, net
24 worth of about \$50,000, to receive a five-year
25 mandatory minimum sentence, or one guilty of simple

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1 possession of five grams of crack, about a week's
2 worth, about \$500 worth, gets the same five-year
3 mandatory minimum sentence. There's no significant
4 pharmacological difference between the two drugs. In
5 fact, crack is a watered-down version of powder
6 cocaine.

7 The organization charged with
8 developing federal sentencing guidelines, the U.S.
9 Sentencing Commission, reviewed the crack/powder
10 disparity and concluded that African Americans were
11 disproportionately targeted and sentenced nationwide.

12 In fact, disproportionate may be too
13 mild a word to describe the difference in treatment.
14 Although whites are 50 percent of crack users, 95
15 percent arrested for crack offenses are black or
16 Hispanic.

17 This hundred-to-one disparity cannot
18 be justified on any fact, science, or legitimate
19 public policy. Studies have shown that drug
20 rehabilitation will reduce recidivism for drug users
21 80 percent, versus those that go to jail at a cost of
22 approximately one percent of the cost of a five-year
23 mandatory minimum sentence. In other words, the
24 policy of providing a five-year mandatory minimum
25 sentence for simple possession of a week's worth of

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1 crack costs one hundred times more money and results
2 in five times more crime and produces the gross
3 disparity, the racial disparity.

4 Although even the bipartisan U.S.
5 Sentencing Commission concluded the disparity was
6 wrong, Congress voted to overturn the Sentencing
7 Commission's recommendation to correct it. Political
8 expediency; that is, the fear of the thirty second
9 commercial labeling a politician soft on crime,
10 seemed to have beaten out what should have been an
11 overwhelming revulsion to the indivisible policy of
12 having grave racial disparity.

13 Madam Chairman, the two additional
14 points I want to make about that disparity; one is,
15 for simple possession cases, the five-year mandatory
16 minimum sentence has no deterrent value. Crackheads
17 don't switch to powder because they can get probation
18 for powder rather than five years mandatory minimum
19 for crack. And the Sentencing Commission
20 recommendations recommended equal treatment for crack
21 and powder with enhanced penalties depending on how
22 the drug was used.

23 In other words, if you were
24 distributing it using children, you would have an
25 enhanced penalty. If weapons were used, if violence

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1 was used, those would be taken into consideration.
2 But there was no justification between -- for the
3 difference between crack and powder cocaine citizen
4 having different penalties, any more than there
5 should be a different penalty for abusing cheap wine
6 or expensive cognac, even though you could probably
7 make the case that cheap wine is more associated with
8 crime and violence.

9 Another point about mandatory
10 minimums, their goal is to achieve absolutely equal
11 justice because everybody gets the same mandatory
12 minimum. That is never achieved in practice because
13 the discretion otherwise exercised by the judge, will
14 be exercised by the prosecution, who, in effect, sets
15 the sentence when he sets the charges. At least the
16 judges exercise a discretion in open court for all to
17 see. The discretion is not eliminated from the
18 system. It's just shifted from the judges purview to
19 that of the prosecution.

20 Now, you can't discuss race and
21 criminal justice without discussing the death
22 penalty. There's no question that there's widespread
23 discrimination in the application of the death
24 penalty. The existence of discrimination is even
25 more alarming when you consider the changes that have

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1 taken place in habeas corpus reforms.

2 Despite the fact that innocent
3 people are repeatedly freed from death row because of
4 their subsequent finding of innocence, and studies
5 have shown that at least 25 people have been put to
6 death this century after -- they've been put to death
7 this century, notwithstanding the fact that they were
8 subsequently found to be innocent, death row penalty
9 appeals have been greatly limited. Time periods have
10 been cut, and the issues that one can raise on appeal
11 have also been limited. The weakening of the right
12 to appeal will have grave repercussions as we've
13 already seen in Virginia.

14 In the past few years we've seen
15 defendants, for whom reasonable doubts have been
16 raised about their guilt, and because of those
17 doubts, the last two Virginia Governors have had to
18 commute sentences in cases in which the judicial
19 system offered no hope. These innocent defendants
20 have had to resort to the political process and all
21 of its unreliability, rather than the judicial
22 process, in order to find justice.

23 Madam Chairman, race has always been
24 involved in the imposition of the death penalty. The
25 race -- the General County Office found that race of

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1 the victim, and race and class of the defendant, were
2 significant factors in who received the death penalty
3 and who did not.

4 In a recent report issued by the
5 Subcommittee on Constitutional Law, 1994, studied
6 federal death penalty prosecutions from 1988 to 1993,
7 when the drug kingpin law was the only statute in
8 which federal death penalty was an option. That
9 report revealed that despite the fact that 75 percent
10 of individuals prosecuted under the general drug
11 kingpin statute were white, 75 percent prosecuted
12 under the general law were white; of the 37
13 prosecutions under the death provision of the act,
14 four were white, four were Hispanic, 29 African
15 Americans. In 1993, all eleven of those being tried
16 in federal court under the death penalty provisions
17 of that act were African Americans, and eight of
18 those cases were being tried in the Eastern District
19 of Virginia.

20 Justice Harry A. Blackman, a
21 longtime death penalty supporter, on February 22,
22 1994, made the following statement against the death
23 penalty. He said twenty years have passed since this
24 Court declared that the death penalty must be imposed
25 fairly and with reasonable consistency, or not at

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1 all. And despite the effort of the states and courts
2 to devise legal formulas and procedural rules to meet
3 this daunting challenge, the death penalty remains
4 drought with arbitrariness, discrimination, caprice
5 and mistakes.

6 Madam Chairman, if we're going to
7 have a death penalty, we should at least be able to
8 agree that it should not be applied in a racially
9 discriminatory manner. We should ensure that when we
10 get to the end of the trial, we should not allow
11 racial bigotry to be the deciding factor of who gets
12 to live and who has to die. The Racial Justice Act
13 would have prohibited discrimination in the
14 application of the death penalty, but it was not
15 accepted as part of the 1994 Crime Bill.

16 The courts are well-versed in
17 deciding racial discrimination cases. Proof of
18 discrimination is routinely considered in employment,
19 housing, and public accommodation, so the same
20 evidence ought to be considered when someone's life
21 is at stake.

22 There's some who think that the
23 enactment of the Racial Justice Act would be
24 tantamount to abolition of the death penalty. They
25 apparently think that racism is so ingrained in the

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1 application of the death penalty that they wouldn't
2 know how to apply it without discriminating. If
3 that's the case, then the death penalty ought to be
4 abolished.

5 Madam Chairman, even less serious
6 offenses can also have racial overtones. Oddly
7 enough, trespassing is such a law. In a number of
8 cities in Virginia, particularly Portsmouth and
9 Richmond, individuals visiting public housing
10 developments often endure harassment and arrest
11 simply because they are visiting public housing
12 residents. It is not required that any crime be
13 committed or even seem to be contemplated. In fact,
14 the commission of a crime is irrelevant. Often the
15 only factor is whether or not one sets foot on the
16 public housing property.

17 Although the intent of this practice
18 is to protect the residents of public housing, the
19 effect is to have individuals sent to jail for thirty
20 days, or even six months, for visiting friends or
21 relatives in public housing. One man was convicted
22 of trespassing and sent to jail for six months, even
23 though he was visiting his children with their
24 mother's consent. These practices need to at least
25 be reviewed. There must be a better way to maintain

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1 the public safety of public housing residents without
2 putting an undue burden on those visiting their
3 friends and relatives.

4 In this discussion of race and
5 crime, it is important that we move beyond the
6 expedient politics of crime to the pragmatic and
7 well-thought-out solutions that will provide us with
8 some of the well-needed relief in this area. African
9 Americans, Latinos, and the poor suffer
10 disproportionately as victims of crime.

11 Our unwillingness to properly
12 address crime is itself a reflection of our racial
13 insensitivity to the disproportionate numbers of
14 minority victims. We know how to reduce crime, and
15 it is time that we start reducing crime, rather than
16 focusing on initiative, which only seem to enhance
17 the political stature of politicians, but do nothing
18 to reduce crimes.

19 All of the research shows that
20 prevention and early intervention programs are much
21 more effective in reducing crime and the cost of
22 responding to crime when compared to the popular
23 get-tough strategies, such as increasing
24 incarceration, abolishing parole, and three strikes
25 and you're out. In America, we already lock up more

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1 people than anywhere else on Earth.

2 Internationally, most countries lock
3 up about one hundred people per hundred thousand.
4 Japan locks up 36 people per hundred thousand;
5 Canada, 117; Mexico, 97. United States leads the
6 world with approximately 600 people locked up today
7 per hundred thousand population. The African
8 American community, approximately 1,500 people are
9 locked up; and in inner cities, the rate exceeds
10 3,000 or more.

11 There's virtually no additional
12 crime reduction value in increasing incarceration,
13 and yet study after study has shown that continuum of
14 services beginning with young children will
15 significantly reduce the incidents of crime. We know
16 that programs such as teen pregnancy prevention,
17 prenatal care, parental training for teen parents,
18 head start, quality education, recreational programs,
19 drop-out prevention programs, summer jobs, guaranteed
20 college education, job training, often save more
21 money than they cost in reduction of future crime and
22 welfare expenditure; and unlike their catchy
23 vote-getting sound bites, these programs will
24 actually reduce crime.

25 We fail to fund the initiatives that

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1 actually work and instead codify expensive sound
2 bites that have little effect on crime.

3 Madam Chairman, you're familiar with
4 the Proposal X that passed so-called abolishing
5 parole. Only -- I won't go into how little effect it
6 would have, only to say that the proponents only
7 suggest that a three percent reduction in crime. I
8 would argue that that is a gross exaggeration even to
9 say three percent; but even at three percent, the
10 cost of that program was two billion dollars
11 construction, about a billion a year in operating
12 costs for the prisoner.

13 I did a little budget of what you
14 could do with that kind of money, and it starts off
15 with a million-dollar boys' and girls' club, or
16 family resource center, in every precinct in the
17 Commonwealth of Virginia, and then you could run
18 those boys' and girls' clubs, or family resource
19 centers, and you could provide a college education
20 for every child who would get in, couldn't afford to
21 go to college. You could double Head Start. You
22 could provide a summer job for just about every poor
23 kid in the state. If you do it right, those jobs
24 could be in recreational centers where you're
25 providing opportunities for everybody else, and then

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1 you could double jobs training under the Job Training
2 Partnership Act, and then you could hire 200
3 additional police officers in every Congressional
4 district in the state. That would be about fifty new
5 police officers for the City of Newport News, and
6 then you could double the funding for community
7 services boards, local mental health spending for
8 which drug rehabilitation is a part of that, and
9 you'd still have enough money left over after you
10 spent that kind of money, to run a housing
11 rehabilitation project that would take about ten
12 years to eliminate every housing code violation in
13 the state. That would virtually eliminate
14 unemployment in the building trade.

15 You could fund all that, or this
16 sound bite that proponents don't even promise will
17 make a statistically significant difference in crime;
18 and yet that money was spent on a vote of about 85 to
19 15 in the house, and 34 to 4 in the State Senate.
20 With Congress now opposed to deter juvenile justice
21 reform, we can only hope that reason prevails and we
22 enact measures which will have the actual effect of
23 reducing crime, rather than codifying slogans which
24 sound good but actually may even increase crime.

25 I look forward to working with the

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1 Civil Rights Commission, and again, thank you for
2 your hard work and urge you to continue your
3 important business, because this country's future
4 depends on your hard work. Thank you.

5 MS. RATTLEY: Very good report,
6 Mr. Scott. Would you take just a minute and speak to
7 restoration of voting rights of those fellows. Do
8 you have any statistics on that? We were given a
9 number for Virginia. Was it 400-some-thousand --
10 300-and-some-thousand, and 150-some-thousand are
11 blacks.

12 DR. AL-HIBRI: 145,000.

13 MR. GALVIN: Disenfranchised.

14 MS. RATTLEY: I have them written
15 here. Let's see. This person stated that we have
16 245,000 people in the State of Virginia whose voting
17 rights have been taken away, and of that number,
18 145,000 were black males.

19 MR. SCOTT: That's consistent with
20 what I've heard; and I think the number in other
21 states have provisions that you can automatically
22 restore voting rights statutorily.

23 MS. RATTLEY: Thirteen states, I
24 believe.

25 MR. SCOTT: As soon as you walk out

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1 of the prison, your rights are restored. We are
2 restrained by a Constitutional provision that
3 provides that only the governor can restore the
4 rights. Heretofore, it's been a fairly routine
5 process. Those who have completed their time,
6 probation, parole, paid their fines and costs, and
7 can get a couple of people to recommend them, would
8 have their rights restored.

9 It used to be so perfunctory that a
10 few years ago, they just printed up forms,
11 fill-in-the-blank forms, send them up. It wouldn't
12 be a pardon. You'd only have your civil rights
13 restored. Used to be fairly perfunctory, and now I
14 understand that it's very difficult. A lot of people
15 are having those applications languish.

16 MS. RATTLEY: Are they difficult or
17 impossible, that you have to write to the governor,
18 and then they would research it supposedly and
19 determine whether you have paid your dues; that is,
20 the time in jail plus whatever probationary period?
21 Even if your probation is ten years, you have to wait
22 until the end of that, and I understand in the
23 last -- how many years -- only three or four, we were
24 told, had been given the right to vote again.

25 MR. SCOTT: It used to be

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1 perfunctory. I was first elected in '77, and
2 Governor Dalton was in office then, and through the
3 time I remember being in General Assembly, it used to
4 be a perfunctory process.

5 MR. GALVIN: Do you recall when that
6 stopped, during what time frame?

7 MR. SCOTT: I don't want to name
8 names, but the last couple of years.

9 MR. GALVIN: In the past five years,
10 there's only been about five or six people that have
11 had their rights restored in the past five years.
12 We're going back further than that?

13 MR. SCOTT: My understanding it's
14 been very recent, because it used to be perfunctory,
15 so much so that the registrar had -- you get a little
16 package, fill in the blanks. I mean, they have a
17 fill in the blank. Have you completed your time?
18 Have you attached the letter from your probation
19 officer? Have you attached the note from clerk of
20 court? Do you have three fill-in-the-blank
21 recommendations that, Dear Governor, I have known
22 blank for blank years, and then a little gap to say
23 under what circumstances, and you sign your name. I
24 mean really perfunctory.

25 MR. GALVIN: I understand it used to

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1 be that way. I'm trying to find out when it changed.
2 We heard testimony from the bar from competent people
3 in this area that they have been unable and difficult
4 to comply with the process to get anyone's rights
5 restored.

6 MR. SCOTT: I can't answer
7 specifically, because I've been out of the General
8 Assembly for a little over four years. The time I
9 was in the General Assembly, I remember it to be a
10 fairly perfunctory process.

11 Now, if you want a pardon --

12 MR. GALVIN: No, not a pardon.

13 MR. SCOTT: -- those are hard to
14 come by. But a restoration of your right to vote has
15 traditionally been a fairly perfunctory process.
16 We're in an area, Madam Chairman, where a facially,
17 racially neutral practice has a significant impact on
18 one group so much so that you're talking about a
19 significant impact in political empowerment. That's
20 the theory behind ending the literacy test. There's
21 nothing facially wrong with the literacy test until
22 you look and find out that one group is
23 disenfranchised so much so that that group has lost a
24 significant portion of its political empowerment.

25 I mean, there are only a couple

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1 hundred thousand black males in the state, 600,000 or
2 so, and you get 145,000, and limit that to adults,
3 it's probably only 400,000 or 500,000. It can't be
4 much more than that. And if 145,000 of them can't
5 vote because of this provision, I think the rationale
6 that eliminated the literacy test ought to be
7 considered when we look at how this is, in fact,
8 applied.

9 You've got twenty, thirty percent of
10 black males can't vote, and five or ten percent of
11 white males can't vote, you have a significant
12 disparity. When it comes time to vote, it has a
13 significant impact.

14 MS. RATTLEY: All right. Would you
15 tell me what happens if you spend time in the federal
16 penitentiary? What is the parole system there -- not
17 the parole, the reinstatement? Do you go through the
18 same process? Do you still have to go to your state
19 governor? In federal prison.

20 MR. SCOTT: In federal prison, if
21 you have a federal conviction, you have to go through
22 the federal process, which means the president, and I
23 don't know -- I haven't dealt with -- I don't
24 remember dealing with a situation like that. Some
25 have asked for presidential pardon, and we've helped

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1 them fill out the papers. I don't remember anybody
2 that's gone through that process.

3 MS. RATTLEY: Okay. So we're locked
4 in, as you would think, at both ends, the state and
5 the federal?

6 MR. SCOTT: The number of
7 convictions, number of people affected by federal
8 conviction would be relatively small. 95, 98 percent
9 of the felony convictions in Virginia is in state
10 court, so the impact of the federal would be limited.

11 MS. RATTLEY: Let me just move back
12 to the crack versus pure cocaine. You gave some
13 interesting information, and yesterday we got some
14 shocking information. When we talk about perceptions
15 and images about those who use cocaine, why is it
16 blacks, according to their statics, use crack, and
17 whites use cocaine? And then when you talk about
18 sentencing, the presenter yesterday worked it out
19 mathematically, and he said it costs the same. And
20 he went on to talk about the chemical in the two
21 systems, and we are going to hopefully do some
22 studying here, because wrong information is out
23 there, and this person suggested that this was a
24 cover; you don't have to deal with the race issues if
25 you -- our number one concern is elimination of

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1 drugs, and that would be the solution, the panacea
2 for everything that is ill. How -- you gave 500
3 grams --

4 MR. SCOTT: Five hundred grams of
5 powder, if you're caught selling 500 grams of powder,
6 about \$50,000 worth of powder, you get five years
7 mandatory minimum. You only need to be in simple
8 possession of five grams, about a week's worth, about
9 \$500 worth of crack, to get the same five years
10 mandatory minimum.

11 Now, crack -- and again, 95 percent
12 of those busted for crack cocaine are black and
13 Hispanic, although the studies have shown that the
14 use is about 50/50.

15 MS. RATTLEY: That's the other
16 thing. that's crazy, 50/50. Fifty percent black,
17 fifty percent white.

18 MR. SCOTT: And of those using
19 powder, about 75 percent of those using powder are
20 white. Now, I wanted to emphasize simple possession,
21 because crack is the only substance for which you can
22 get mandatory minimum jail time for simple
23 possession.

24 MS. RATTLEY: Are they saying that
25 crack is what makes you crazy, or violent, or if they

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1 acted a different way than the pure cocaine?

2 MR. SCOTT: I mentioned that you
3 could probably draw the association that crack is
4 more associated with violence, just like you can make
5 the association that cheap wine is more associated
6 with violence than cognac, but you don't have a
7 separate drunk driving on cheap wine, you know, it's
8 drunk driving.

9 What the Sentencing Commission did
10 was to recommend that the sentence being absolutely
11 equal with enhancement, so if you're distributing the
12 drug with a weapon, you get more. If you're using
13 children in your distribution network, you get more.
14 If there's violence, weapons, all this kind of stuff,
15 you get more. And in practice, those busted for
16 crack would probably, on average, get more time under
17 that scheme, but it's for what they did; it's not for
18 who they are.

19 So if you are using powder
20 violently, you get more time than someone who's using
21 crack nonviolently, and that -- so the Sentencing
22 Commission recommended that if crack is associated
23 with violence, then prosecute the crack used in a
24 violent setting with children, near schoolhouses, or
25 whatever you want to do to enhance; but don't punish

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1 crack for who the users are; punish it for what it
2 is.

3 Then as I indicated, you don't get
4 mandatory minimum time for possession of Heroin, PCB,
5 LSD. Crack, for which 95 percent of the defendants
6 are black, is the only thing that you can get
7 mandatory minimum time for.

8 MS. RATTLEY: Just one further
9 question and I'll stop.

10 MR. SCOTT: Let me add one other
11 thing. When you have the mandatory minimum in
12 practice, the way crack is made, it's made from
13 powder, so the real kingpins distributing tons of
14 powder, if you're caught with \$30,000 worth of powder
15 in the network, then the next guy converts it to
16 crack and distributes on the street, the kingpin is
17 getting probation, where the little street dealer,
18 once he's removed, will be replaced, so you really
19 haven't done anything about whatever goal you're
20 trying to accomplish, gets the five years mandatory
21 minimum.

22 And the way the prosecution works,
23 the street dealer doesn't have any information. The
24 kingpin can name all his distributors, so he gets a
25 reduction. Even if he's got more than \$50,000 worth

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1 of powder, he can get a reduction because he's
2 helping by naming all his little street venders, so
3 he gets a reduction, and the street venders are stuck
4 with five years mandatory minimum.

5 MS. RATTLEY: Plea bargaining in the
6 judicial system. I just want -- I don't think you
7 can answer the question. I wish you could. Is there
8 any truth to the fact that coke is in all urban areas
9 where black folks live, and pure cocaine is in the
10 suburbs?

11 MR. SCOTT: I don't know.

12 MS. RATTLEY: Well, could you tell
13 me why it seems that the choice of drugs among
14 blacks, based on our statistics, why is it crack?
15 What about crack --

16 MR. SCOTT: One of the way -- the
17 way crack is distributed in cheaper packaging. You
18 can get -- usually when you buy powder, you have to
19 come up with a couple hundred dollars' worth. You
20 can five or ten dollars' worth of crack.

21 MS. RATTLEY: Is it as low as five
22 dollars now? We were given a price of, what, ten
23 yesterday, average? So you can cut that, you're
24 saying --

25 MR. SCOTT: I think -- I don't know.

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1 MS. RATTLEY: Are there --

2 MR. SCOTT: You have the
3 Commonwealth Attorney here. He can tell you what
4 police are catching the people with. I've heard
5 five, ten dollars.

6 MS. RATTLEY: Please introduce
7 yourself since you were not here when we.

8 DR. AL-HIBRI: Dr. Al-Hibri. Is
9 that enough, or do you need more?

10 MS. RATTLEY: We want to know more
11 about you.

12 DR. AL-HIBRI: Professor of Law,
13 University of Richmond.

14 I have a couple of questions for
15 you. I was very surprised yesterday when I found out
16 that the crack use is essentially spread out over the
17 population with no racial demarcation, 50/50 as you
18 said, between black and white; and yet when we look
19 at the arrest profile, we find out that most of those
20 arrested for crack are blacks. So it sounds to me
21 like the problem is with targeting and enforcement.
22 Is that your sense of it, too?

23 Instead of talking about crack,
24 let's talk about selective enforcement.

25 MR. SCOTT: That point was made at a

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1 Judiciary Committee hearing in which one member said
2 that that's not discrimination, that's good police
3 work. I'm not sure exactly.

4 DR. AL-HIBRI: On one side of the
5 table.

6 MR. SCOTT: One police force
7 indicated that they, in fact, do target. They go
8 where they can find the drugs the easiest, and that
9 was in -- in Los Angeles, they indicated where the
10 drugs are most easily found and --

11 DR. AL-HIBRI: I do sort of agree.

12 MR. SCOTT: They do target. I don't
13 know there's much doubt about that.

14 DR. AL-HIBRI: Let me push it a
15 little bit further because we were talking yesterday
16 about conscious, unconscious, subconscious
17 selectivity. And I guess if there is a stereotype
18 which is floating in the community about what a --
19 for example, a black young male does, and you see
20 somebody, a black young male who is standing at the
21 corner of the street -- we were talking about baggy
22 pants, and if you're a police person and you're
23 trying to determine probable cause, isn't it more
24 likely that you would take that, than if you found
25 somebody in a nice business suit who was white,

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1 carrying a briefcase?

2 MR. SCOTT: As you know, there's a
3 concept in law called articulable probable cause. I
4 mean, just "I know he had some drugs on him" isn't
5 enough. You have to articulate why you thought he
6 had drugs on him to show probable cause.

7 When you have a profile, you don't
8 have the probable cause. They identify a young,
9 black male driving a rental car with Florida plates
10 on 95 as inherently suspicious, and with the Supreme
11 Court cases indicating you don't need much more --
12 you need more than that, but not much more. The
13 funny look is enough, in one case -- the profiling
14 gets you in trouble because there are a lot of very
15 innocent young, black males wearing baggy pants, and
16 most, in fact, are innocent. And when you subject
17 them to the indignities of the criminal justice
18 system, you have problems.

19 DR. AL-HIBRI: So you have the
20 problem with the profile and you have the problem of
21 which areas you start looking into first, and that is
22 beginning to account for the disproportionate arrests
23 in certain areas.

24 MR. SCOTT: (Nods head.)

25 DR. AL-HIBRI: Okay. The other

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1 thing I wanted to ask you about information that we
2 repeatedly got yesterday, which I really wanted more
3 insight into. In all the charts we looked at, there
4 was a sharp increase in various types of arrests and
5 crimes beginning in 1987, and when I asked a
6 question, some person -- I don't remember who
7 answered that that's when crack hit the streets. I'm
8 not comfortable, in light of this conversation and
9 other things we've heard in the last day or so, that
10 this is a sufficient interpretation. Could you give
11 me some insight as to what do you think happened in
12 '86 maybe, or around that time, that caused this?

13 MR. SCOTT: The crack cocaine
14 disparity law was enacted around that time after Glen
15 Baez (phonetics), and I think if you look back, it's
16 not clear whether it was crack or freebasing powder,
17 but for whatever reason, they passed the law. I
18 don't think frankly Congress had a discriminatory
19 intent at the time. That cannot be said for what we
20 did one week after the Million-man -- the week after
21 the Million-man March where the Sentencing Commission
22 found that in application, it had the discriminatory
23 impact of 95 percent of the people caught up under
24 the mandatory minimum with crack were black and
25 Hispanic. We knew that last year when we -- a year

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1 ago when we voted to reject the Sentencing Commission
2 recommendation. The first time that's ever been
3 done. The Sentencing Commission makes a
4 recommendation, it's law unless it's rejected. We
5 rejected it. The first time, and we change the
6 sentencing frequently.

7 Politicians are afraid of being
8 labeled soft on crime in a thirty-second Willie
9 Horton type ad; and a patently discriminatory
10 practice is insufficient to get past that fear of the
11 thirty-second commercial.

12 MS. RATTLEY: Excuse me, just a
13 minute, if I may. Would somebody please turn the
14 heat up back there. It's getting cold in here. I
15 know the city is able to pay.

16 MR. GALVIN: If I could just stay on
17 this last point for just a second.

18 DR. AL-HIBRI: That's what I wanted
19 to follow up on.

20 MS. RATTLEY: Okay. Thank you.

21 DR. AL-HIBRI: Just let me -- and
22 then you can pursue this. I was very impressed by
23 the sentence I heard you speak about in which you
24 spoke about sound bites and how the politicians are
25 worried about some policy that would not get them

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1 sound bites or vice versa. We know it's an
2 international problem. From a politician's point of
3 view, how do you think we can break that vicious
4 circle when the population is suffering these kinds
5 of concentration?

6 MR. SCOTT: I don't know. I don't
7 know. When you have programs like Proposal X that
8 went through, that -- when you subject that policy to
9 any level of intellectual scrutiny, it fails. When
10 you have a system -- when you spend that kind of
11 money on a program that would provide a sentence for
12 Charles Manson getting out in half the time that he
13 would serve if you didn't pass the law, because one
14 of the things about truth in sentencing is that -- I
15 call it halftruth in sentencing -- halftruth is you
16 can't let anybody out early. The whole truth is you
17 can't hold people longer either, so when you have a
18 so-called ten-year sentence, which is a year
19 and-a-half to ten years, average two and-a-half, and
20 you double the average time served to five, Charles
21 Manson never would have made discretionary parole and
22 would have been held for ten years, now gets out in
23 five.

24 Now, when you explain that to
25 people, I think -- and when you spend that kind of

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1 money -- you can do a little mathematical formula --
2 impact the additional time served as inversely
3 proportional to your danger to society, the low risk
4 prisoners, for example, will serve significantly more
5 time, about three times more, than they would have
6 served ordinarily; the average person twice as much;
7 but the most dangerous will serve only half as much.
8 You spend all that money and it goes in exactly the
9 opposite direction that it ought to land. It makes
10 no sense. But so long as politicians get away with
11 these thirty-second commercials, and the public lets
12 them get away with it, you're going to have it.

13 We're dealing right now with
14 juvenile justice reform. There's a slogan that's
15 very popular. If you do the adult time, you should
16 do the adult crime. Well, that sounds good. You run
17 to about 80 percent of the polls, until you tell
18 people that the serious offenses for which that
19 really applies, they're already being treated as
20 adults, but if you expand the number of children
21 treated as adults, you'll have the following result:
22 One, the trials will be delayed and victims and
23 witnesses will be dragged through two trials rather
24 than one; the child, upon conviction, will receive
25 generally less time in a secure facility; and the

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1 crime rate will go up with the crimes being committed
2 sooner and being more violent.

3 Now, all of the research is
4 consistent with that. But it's kind of hard to get
5 that into a thirty-second commercial. You can yell
6 at a crowd, You do the adult crime; you do the adult
7 time. You get a standing ovation, you get reelected,
8 and unfortunately some of these things are actually
9 getting codified. In the Juvenile Justice
10 Delinquency Prevention Act Reauthorization,
11 increasing mandatory treatment of more juveniles as
12 adults is in most of the versions we're going to
13 consider. It is simple-minded and expensive and will
14 increase crime rather than decrease crime. And until
15 the public starts asking politicians questions like,
16 What did you have on your mind when you voted for
17 that, or Do you think we're that dumb, until people
18 get questions like that at town meetings, I think
19 you're going to get more of the same.

20 MR. GALVIN: I want to stay on this
21 for just a minute because I understand well the
22 interpretation that you offered, and from yesterday,
23 and from some of our work, I'm beginning to see that
24 sometimes we have a perception that looks so real
25 that it becomes fact, almost, to us; and while I do

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1 understand the pressures of sound bites and the
2 implications of them, on the other hand, if you can
3 allow me -- because I want you to speculate with me
4 for something. On the other hand that we also know
5 that marijuana has a very high usage, about 70
6 percent in the white community, and we also know that
7 there has been a tremendous shift in the leniency of
8 laws against the use and possession of marijuana.
9 This doesn't seem to correspond with being hard on
10 drugs; and at the same time, while it could be sound
11 bites, I don't ever see anyone speculate that why
12 Congress turned us down. Remember Congress voted
13 down making this an equity in the sentencing. Is it
14 possible that all of us, what we're discovering is
15 it's a subconscious act or bias, and that while the
16 explanation has been given to be political sound
17 bite, that it's possible that the bias is going
18 because this act discriminates so much against one
19 race or community, that we have produced an unknown
20 bias within Congress?

21 MR. SCOTT: Produced or exposed?

22 MR. GALVIN: Or exposed. Let's say
23 exposed.

24 MR. SCOTT: I think it's a lot
25 easier to impose Draconian sentences on people to

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1 make a message when their parents, the parents of the
2 people who receive those kind of sentences aren't the
3 people you run into on a regular basis. I can't
4 believe that a five-year mandatory minimum for simple
5 possession of a week's worth of marijuana, and
6 serious enforcement of that on college campuses, for
7 example, I can't believe that would last very long at
8 all.

9 MR. GALVIN: That's right.

10 MR. SCOTT: Five-year mandatory
11 minimum for crack, and the way they add up the
12 threshold, if you're all sitting around bringing a
13 day's worth of crack and you get busted, you add up
14 everybody's crack to see how much there is in the
15 conspiracy, and if it gets up to five grams, then
16 everybody's got five years mandatory minimum.

17 I don't think a couple people coming
18 to a pot party, and you add it up and get about a
19 week's worth, even a couple hundred dollars' worth,
20 all going to jail for five years mandatory minimum, I
21 don't believe that would last.

22 MR. GALVIN: Let me -- then it's
23 possible there's another explanation for why Congress
24 acted this way, besides the political sound bites?

25 MR. SCOTT: I think I'm giving them

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1 the best credit possible --

2 MR. GALVIN: I understand that.

3 MR. SCOTT: -- saying they're only
4 being self-serving politicians. That's the best you
5 can do, because on money, they're spending one
6 hundred times more money. All of the studies are
7 showing that they will end up with five times more
8 crime, more crimes with this policy, so it can't be
9 to reduce crime; it can't be to save money; so you
10 are stuck with self-serving politics.

11 MR. GALVIN: Or racial bias.

12 MR. SCOTT: Or racial bias. That
13 you are willing to spend this -- waste this kind of
14 money and endanger the public to promote your racial
15 bias.

16 MR. GALVIN: One possibility. But
17 that possibility never seems to get discussed openly.

18 MR. SCOTT: So I give them credit
19 for just being self-serving politicians.

20 MR. GALVIN: Let me ask you one
21 other question. You mentioned something that caught
22 my interest when you talked about in the sentencing
23 and how the -- really the prosecutors have control,
24 because of the mandatory or the uniform sentencing
25 now, depends on the charge that they break, really

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1 automatically determines the sentence the person is
2 going to get; and yet yesterday we heard testimony a
3 lot about how the prosecutors don't set charges.

4 According to what -- if I
5 misunderstood -- but yesterday, the way a charge is
6 set is either the police bring the charge, or the
7 Court brings the charge, or a citizen brings the
8 charge, but not the prosecutor or the Commonwealth
9 Attorney's Office.

10 MR. SCOTT: Well, the police, upon
11 arrest, arrest you for a certain charge; but in the
12 indictment, what the prosecutor asks for, and in plea
13 negotiations, I'll let you plead to this and that
14 will result in a certain charge, I mean, the
15 prosecutor has the sole -- when it gets to the Court,
16 presented to the Judge, the Judge has very little
17 discretion in those mandatory minimums. If he finds
18 you guilty and that was the charge, you know, you
19 just look down the charts and that's what you get.

20 MR. GALVIN: And would you -- so it
21 appears we've taken and -- or at least we've been --
22 looked like we've been told that we have taken
23 something about the minimum sentence, so we've taken
24 the -- some discretion away from the judges?

25 MR. SCOTT: (Nods head.)

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1 MR. GALVIN: Now we're moving it
2 down the line, and I'm a little concerned about the
3 water run downhill theory; and at the same time,
4 we're saying that the police force are constrained
5 and the piece in the middle are the prosecutors,
6 Commonwealth Attorneys, that have no guidelines for
7 what they do.

8 MR. SCOTT: And the Judge, you know,
9 you can watch him, listen -- you can listen to the
10 evidence and watch his decision, so as he or she
11 exercises discretion, you know, it's a public
12 process. That discretion exercised on the street
13 with a police officer, particularly with juveniles,
14 there's a lot of discretion whether you bring
15 somebody in, then you go to intake, whether they go
16 through the criminal justice process, or just intake,
17 counseling, release. There's a lot of discretion all
18 the way through the process. And when you tie the
19 Judge's hands, you end up with some situations
20 that -- for which a mandatory minimum is clearly not
21 appropriate.

22 MR. GALVIN: Right. You lose the
23 flexibility in the standard. Do you know or are you
24 aware of anybody or any group, a body -- that doesn't
25 mean individual -- that has a performance review or

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1 in some way reviews periodically the performance of,
2 say, the Commonwealth Attorney or the prosecutor's
3 office for performance, except by election every four
4 years?

5 MR. SCOTT: I was going to suggest
6 most of the State Commonwealth Attorneys would say
7 they're reviewed every four years. That's the only --
8 I don't know. I assume there's continuing education
9 they have. You have a Commonwealth Attorney coming
10 up, but I'm sure they have ongoing information,
11 review of cases coming up. I'm sure they get
12 together and have seminars, and whatnot.

13 MR. GALVIN: But as far as the city
14 work force?

15 MR. SCOTT: I know Judges have that
16 every year --

17 MR. GALVIN: Right.

18 MR. SCOTT: -- review of the law. I
19 assume Commonwealth's Attorneys have something
20 similar.

21 MR. GALVIN: But you don't know if
22 they do?

23 MR. SCOTT: No.

24 MR. GALVIN: So other than that, as
25 a city employee, the only review they get is once

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1 every four years by the voters?

2 MR. SCOTT: That is, I think, a
3 significant review. I don't think any Commonwealth
4 Attorney would minimize that review. You have to be
5 out, political -- it has its good and bad points to
6 it, but I mean, you have to be out and explain
7 yourself.

8 MR. GALVIN: Well, would you agree
9 with me that it's a review that's critical, because
10 it determines whether you keep or not keep your job,
11 but is not a review in the process that allows you to
12 have improvement of what's happening?

13 MR. SCOTT: Yes. And I also think
14 that sometimes in the criminal justice system, the
15 popular thing isn't the right thing, and that's why
16 I'm delighted we don't have popularly elected judges
17 in Virginia as they do in some other states. I'd
18 hate to be appearing before a judge up for reelection
19 in a couple weeks when I am actually innocent of a
20 charge of a heinous crime where the judge can say,
21 Well, you take your chances on appeal, I'm going to
22 get reelected.

23 MS. RATTLEY: Ms. McCloud.

24 MS. MCCLOUD: Congressman Scott, I
25 just have one question for you. I'd like to go back

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1 to the discussion about the changes in the
2 reinstatement of those disenfranchised individuals
3 who have been incarcerated. You weren't able to say
4 approximately when that change took place, but I
5 wonder if you have any speculations as to why the
6 change took place?

7 MR. SCOTT: I don't know why, but
8 again, it's a political decision. I just would point
9 out that we have serious constraints on solving that
10 problem because around '79, '80, '81, the
11 legislature, in fact, proposed a Constitutional
12 amendment to allow the legislature to set a statutory
13 provision for restoration of rights. It passed the
14 General Assembly twice and was presented to the
15 voters, and the voters did not, by an overwhelming
16 margin, defeated the proposed Constitutional
17 amendment, so it's still part of our Constitution,
18 and I'm not sure that there's much we can do about
19 it, other than from the Commission's point of view,
20 say it has a discriminatory impact.

21 MS. RATTLEY: Reverend Harris.

22 REVEREND HARRIS: Congressman Scott,
23 I want to get your opinion. This question of civil
24 rights for African Americans has been going on
25 forever, different faces of it. Politicians make the

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1 decisions on who gets certain rights at what time and
2 what place. Do you think that we are dealing with an
3 attitudinal situation in our society which will be
4 pushed around from one place to the other, like drug
5 dealers; after you step down on them in one corner,
6 they move in another corner? I've been following the
7 civil rights movement for many years, and I'm not any
8 closer to freedom than I was when I first started.
9 They find different ways to impose their goals, to
10 send kinder facts to the people.

11 I can remember when we had meetings
12 with some white people and some black people in
13 somebody's house and eat some cookies and drink some
14 tea, and we talked about human rights and civil
15 rights. Aren't we still eating cookies and drinking
16 tea as we deal with the likes of people, some of
17 those that we have talked about the last -- yesterday
18 and today? What is your opinion on that matter?

19 MR. SCOTT: Well, Reverend Harris,
20 you ask a broad question, and this session is focused
21 just on, as I understand it, race and crime. You
22 open the issue up to a broad number of issues, and
23 you started off talking about politicians and rights.
24 As I assume you-all know, federal courts are looking
25 at that issue right now. The panel has ruled that

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1 the Third Congressional District was illegally drawn,
2 and we're in the process of seeing how we can redraw
3 it to comply with the Constitution.

4 Until Shaw versus Reno, there's
5 never been any suggestion that there's any problem
6 with the majority giving minorities too many rights,
7 but in the recent line of cases, particularly
8 beginning with the redistricting cases, there's a
9 limit to what the majority can do for the minority,
10 and that opens you up into a entirely new discussion.
11 It starts off with political election and goes from
12 there. We have -- and that's why the voting rights
13 are so important, because everything -- once -- in
14 Democracy, the right is to vote and select the
15 politicians who make the decisions. If that process
16 is jeopardized, then the rest of it is jeopardized;
17 all decisions don't have the moral authority they
18 should have.

19 MS. RATTLE: We understand that
20 Congressman Scott has to leave shortly. I would like
21 to call on Mr. Darden with whatever questions you
22 have since the staff, of course, will include all of
23 this in their report to the Commission, and we would
24 ask you if you could leave us, please, a copy of your
25 presentation. Is that possible?

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1 MR. SCOTT: I'll have to have it
2 typed. It's not in the form now that anybody could
3 read, other than me.

4 MS. RATTLEY: We would appreciate
5 that so we have it as part of the record.

6 Mr. Darden, do you have a question?

7 MR. DARDEN: Thank you, Congressman.
8 My first question actually has already been answered,
9 I think pretty directly. Mr. Galvin's line of
10 questioning brought you to exposing -- I think you
11 said that there was some racist or some racial bias
12 in the Congress?

13 MR. SCOTT: I don't like to
14 attribute motives to my colleagues. I only pointed
15 out that there were a number of reasons that you
16 could put forth for voting against the Sentencing
17 Commission's recommendations. You cannot say that
18 you're saving money. You cannot say you're reducing
19 crime. That leaves you with a racial disparity as
20 staring you in the face; and I think I indicated to
21 Mr. Galvin, that being generous, I would attribute
22 self-serving political interests rather than -- I
23 mean, you're stuck with self-serving political
24 interests or promoting a racially discriminatory
25 agenda, one or the other.

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1 MR. DARDEN: The reason we're coming
2 back to that, Dr. Kern from the state here described
3 the Congressional action and suggested that the only
4 real insight we might have into what happened there
5 is through you, and so we're trying to understand.

6 MR. SCOTT: You have the vote, and
7 like I said, I don't want to attribute motives to my
8 colleagues, but you have either self-serving
9 political interests, or promotion of a racially
10 discriminatory agenda. One or the other.

11 MR. GALVIN: I want to be clear.
12 That would be an unconscious -- a conscious act as we
13 saw and heard yesterday as well; may not necessarily
14 be an intentional act, but in fact, the consequence
15 is the same, but it may be an act that, you could
16 say, is cognitively blind to the body.

17 MR. SCOTT: You know, I would like
18 to point out that the vote in the house was taken
19 within ten days of the Million-man March.

20 MS. RATTLEY: So you say timing
21 maybe.

22 MR. SCOTT: So you could not --
23 can't say that you weren't aware of racial
24 implications.

25 MR. DARDEN: Was it a close vote?

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1 MR. SCOTT: No. No.

2 MR. DARDEN: Nowhere close?

3 MR. SCOTT: Something like
4 300-and-something to 100-and-something.

5 MR. DARDEN: I won't belabor that.
6 I do want to go back, though --

7 MR. SCOTT: In fact, a motion was
8 made to at least adopt the simple possession aspect
9 of it and only reject the aspects of sale, because on
10 the simple possession part, that's when the rationale
11 of the five-year mandatory minimum makes no sense at
12 all. It's most expensive and most clearly -- the
13 research clearly points to the fact you not only
14 don't reduce crime, you'll probably be increasing
15 crime significantly, spending a lot more money doing
16 it.

17 Now, you could probably make an
18 argument, although there's not a lot of evidence in
19 my judgment to support it, that you need a Draconian
20 sentence to -- that goes in the business of selling
21 crack cocaine, weighs their pros and cons, and that
22 the Draconian sentence would be weighed in in that
23 calculation. That is not done on simple possession.
24 And so the simple possession, there was really no
25 excuse on that vote. That wasn't close, either.

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1 MR. DARDEN: So just to round this
2 out, if we take the most favorable interpretation,
3 and these actions might have been just a political
4 expediency, what you're suggesting is that those who
5 are most affected by it, in other words, young black
6 males, are a constituency that is unrepresented in
7 Congress, that they are dispensed with, disposable?

8 MR. SCOTT: Dispensed from a
9 political expediency point of view, the calculation
10 would be made that it is better to have a policy with
11 gross discriminatory implications, that wastes the
12 taxpayers' money, probably increases crime, that the
13 defense from the thirty-second sound bite, soft on
14 crime, is more important than saving money, reducing
15 crime, or illuminating racial disparity.

16 MR. DARDEN: Thank you. Just one
17 final question. Back to the description you gave of
18 the gentleman who was given six months jail time for
19 visiting his children in public housing and convicted
20 of trespass.

21 MR. SCOTT: Let me get you the
22 details on that case.

23 MR. DARDEN: Do you have a proposal
24 for how that kind of issue might be remedied?

25 MR. SCOTT: I would think that some

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1 way of getting permission, or someone going directly
2 to a residence rather than loitering, or otherwise
3 engaged in activities that are not -- where you don't
4 have any obvious business going on, you're not going
5 into a particular residence, would be a way to deal
6 with it, but the idea that just -- that you are
7 accosted as soon as you get there and jailed, even
8 though you're visiting your children, I think that
9 needs to be remedied.

10 MR. DARDEN: Do you know who or what
11 agency would be responsible for making the change?

12 MR. SCOTT: Probably the housing
13 authority.

14 MR. DARDEN: Local housing
15 authority. So it varies from one authority to
16 another?

17 MR. SCOTT: Yes. And I'd like to
18 get you the details of that case for the record.

19 MR. DARDEN: Thank you.

20 MS. RATTLEY: Thank you very much.
21 We want to honor the fact that Mr. Scott has a plane
22 to catch in Norfolk, so we haven't heard from you,
23 but if you go on --

24 MR. HUANG: Oh, I have a short
25 question. I'm very intrigued by your budget. Have

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1 you presented that budget to any other places; and if
2 you did, what kind of responses did you get?

3 MR. SCOTT: I have cited that same
4 budget in audiences that included very high-ranking
5 state officials in corrections, attorney general.
6 I'm not sure if the governor's been present, but
7 certainly high-ranking public officials have heard me
8 cite that budget, and I haven't heard anyone suggest
9 that there was more that could have been paid for
10 with the projected Proposal X money.

11 When I say that, with the provision
12 that that doesn't even cite the cost savings that
13 would be generated in welfare, criminal justice
14 expenditures. This is just the prison budget that
15 you could have spent better and the quality of life
16 and tax generated. I don't even get into that, just
17 the gross year-to-year budget.

18 MR. HUANG: Plus it's a solution to
19 the real problem.

20 MR. SCOTT: And it not only solves
21 the crime problem, you'd be dealing with teen
22 pregnancy, drug abuse, improving education, improving
23 jobs, tax base, everything else.

24 MR. HUANG: Thank you.

25 MS. RATTLEY: Mr. Scott, thank you

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1 very much. You gave us a lot of information. It is
2 critical that we get those remarks as soon as
3 possible so with -- because we want them included --

4 MR. SCOTT: I was under the
5 impression they would be transcribed.

6 MS. RATTLEY: -- for the panel.

7 MR. DARDEN: So that we can use --

8 MS. RATTLEY: She's not taking it --

9 MR. SCOTT: Will that be sufficient?

10 MR. DARDEN: That will be
11 sufficient.

12 MS. RATTLEY: Thank you very much.

13 All right. We are going to take a
14 ten-minute recess, but before we do, please
15 understand that if you wish to speak on any subject,
16 you must sign in. The agendas are on the table in
17 the back of this chamber, so please use this time to
18 pick up the agenda and to sign in if you wish to
19 speak. We shall resume at 10:45.

20 (Recess.)

21 MS. RATTLEY: We're now ready to
22 present Panel 5. The question, Is justice equal for
23 all? The moderator of this panel will be
24 Mrs. McCloud. Ms. McCloud.

25 MS. MCCLOUD: Thank you very much,

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1 Madam Chairman. We're very pleased to have with us
2 the Honorable Howard E. Gwynn, who is Commonwealth
3 Attorney for Newport News, Virginia, and also Chief
4 P. G. Minetti.

5 I have just been informed that Chief
6 Minetti is away -- may be on his way here; however,
7 he is being represented by Major C. J. Wyche.

8 MS. RATTLEY: May I also add that
9 the Honorable Linda D. Curtis, Commonwealth Attorney
10 for the City of Hampton, was heard last night, or
11 yesterday afternoon, since she couldn't be here
12 today, so we have her testimony.

13 MS. MCCLOUD: Welcome, gentlemen,
14 and we will ask you to proceed.

15 MR. GWYNN: Good morning, Madam
16 Chairperson.

17 MS. RATTLEY: Good morning.

18 MR. GWYNN: My name is Howard Gwynn.
19 I'm the Commonwealth Attorney in the City of Newport
20 News. The question that we've asked, is there
21 justice for all, and is it equal justice? Anybody
22 who has been involved in this process, who does not
23 believe that there is still racism in the process, is
24 very naive and foolish, because obviously even though
25 there are laws on the books that are neutral on their

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1 face, those laws are interpreted and applied by
2 persons.

3 MS. MCCLOUD: Excuse me. Can
4 everyone in the back hear? Would you mind pulling
5 the mike up closer to you, please.

6 MR. GWYNN: Sure.

7 MS. MCCLOUD: Thank you very much.

8 MR. GWYNN: When you have people who
9 have to interpret the laws and apply the laws, and
10 you have persons who are racists in their hearts,
11 then you're going to have a racist application of the
12 law and the implications of the law.

13 Certainly here in Newport News, I've
14 been in the Commonwealth Attorney's Office for 15
15 years. I'm a native of Newport News. I've been a
16 Commonwealth Attorney since 1990. I can tell you
17 that there are no decisions that I have ever made
18 based on race, that I am not aware of any person who
19 has been in my employ as Commonwealth's Attorney, who
20 has made a decision based on race. We try to make
21 decisions based on what we believe is the right thing
22 to do based on all the facts and circumstances of a
23 particular case, without regard to race and without
24 regard also to politics.

25 I made decisions as a Commonwealth's

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1 Attorney that have been to my political detriment,
2 but they have been decisions that I felt was the
3 right thing to do.

4 In addition to that, something I
5 want to say, I mentioned to Mr. Galvin during the
6 recess, there was a lot of discussion with
7 Congressman Scott about the discretion that
8 prosecutors have. I think there is a big distinction
9 between the federal system and the state system. In
10 the federal system, charges originate pretty much by
11 indictment. That is how -- that is the arresting
12 document, that is the charging document in the
13 federal system. U.S. Attorney's Office is the body
14 that formulates the indictment. The U.S. Attorney's
15 Office is the body that determines what charges are
16 to be initiated. The U.S. Attorney's Office is the
17 body that then presents those indictments to the
18 grand jury as a person is arrested based on that
19 charging document.

20 In the state system here in
21 Virginia -- I think this is a very important
22 distinction -- the Commonwealth Attorneys do not
23 charge people. We do not have a charging function,
24 ordinarily, in the Commonwealth. The charging
25 document usually that leads to the arrest of persons

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1 in the criminal justice system are not indictments,
2 but arrest warrants. Those documents are issued by a
3 magistrate in Virginia; and any person, whether it be
4 police officer or citizen, can go to a magistrate,
5 and if the magistrate believes probable cause has
6 been established for a criminal charge, the
7 magistrate, based on the sworn testimony of that
8 citizen or police officer, issues a warrant for an
9 individual, whether it be for a felony or
10 misdemeanor. That warrant is then sent to the police
11 department, and the person is arrested.

12 So that prosecutors under normal
13 circumstances in the Commonwealth, do not have a
14 charging function and do not make up charges to
15 arrest people. The exception to that rule is when
16 persons are directly indicted by the Commonwealth's
17 Attorney. I can, as Commonwealth's Attorney, based
18 on the investigation of the police, or based on a
19 complaint of any one of you with subsequent
20 investigation by the police, I can bypass the
21 magistrate and present an indictment directly to the
22 grand jury. I determine under those circumstances
23 what the charge is, and I determine also what the
24 initial bond is for an individual.

25 I will tell you that that

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1 circumstance is a rare circumstance, at least in my
2 office, and I think across the Commonwealth, because
3 most of the persons who are arrested for charges in
4 the criminal justice system in Virginia are arrested
5 on warrants issued by magistrates based on complaints
6 by police officers or citizens.

7 I'd be happy -- I can talk for a
8 long time about this, but I would certainly be happy,
9 and prefer to spend the time, answering the questions
10 that you ladies and gentlemen might have of me.

11 MS. RATTLEY: Thank you very much.

12 MS. MCCLOUD: Thank you. Suppose we
13 hear both of you and then come back to the questions.

14 MS. RATTLEY: Mr. Wyche?

15 MAJOR WYCHE: I represent Chief
16 Minetti, who is unable to be here right now. He may
17 be on his way and join us at a later time. I
18 represent the Hampton Police Department. I'm a major
19 in that department in charge of professional
20 standards as of September 1. Prior to that, I've
21 been Deputy Commander of Police Operations. It's
22 pretty much involved with investigation and patrol
23 functions within the City of Hampton.

24 With that, we're engaged in a
25 concept called Community Policing, where we join in

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1 partnership with different neighborhoods and work
2 with different groups, with civic leaders, residents,
3 businesses, or whatever, and come together in terms
4 of problem resolution.

5 In that process, we help identify
6 what are the crime problems and what are some of the
7 problems in terms of city functions to try to get to
8 some -- what's called, or what we perceive as the
9 root problem that sometimes cause the crime. We have
10 established at least eight years ago that strict
11 enforcement, or just massive arrest does nothing
12 without trying to treat the community, and that kind
13 of spearheaded some of the partnerships we formed
14 within the community.

15 I can cite several examples where
16 we've made a lot of arrests over -- where we would
17 consider a long period of time, six months, to come
18 back six months later and see the same crime
19 conditions in existence. So at that point, we
20 decided to try to use a more holistic approach, to
21 use enforcement in terms of -- strict enforcement in
22 terms of dealing with the crisis, and allow some of
23 the social functions in the neighborhood to come
24 about and take place as a more strategic type of
25 planning, rather than traditional tactical plans we

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1 would normally use. And I'm really not quite sure of
2 the format, so I have to apologize for that.

3 MS. MCCLOUD: That's fine.

4 Actually -- that's fine. Actually, the members of
5 the committee are prepared to ask questions, so if
6 you two gentlemen have finished with your statements,
7 we will proceed in that manner.

8 MR. GALVIN: Maybe the topic I think
9 that was assigned is a broad topic called, Is there
10 justice for all? Maybe you would want to make some
11 statement as to your impression of where we stand on
12 that within the police department.

13 MAJOR WYCHE: I guess across the
14 board, I have to kind of echo the comments that
15 Howard Gwynn had stated. Obviously, I can state in
16 the City of Hampton, especially with the community
17 involvement that we have, that when we go about
18 looking at and identifying crime problems, we go
19 beyond the mere statistical information that we use
20 and actually go into the community to kind of help
21 interpret what those statistics are. Sometimes it's
22 very easy to get a false perception just based upon
23 some of the arrest statistics.

24 Clearly, the arrest statistics are
25 showing a vast number of African American males

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1 especially being arrested, versus any other
2 population. We're also seeing a drastic increase of
3 African American crime victims as well in those type
4 of neighborhoods. We constantly get all kinds of
5 complaints where even housing investors are unable to
6 sell their homes. Homes can't be rented because of
7 apparent drug use. And I can tell you that in a lot
8 of the neighborhoods, especially African American
9 neighborhoods, one of our worst problems, at least in
10 Hampton, is the open-air drug markets and
11 introduction of crack cocaine.

12 MR. GALVIN: Could you -- maybe that
13 we heard, and maybe you could offer some insight into
14 understanding that while we've heard testimony that
15 the use of crack and crack cocaine is 50/50 in whites
16 and nonwhites, the arrests appear to be predominantly
17 out of the black community. Can you tell us how it's
18 possible that this is happening?

19 MAJOR WYCHE: Well, I'll try to make
20 an attempt of explaining at least partially that.
21 Part of the overall answer is most of our problems
22 with drugs -- and we look at the drug activity in
23 Hampton through areas, actually what we call major
24 crimes, which is more the organized drug-type
25 institutions that are available to facilitate the

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1 drug market, and that's certainly prevalent in
2 Hampton as well.

3 We've had most of the cases,
4 extremely high level drug dealings that we work
5 pretty much through a combined task force of federal
6 agents, state agents, and local police agents are
7 sworn in either in state or local jurisdiction, and
8 that includes the City of Newport News, of course,
9 and State Police as well. So we work pretty much
10 that level of drug activity through combined task
11 forces, and we have prosecutors designated just to
12 prosecute those type of cases.

13 We also have what we call a
14 mid-level drug operation, and those mid-levels are
15 pretty much the people that receive the drugs that's
16 brought into Hampton, this area. We probably get
17 most of the narcotics either in from New York or
18 Miami. A lot of marijuana would come in typically
19 from Texas. So our mid-level investigators would
20 look at that type of problem.

21 Most of our complaints are generated
22 not from those type of venue, but more of the
23 residents calling that either my next-door neighbor
24 is using drugs and causing some type of problem or
25 the prevalence of an open-air drug market. An

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1 open-air drug market -- you kind of just talked about
2 that a little bit -- is a group of males sitting or
3 standing in a corner, and they have elaborate
4 techniques to sell drugs to people who would drive by
5 in a car, or pedestrians, and sell drugs on a corner.
6 That type of activity at the lower level causes or
7 generates most of the type of complaints we respond
8 to.

9 Now, with that, I need to mention
10 that probably our patrol force, uniformed officers in
11 patrol vehicles, generate most of those types of
12 arrests. We don't typically find that in the general
13 population. We see the open-air drug market,
14 although there are a lot of whites that will frequent
15 the open-air drug markets in the black or African
16 American communities, but we generally see that
17 pretty much in the neighborhoods that are African
18 American neighbors.

19 With that, those arrests are
20 obviously -- it's twofold. One is with the use of
21 marijuana, obviously the smell is easy to be detected
22 upon a person's presence, and that would account for
23 that type of exposure; but the use of open-air
24 markets being exposed to police detection makes it
25 easier for the police to solve that type of crime

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1 because it's exposed and it's in the open. We don't
2 typically find that with white males. Although, we
3 are -- we have used several strategies in terms of we
4 have what's called a hotel/motel conviction program.
5 Generally speaking, those type of residence, hotels,
6 homes, or some other type of gathering place, and
7 certainly we have those types of arrests; but the
8 massive number of arrests are those black males, and
9 those kind of operations. We also use a vehicle that
10 we would typically wire, or use some type of
11 electronics to record those type of activities, and
12 I'm sure I can get it available.

13 MS. RATTLEY: Mr. Wyche, how much
14 does perception have to do with it? You know, I
15 guess we can go to any urban area in this country and
16 we would hear basically the same thing: The drugs
17 are in the black community. The drugs are in the
18 urban centers, not in suburbia.

19 What is your profile as a police
20 officer? You're driving down the street, or you're
21 walking down the street; is it the way a black male,
22 I sense the emphasis is there; is it because of the
23 way they look, how they act, or where they are? What
24 is it? What is the image? What is the perception?

25 MAJOR WYCHE: That's exactly what it

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1 is. It is a perception, and that's something that we
2 do not teach or look at in Hampton because of the
3 fact that of a perception based upon arrest
4 statistics, what we find is that there is drugs in
5 the white community, but I think you have to go
6 beyond the arrest statistics and look at some of the
7 treatment statistics, and what you typically find is
8 that whites are treated in hospitals, and so I think
9 there's a balancing effect, or at least that's my
10 idea, or feeling, is that it's a balancing effect
11 that perhaps the way the drug problem is handled
12 differently within the white community as black
13 community.

14 I think if you put the statistics
15 together, certainly I -- and talk with the Community
16 Service Board, that you'll see that no, your white
17 males are not found on open-air drug markets selling
18 drugs, however, they are found in the treatment
19 facilities.

20 MS. RATTLEY: You know, I heard this
21 term used yesterday for the first time in reference
22 to law enforcement and the judicial system, and then
23 of course on the on the other hand, we have many
24 young people who will come in and say they were
25 arrested because there was a suspicion that they were

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1 dealing in drugs.

2 And then, of course, we talk about
3 crack versus pure cocaine, as far as the sentences,
4 there's a difference; but yet you say that the whites
5 will smoke pure -- or whatever they do with it --
6 cocaine, snort it, or whatever; but in the black
7 community it's crack, and all of these things now are
8 hitting me right here because a lot of it is
9 perception.

10 We talk about the number of young,
11 black men in the prison system, judicial system, one
12 out of three in Virginia; nationwide it is one out of
13 four. And then some of the information we heard last
14 night as far as the economics of it, you know, I
15 don't see these kids with airplanes and boats. They
16 don't have them. And of course, the charge in L.A.
17 that there was a conspiracy to induct crack in Los
18 Angeles in the black areas, but we keep hearing this,
19 and I think I'm becoming very frustrated because how
20 do we deal with it. You know where they are. You
21 know where the kids are using drugs. You know where
22 these people are who are selling the drugs, but what
23 about these people who are bringing the drugs into
24 the black community, or into the city? Is this a
25 coverup for something else where we don't have to

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1 address some of the solid issues?

2 The reporter just brought me a
3 report and wanted me to respond it to. I had not
4 read it. I think it came out this morning.

5 Did you see it?

6 MR. GWYNN: No, ma'am. Well, she
7 showed it to me.

8 MS. RATTLEY: It talks about the
9 black Americans, what they have found -- this
10 research institute just found about the number of
11 blacks who will spend some time in jail. Are we just
12 jail prone?

13 In the City of Newport News -- I
14 don't understand it; I hope before this day is over,
15 somebody will explain it to me -- we have districts
16 now, if I can believe what I read in the paper, where
17 the police now plan to cordon off certain sections of
18 the city and paint it blue, or red, or whatever
19 you're going to paint it; and in these areas, you're
20 going to push the drug folks out. But all you do,
21 you push them out of one area, they go into another.
22 And it doesn't make any sense to me, especially now
23 that I have received information from these research
24 professors, from these highly technical, highly
25 educated people about the misconceptions about drugs.

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1 I'm becoming very concerned. We're
2 separating drugs based on where you live. We're
3 separating how much time you get, and your fine, and
4 all of that, based on whether you're doing crack or
5 whether you're doing pure cocaine. It's like crack
6 is a black thing and pure cocaine is a white thing,
7 and this is what we read every day.

8 Would somebody enlighten me, please,
9 because if the problem of drugs is that pervasive,
10 say in my city, in Newport News, I want to know, how
11 do you stop it? Is it education? You say that
12 whites are treated in hospitals. Are you saying that
13 we are not? You know, this is what came out to me.
14 Are you saying that they have more programs, they
15 have more choices? And after I heard that word
16 "perception" and how they related that, and I thought
17 Attorney Baugh was just excellent when he gave his
18 impression, when we talked about the addictiveness of
19 drugs, especially cocaine, and I'm confused
20 completely now. Where he said it is not, you know,
21 the one hand, but then he went into another
22 explanation I didn't fully understand about taking
23 the leaf and analyzing it chemically, scientifically,
24 and comparing the crack with the coke, the real
25 powder, and how it's administered, whether you shoot

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1 it, whether you snort it. I don't know what else you
2 do to it. Do you smoke it?

3 MR. GWYNN: Crack you smoke. Madam
4 Chairman --

5 MS. RATTLEY: I am so confused. I
6 would like for you to take just a few minutes and try
7 to clear my mind, because I'm wondering if this is
8 our top issue now in the nation, it is politically
9 correct to talk about crime and drugs, drugs and
10 crime, and we hear it every day, but nobody is
11 telling me how we can stop it. Who's benefiting from
12 this traffic? Who's getting the money? I'm so
13 confused.

14 Now I understand from this morning's
15 news, thugs are breaking into stores stealing
16 cigarettes now because if the kids are going to show
17 identification to get it, now that's going to be a
18 black market item that they're going to be able to
19 buy that on every corner, so how do we know whether
20 they're buying cigarettes illegally, or whether
21 they're buying crack, or whether they're buying the
22 weed?

23 It is -- I think I'm pretty much
24 convinced now that this is a coverup for what is
25 really wrong in this country, and specifically in

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1 this city, in all of our cities, and if you know,
2 would you please share it with me, because very
3 frankly, I just -- it bothers me that we always say
4 it's all in the black community, it's all in the
5 black community, and the community where I live, I
6 see blacks and whites, and I'm getting so hyper now
7 everybody I see, I think they're buying drugs. I
8 look out the window, there's a car and somebody will
9 go up and pass something, and I said, Well, they're
10 selling drugs.

11 How do I know that? It's the
12 perception. Here's this kid standing on the street
13 corner, whether he's waiting for a bus or not, I
14 don't know, but I think he's selling drugs, or buying
15 drugs, and that's getting dangerous.

16 People in Norfolk went berserk
17 because their streetlights were out for five days and
18 VEPCO couldn't fix them because they were busy doing
19 other things, and they all were afraid. Now, that's
20 no way to live. And when we read in the paper about
21 the prediction of what blacks will go through, those
22 who are being born today, then there's no future, and
23 maybe they're going to add to the crime problem, part
24 of it, and the drug problem. There's no hope. What
25 are they going to do?

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1 And then you have a 145,000 males in
2 the State of Virginia who can't even vote. They've
3 been disenfranchised because they served time as a
4 felon. I know I'm getting too deep, too emotional,
5 but would you just tell me, please.

6 MAJOR WYCHE: Let me clarify just a
7 couple things. One is, I did not mean to imply that
8 you find white drug dealers, or even addicts
9 predominantly in hospitals. That's not what I meant
10 to say. What I meant to imply was that there is a
11 lack of services within the community. In other
12 words, what I'm talking about is, through the years
13 of my experience, 23 years in the police department,
14 a lot of people have come to me who are addicts and
15 ask for help. They've asked for treatment, for
16 residential treatment, and that is not available to
17 those type people without a long waiting list. By
18 the time that they may be eligible, without having
19 any type of health insurance, then usually they'll
20 change their mind by the time it comes about. That's
21 from personal experience. I don't have that from
22 white males coming to me saying, I need help and I
23 can't get into a facility. That was what I was
24 trying to say about that.

25 As far as the suspicion is that the

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1 police operate on what is called probable cause,
2 which is a reasonable probable cause, which is little
3 bit more than a suspicion. And a lot of times what
4 we respond to is a citizen saying "I think," and that
5 is the perception I'm talking about where we're
6 trained that we cannot operate with the mere
7 suspicion. We have to be able to articulate the
8 probable cause. And once again, once that arrest is
9 made at the street, then the magistrate, as Mr. Gwynn
10 indicated, would review the program and issue a
11 warrant, if a warrant is granted.

12 DR. AL-HIBRI: Can I just pursue
13 this, because also just before you came, we heard
14 from Congressman Scott on the same point, but what is
15 coming through in your comment and his is that the
16 suspicion does help you reach the probable cause
17 pattern. It's not sufficient, but it certainly helps
18 if you have a certain profile that fits, if you have
19 a perception that fits, in those gray areas.

20 Once you can articulate something to
21 a certain degree, then you can have probable cause if
22 you have the perception you need, so we cannot say it
23 has no role to play. We just cannot say it
24 determines everything. It doesn't.

25 MAJOR WYCHE: No, it doesn't.

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1 DR. AL-HIBRI: It doesn't, but it
2 helps determine things. It's one of the determinates
3 in reaching your judgment. The other determinate, in
4 terms of perception, pulls you a little bit further
5 away from the individual that you're looking at into
6 the areas you're talking. If you have a perception
7 that certain areas, as we keep hearing -- and it is
8 only a perception -- have more use of drugs than
9 other areas, then chances are you are going to be
10 looking at those areas more carefully if you want to
11 do your job as a police officer, right?

12 MAJOR WYCHE: Well --

13 DR. AL-HIBRI: This is how it gets
14 compounded. The perception at the beginning directs
15 you. Now we're finding out it's not a local
16 perception; it's also a state level perception.
17 You're talking about these coordination activities,
18 so even on the state level you can have this
19 perception, articulate these are the crimes in an
20 area; let's focus on them. And then when you get
21 there, the perception again plays a role in trying to
22 help you reach your probable cause judgment.

23 And then on the other hand, there
24 are areas that you have different, more positive
25 perceptions, and these are on the back burner until

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1 you clean up the other ones.

2 MAJOR WYCHE: I guess to respond to
3 that, let me say that you are absolutely right in
4 what you're saying; however, I think we're also
5 talking about two different issues. One is when I
6 talk about -- you indicated the probable cause issue.
7 That's once it's a confrontation or a meeting with
8 the police and that person is suspected of using
9 drugs. Most of the time, our activity is directed
10 through what we call a calls to service. That's
11 someone who's complaining about some type of activity
12 or particular activity because it is a suspected
13 crime taking place, and we respond to that particular
14 crime and then establish whether there is probable
15 cause a crime did exist.

16 DR. AL-HIBRI: Let me ask you this,
17 would some of the complainants be police informants
18 in that area?

19 MAJOR WYCHE: Usually police
20 informants would be used in the investigation of
21 crime. The dispatch crime is pretty much uniformed
22 officers. Police informants would primarily be
23 used -- not that it's not used, but it's primarily
24 used at the investigative and detective stage.

25 DR. AL-HIBRI: Right. But what I

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1 want to focus on is if there is any way one could see
2 that the police department is helping some of these
3 complaints originate by planting certain people in
4 the community.

5 MAJOR WYCHE: Well, that's done,
6 yes, ma'am, as I mentioned, but when those -- those
7 things are pretty much in what we call tactical
8 plans. In other words, we don't just employ
9 informants all over the city to try to find drugs.
10 What we do is we work with neighborhood
11 organizations, neighborhood watch, in those type
12 areas, and we will come up with a strategic plan to
13 work with that neighborhood.

14 Now, if the neighborhood has an
15 identified problem, we'll use the informant strategy
16 to investigate those type of complaints.

17 DR. AL-HIBRI: Now I'm concerned
18 about your strategic plan, because I think it's
19 inextricably intertwined with your strategic vision,
20 which vision on the state or local level is informed
21 by certain perceptions we're
22 talking of. So that if the perception is that
23 certain areas have more crime than others, and you
24 develop a strategic plan for that, then certain areas
25 are not going to get any emphasis, or treatment, as

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1 far as drugs.

2 In other words, to be more specific,
3 if we really think that black areas are the areas
4 where there are problems, that's our perception, even
5 though we have statistics to the contrary, then the
6 strategic plan would involve putting people in there
7 who would help you receive the complaints you need to
8 get in. That's what I heard you say a few minutes
9 ago, so that not only do you focus on these areas,
10 but you find ways to get in and then develop your
11 probable cause and develop your arrest.

12 MAJOR WYCHE: Let me go back for a
13 minute, because the strategic plan I'm talking about
14 isn't one that is primarily generated by the police,
15 or generated by police statistics. What it is
16 generated by is the community coming forward saying,
17 I have a crime problem. I have housing that's
18 dilapidated. It's encouraging drug activity. I have
19 real estate I can't sell and I can't rent. And they
20 come and they want some type of police service within
21 the community.

22 First what we do is, we do a survey
23 of people in that particular neighborhood to help
24 identify what they perceive as the problems, and we
25 meet with those neighbors and community leaders and

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1 businesses to come up with a holistic plan to address
2 those areas.

3 Initially, what we start, and we
4 agreed with that neighborhood in terms of when we
5 come together through a consensus to create on a lot
6 of those strategies. Now, if a strategy is that
7 there's a perceived crisis in the neighborhood
8 because of the pervasiveness of drug activity, then
9 yes, we will very well use informants to help
10 identify those people who may be trafficking drugs
11 into the neighborhoods.

12 We have a lot of statistics to show
13 that of our arrests in certain neighborhoods that we
14 have determined that there's a crisis, are people who
15 don't necessarily live in that neighborhood. So,
16 yes, we do, through our consensus, come together to
17 decide upon what services will be needed and what
18 type of strategies will be enacted. That's a
19 strategic --

20 DR. AL-HIBRI: Let me be very clear.
21 I have no problem using informants to catch
22 criminals. I'm more concerned about whether
23 informants are being used to target certain areas by
24 saying -- let's not call them informants. Let's call
25 them individuals who are cooperating with the police,

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1 and through them, the police initiate complaints in
2 certain areas and goes in and says, On the basis of
3 these complaints, a study has developed a strategic
4 plan. That's what I'm worried about. And if there
5 is some kind of activity on the part of the police
6 department, then I get worried that it's not being
7 practiced in other areas as well.

8 MAJOR WYCHE: To me, informants --
9 in my role, we look at informants as receiving
10 payment for information. We have Crime Line. We
11 have Neighborhood Watch, and so we have a tracking of
12 those calls for service, but what types of calls are
13 in what geographical areas.

14 Now, what happens is we do not pay
15 informants to go out and tell us what areas or -- or
16 generically what's happening in the neighborhoods.
17 Informants are primarily deployed as a part of the
18 investigation, and there is a policy to use
19 informants.

20 MS. RATTLEY: Any other questions?

21 MS. MCCLOUD: If we could move on a
22 little bit, I have a plan in mind. Mrs. Rattley
23 raised several questions, and I wanted to see if
24 Mr. Gwynn has anything that he would like to say in
25 response to that.

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1 Then I also saw I hand in the
2 audience, or two hands in the audience, so if we
3 could do those three things first and then come back
4 to the panel perhaps.

5 MR. GWYNN: Well, Mrs. Rattley, Ms.
6 McCloud, raised a tremendous note of issues that if
7 we addressed them all, or attempted to address them
8 all, we'd be here for weeks and weeks and weeks. So
9 I think the foundation of Mrs. Rattley's concern is
10 hiding what is the magnitude of the problem and what
11 do we do to resolve the problem. And if those are
12 the two questions that are the foundation of what she
13 asked, then we'd be here for a long time trying to
14 address those issues.

15 I certainly think that -- one
16 question she asked was, Why don't we go -- persons in
17 the African American community don't have airplanes
18 and they're not flying this stuff in here, and so why
19 don't we go after those persons?

20 Obviously, in order to address that
21 issue, this stuff -- opium is not raised in the
22 United States and it's not grown here. It's grown in
23 Columbia, Bolivia, and other places. And the federal
24 government obviously has to have the will to address
25 the problem with those countries. I see Mexico was

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1 just certified as being a country that's making an
2 effort to address this problem, and there's some
3 debate about whether that is the right thing to do or
4 not. But the federal government and the
5 administration have to have the will, I believe
6 certainly, to deal with the source countries for this
7 difficulty.

8 Once these drugs come into our
9 country, it is certainly my belief -- and I can't
10 give you any statistics, or anything else to back up
11 this belief, but it's certainly my belief that given
12 the tremendous amounts of monies that are involved in
13 this trade, that there are persons in positions to
14 stop this activity that don't because of the money
15 involved.

16 Again, I don't have any statistics
17 to back it up. I can't name any names for you, but
18 certainly I think anybody who has any modicum of
19 sense would suspect that given the tremendous
20 resources that this country has, that if we had the
21 will to stop this trade, we could. And so that is a
22 problem.

23 Mrs. Rattley also raised the issue
24 about arresting certain persons in certain
25 neighborhoods for these crimes, and do we have a drug

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1 problem in the white community or just in the black
2 community? Obviously we have a drug problem that
3 transverses race, creed, color, economic background,
4 and everything else.

5 I think one of the difficulties that
6 you see in terms of the persons that get arrested --
7 and I'll give you a perfect example, as my friend
8 from Hampton said, oftentimes drug dealers go to
9 places where they believe they can make the maximum
10 profit with the least amount of hassle. Oftentimes
11 they find themselves in our community because they
12 made a calculation that they can do better business
13 in our community, and that's their calculation.

14 And we see these persons -- for
15 example, we had an open-air drug market notorious on
16 23rd and Chestnut several years ago. And I know
17 you're very familiar with it Mrs. Rattley.

18 MS. RATTLEY: Yes, and it's still --

19 MR. GWYNN: Yes, ma'am, it's
20 still -- well, the guy who was running it is now back
21 out, but that was a tremendous problem. They were
22 blatantly on the street selling drugs on the corners.
23 They had little kids strategically placed at
24 different intersections calling out when the police
25 came. Now, when you go up to James Landing, for

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1 example, you don't see open-air drug markets, and
2 that certainly doesn't mean that drugs are not there,
3 because we had a gentleman several years ago that got
4 prosecuted by the federal government who was selling
5 powder out of his home in James Landing, and he used
6 the UPS man to make deliveries for him.

7 Now, in terms of visibility and
8 arrests, that person who is selling drugs on the
9 corner of 23rd and Chestnut is visible to the
10 neighbors and everyone else. It's easy to go out and
11 arrest that person and put him in jail, and he
12 happens to be an African American.

13 The individual who is selling in
14 James Landing is a white male. His customers are
15 also white. But it's going to take some time to get
16 at those people, obviously, because what he's doing
17 is selling powder through the UPS delivery man, and
18 so it's going to take a little time to get at that.
19 It's easy to go out here and arrest the guy on 23rd
20 and Chestnut because you see him and they complain
21 about him. It takes a longer process, and is much
22 more involved, to arrest the guy at James Landing who
23 is much more surreptitious in his delivery process,
24 and so I think that accounts also to some extent for
25 the difference in the persons who end up in the

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1 criminal justice system.

2 In addition to that, I don't think
3 anybody here is so naive to think that given -- we
4 talked about discretion quite a bit in Congressman
5 Scott's presentation and the questions that were
6 asked of Congressman Scott. There are a lot of
7 people with discretion in this process. Police have
8 discretion in terms of making arrests. We have
9 discretion in terms of prosecution. Judges have
10 discretion in terms of finding persons guilty or not
11 guilty. Juries have the same kind of discretion.

12 Once somebody is in the system and
13 is on parole or probation -- for example, a probation
14 officer has discretion whether or not to bring a
15 person back in the system if he or she has violated
16 some technical rule. And so there's a tremendous
17 amount of discretion throughout the process. I don't
18 think there's anybody here so naive to think -- I'm
19 certainly not -- to think there are not persons who
20 have motives other than motives that are pure when
21 they exercise that discretion.

22 I think our country, regrettably,
23 our institutions have been imbued with racism. The
24 criminal justice system has historically been imbued
25 with racism. I don't think anybody thinks that

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1 racism does not still exist, because although we have
2 laws on the books that are facially neutral, it takes
3 generations to change people's hearts; and if we have
4 people who are racists making decisions on the
5 street, more African Americans are going to be
6 arrested.

7 If we have persons who are racists
8 in their hearts making decisions about prosecution,
9 then you're going to see that in the decisions that
10 are made. If you have judges who perceive that if an
11 African American kills another African American, then
12 that is not of importance, then you're going to have
13 those kinds of decisions where African Americans get
14 treated differently.

15 If you have probation officers who
16 believe that if I have two people on probation, one
17 is white, one is black; the African American commits
18 a technical violation, the white defendant commits
19 the same type of violation; because I'm a racist, I'm
20 going to put the African American in the system, then
21 we have more African Americans back in the penal
22 system as a result of that.

23 How you change people's hearts, I
24 think, is one of the difficulties that we face when
25 we try to address this problem, because we can pass

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1 all the laws that we want in terms of addressing this
2 difficulty, but unless and until we change the
3 hearts, and oftentimes the faces of people that make
4 these decisions, you're going to find that there are
5 disproportionate members of several races and classes
6 that are in the process.

7 In Virginia, for example, we just
8 recently got the first African American female on the
9 Circuit Court bench in the City of Newport News in
10 1996. There's a problem with that. We need more
11 people who look like the persons who are prosecuted
12 and judged and on parole and probation making
13 decisions about those persons.

14 In Virginia, there are three to four
15 hundred prosecutors across this Commonwealth and less
16 than ten percent of those persons are African
17 Americans, when the disproportionate number of people
18 that are prosecuted by those offices are African
19 Americans. I will tell you, either consciously or
20 unconsciously, obviously when you don't have a person
21 like the people that are prosecuted in the offices
22 making decisions, there will be decisions either
23 consciously or unconsciously made to people's
24 detriment. I think everybody -- I think nobody would
25 deny that as, in fact, the case.

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1 And so we have a lot of work to do
2 in terms of not only changing people's hearts, but
3 faces of people who make these kinds of decisions
4 every day. I don't think the answer is limiting the
5 discretion because, obviously, officers have to have
6 discretion to make certain decisions on the street.
7 Prosecutors have to have discretion. Judges have to
8 have discretion. Parole officers and probation
9 officers have to have discretion also.

10 And as Mr. Galvin pointed out when
11 Congressman Scott was talking, yeah, we obviously
12 have to have mechanisms to look at how that
13 discretion is made all the time, and I assume, and I
14 trust, and I hope, that one of the purposes of this
15 body is to look at those issues and to make
16 recommendations as to how we address these problems.

17 MS. RATTLEY: One question,
18 Mr. Gwynn. What is the second order of the hierarchy
19 of the street judicial system? The drugs are brought
20 in to Newport News, boat, plane, car, you name it;
21 distributed to someone who then hires his workers. I
22 guess that's how it works.

23 MR. GWYNN: (Nods head.)

24 MS. RATTLEY: When there is -- and
25 you read about it and hear about it all the time in

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1 this area, how a drug deal was the cause of this
2 murder, when you find the kid in the ditch somewhere,
3 who puts out the order to kill that kid? And it's
4 all about money. Go back to money. It's a lucrative
5 business. Now, is the word put out to kill that kid
6 by the lower echelon, or by the one who's bringing
7 the drugs in? How does it work? Do you know?

8 MR. GWYNN: I think it can be
9 anywhere in the system. I prosecuted a guy several
10 years ago in a murder-for-hire case where he hired
11 one of -- he was a low-level drug dealer here in
12 Newport News, and he made the decision that he had
13 been ripped off by one of his sellers, and he made
14 the decision to kill him. So I think those decisions
15 can be made anywhere in the process.

16 One thing that, you know, we have
17 not addressed here this morning, and I hope it was
18 addressed certainly yesterday. When you talk about
19 it as a lucrative business, we have to talk about,
20 and we have to address, why is it that so many young
21 African American males in our community are engaged
22 in this business? And it is because -- and I know
23 Congressman Scott said when you talk about crime and
24 justice, that one of the things you want to add is
25 politics. I would suggest to you there's another

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1 thing you have to add also is poverty and economic
2 opportunity, because I think it is a tragedy when
3 young African American males across this country, and
4 in Newport News, think that the only way they can
5 earn a lucrative living, support themselves and their
6 family, is by selling crack cocaine, or whatever else
7 it is. It is a tragedy when a young man can come up
8 to me who's 14 years old, and I say, Well, look son,
9 you need to stay in school; you need to get a good
10 education. And he says to me, Well, Mr. Gwynn, let
11 me see how much money you can pull out of your
12 pocket. And I might pull out \$20 or \$30, and he
13 pulls out \$400 or \$500.

14 It is a tragedy when, in our
15 community, African American males feel that this is
16 the only opportunity for them to support themselves
17 and their families by selling these drugs. They
18 think the educational system has nothing for them.
19 They think when they graduate from high school, if
20 they do, they won't have the opportunity to go to
21 college, and the statistics certainly bear that out.
22 They believe that once they get out here in the work
23 force, there's going to be no jobs for them, and that
24 is a harsh reality in our community. And somebody is
25 going to be about the business of addressing that

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1 problem before we start talking about really locking
2 folks up and throwing away the key.

3 MS. RATTLEY: I had one to tell me,
4 What's the point, and I'm not going to work for
5 minimum wage.

6 MR. GWYNN: Yes, ma'am.

7 MS. RATTLEY: What are we going to
8 do about it?

9 MR. GWYNN: I think one of
10 Congressman Scott's -- I think this gentleman raised
11 the issue about his proposed budget. I think more
12 money certainly has to be spent on prevention. More
13 money has to be spent on education. I mean, every
14 child in the Commonwealth, for example, should have
15 an opportunity, if he or she does well in school,
16 doesn't get pregnant, doesn't use drugs, doesn't have
17 any problems with the law, they should have the
18 opportunity, just like somebody in James -- somebody
19 in the southeast community, should have the same
20 opportunity as somebody in James Landing to have an
21 education.

22 I was watching, just for example,
23 several years ago a show on TV that Oprah Winfrey was
24 in, and it was called No Children Live Here, and it
25 was about life in a housing project in Chicago. They

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1 talk about how kids get shot. They feel like they're
2 not going to grow up. The one thing -- I don't know
3 if anybody saw that, but the thing that had the most
4 impact on me was the last thirty seconds to a minute
5 when they were running the credits, and they were
6 talking to some African American kids from that
7 project, real kids. And they were talking to one
8 little girl. She must have been 12 or 13 years old,
9 and the commentator -- you could see the credits
10 running. The commentator said to her, Well, what is
11 it Sally -- or whatever her name was -- you want to
12 do when you grow up? What is it that you want to do
13 with your life? And she thought for what seemed to
14 be like an eternity, and then she said, I don't know
15 if I'll grow up at all and have a life.

16 And when I was a child brought up in
17 the southeast community, I had a dream of being a
18 lawyer, and that dream was a realistic prospect for
19 me, even though my father worked in the Shipyard, but
20 I think it is a tragedy across this country when
21 children are robbed of their dreams. You know, our
22 kids don't even have any dreams to look forward to,
23 and we need to be about the business of discovering
24 why that happened and do something about it and make
25 sure that every child in this country has an

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1 opportunity to be whatever he or she wants to be.

2 And when we start addressing and
3 facing those issues, it will necessarily follow that
4 we're going to have less of a crime problem, in my
5 opinion, because when kids have legitimate
6 opportunities, they don't have a need to do
7 illegitimate things.

8 MS. MCCLOUD: Thank you. We're
9 running into the same problem we had yesterday.
10 Everyone has so many things to say, and they're all
11 so very interesting, and we want to hear from as many
12 people as possible.

13 There were two people in the
14 audience who had comments or questions. Could we
15 hear from you now, please.

16 MR. HARRIS: Yes. Marcellus Harris
17 for the record. The question to Major Wyche, and a
18 question to Commonwealth Attorney Gwynn.

19 Major Wyche, it seemed to me in your
20 presentation that you are talking more about reacting
21 to the drug problem. I'm more interested in some
22 proactive activities for the drug problem, because if
23 you react to the problem, you're going to, of course,
24 go to the folks who are complaining and go to the
25 folks at the other end of the complaint, and that

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1 seems to be obviously our community.

2 The folks aren't complaining in the
3 other community, so some proactive sense needs to be
4 administered, some intervention, some interdiction,
5 some kind of operative plan. I wonder if your
6 department is into that, or something you can divulge
7 to us, disclose to us about that. Is that something
8 you're doing aggressively?

9 To Commonwealth Attorney Gwynn, one
10 of the things I'm concerned about is the fact that
11 how juveniles are treated as adults to be prosecuted.
12 When they come into the system, or when they're
13 charged into the system, we're seeing too many cases
14 where they are being charged as adults for the
15 obvious reason, seems like to a layman, is to get as
16 much punishment as you can for what crimes that are
17 levied against him. Is there any way the average,
18 ordinary, lay citizen can have some purview of that,
19 or some access to that, or influence to that?

20 MR. GWYNN: Well, let me start with
21 the question you asked me, Reverend Harris. As you
22 know, the General Assembly changed the legislation
23 dealing with the prosecution of juveniles and the
24 treatment of juveniles in the system a couple of
25 years ago. That change eliminated discretion for

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1 prosecutors in some areas, gave prosecutors more
2 discretion in others.

3 For example, if a juvenile is 14
4 years old, or older, and is charged with murder, or
5 aggravated malicious wounding, that case
6 automatically goes to circuit court regardless of
7 what anybody has to say about it, if a judge finds
8 probable cause. So that's a case where no one has
9 discretion.

10 And in other crimes of violence,
11 basically if the prosecutor makes a decision, or says
12 that a juvenile who is 14 years old or older, should
13 we make the motion to be treated as an adult if a
14 judge finds probable cause, that child goes to
15 circuit court.

16 In my office, nothing has really
17 changed from what it was before then, because we
18 still consider the same factors that a judge
19 considered before we were embodied with the
20 discretion to eliminate the judge from the process
21 basically. We consider the age of a child. We
22 consider the seriousness of the crime. We consider
23 the harm done to the victim by the crime. We
24 consider the background the child comes from. We
25 consider what the child has done in school. We

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1 consider all of the very same factors that were
2 considered before. And I would think you would find
3 in my office there are no more juveniles that have
4 been prosecuted as adults in the system, even though
5 the law has changed.

6 Obviously, as I said before, what
7 you need in this process are people that are going to
8 be fair, who are going to exercise that discretion
9 fairly. I don't think there's anything wrong with
10 persons in the system, or any process, having
11 discretion. The problem is the people who exercise
12 the discretion. And so we try to -- I can't tell you
13 we don't fail to do this sometimes, because I have 18
14 lawyers who work for me, but it is a policy in my
15 office that everyone is treated fairly, and each
16 decision in every case is made on the individual
17 facts and the circumstances of that case.

18 MR. HARRIS: And it's not
19 color-coded?

20 MR. GWYNN: No, sir. No, sir.

21 MR. HARRIS: Which is important.

22 MS. MCCLOUD: I'm sorry. Did you
23 finish?

24 MS. RATTLEY: Let us try maybe
25 something a little bit different to get the

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1 information for the record since we are running over.
2 We have the other panel members present,
3 Mr. Cristman. Mr. Cristman, come on up. And
4 Mr. Harris, Reverend Harris, come on up.

5 Young man in the back, you'll be
6 given a chance, if you stay just a few more minutes.
7 Let us hear from them, then open the whole thing up
8 to questions. Then we can all go to lunch and come
9 back.

10 MR. GWYNN: I regret I can't do
11 that, Madam Chairman. I was supposed to be at a
12 meeting in York County at noon that I'm going to be
13 late for, but I appreciate the opportunity to speak.

14 MS. RATTLEY: Okay. Thank you very
15 much for coming.

16 MR. GWYNN: And I wish you good luck
17 in your work.

18 MR. GALVIN: I have one question for
19 the Commonwealth Attorney before he leaves, because I
20 want to come back to it. This is in the question of
21 transfers. And maybe you could just give us the
22 process for what are the discretionary issues that
23 you use when you consider transfers, because we have
24 heard that there is a kind of an automatic processing
25 of transfers, and that while this is -- what are the

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1 discretionary items that are considered by your
2 department when you look at a transfer?

3 MR. GWYNN: Yes. In certain types
4 of cases, there is no discretion, murder and
5 aggravated malicious wounding.

6 MR. GALVIN: Right. I understand
7 that.

8 MR. GWYNN: For other kinds of
9 felonies, there is -- and again, as I explained to
10 Reverend Harris, what we consider are exactly the
11 same factors that were considered even before
12 prosecutors had this broad-base discretion. We
13 consider the age of the child, the crime, the type of
14 crime that was committed, the harm done by the crime,
15 the child's prior record, the child's environment
16 from which he or she comes, and I think just as
17 importantly, the opportunities, and has the child
18 been in the system before, the juvenile system, what
19 services the child has gotten previously, and what
20 services are available now to address the child's
21 problem.

22 There are some children, for
23 example, who have been in the system so many times,
24 and have availed themselves of all the opportunities
25 the juvenile system has to offer, and given the

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1 gravity of the offense, there's absolutely nothing
2 the juvenile system can do for them now.

3 MR. GALVIN: Let me ask you a
4 question. In your opinion, is there any negative
5 consequence to a juvenile being convicted in the
6 juvenile court, or difference as convicted as an
7 adult, on his record, any consequence in his life?

8 MR. GWYNN: Sure. The consequence
9 now is that a juvenile now at 14, or older, is
10 convicted as an adult, then forever more, they are
11 adults in the criminal justice system. That is a
12 tremendous consequence. If you have a 14-year-old
13 that is convicted today in circuit court of armed
14 robbery, that child forevermore will be an adult in
15 terms of processing. So if that child, for example,
16 today gets one year to serve in jail, gets out in six
17 months and commits another offense, that child will
18 bypass the juvenile system forever, and that is a
19 tremendous consequence as far as I am concerned.

20 MR. GALVIN: One of the concerns we
21 have, and why we're looking at this transfer -- I
22 know that you have to go -- is that we have seen
23 evidence of recidivism, or coming back into the
24 system. We see evidence that there's a lot more of
25 an opportunity by keeping the child in the juvenile

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1 system; and that the sooner they get into the adult
2 system, there is less of a chance of any recovery of
3 that child.

4 MR. GWYNN: Right.

5 MR. GALVIN: And yet when we look at
6 the statistics, there is a tremendous imbalance of
7 transfers that are going over out of the black
8 community in this. That's why I was asking what are
9 the discretionary factors on those that you have a
10 choice in, because clearly, it could be that they're
11 being disadvantaged and they have less opportunities.

12 MR. GWYNN: Right. Sure. You know,
13 again, when you have a system where the majority of
14 offices across the Commonwealth don't have African
15 Americans in those offices, you know, where the
16 decisions are made -- some decisions, for example,
17 could be unconsciously based on race just because a
18 person making the decision has not had a full base
19 cultural background and does not understand, for
20 example, that every person who commits a crime is not
21 a criminal and should not be subjected to the full
22 range of punishments and sanctions that the system
23 has to offer.

24 What we look for first and foremost
25 in terms of transfer is that is there anything in the

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1 juvenile system that can be used to help this child?
2 Is there anything that has not been done that can be
3 done in keeping this child in the system and helping
4 him, because I am fully aware of what the
5 consequences are of sending them to the adult system.

6 Again, not only are they forever
7 tried as adults, but we know putting a 15- or
8 16-year-old in Mecklenburg or Greenville simply, if
9 that child survives to get out of the penitentiary,
10 is going to be a worse criminal than when he or she
11 went in. I am fully cognizant of that.

12 MR. GALVIN: I know your time
13 constraint, but I just want to ask, that while you
14 are cognizant, and your office seems to be a unique
15 office among the -- in Virginia, in terms of having
16 within the office, African Americans as part of
17 visible and conscious and aware of this. What do you
18 think it is in those offices that don't have this?

19 MR. GWYNN: Well, you know, there
20 was an article in the newspaper, the Virginian Pilot,
21 about a year or so ago. They did a survey of the
22 Tidewater prosecutor's offices about the number of
23 African Americans in offices. Not strangely, I
24 think, the vast majority of African Americans in the
25 Tidewater office work for African Americans.

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1 Obviously I'm an African American Commonwealth
2 Attorney, and the Commonwealth Attorney in Portsmouth
3 is an African American, and the overwhelming majority
4 of African Americans prosecutors in Tidewater work in
5 our office.

6 Some of my brethren when surveyed
7 about this by the Virginian Pilot said, Well, we
8 can't find qualified African American applicants for
9 these jobs. I don't have a problem finding them. I
10 can only speak for myself, because I think that my
11 office needs to reflect what is going on in the
12 community, and I try to make sure that happens.

13 You know, I also know, uniquely,
14 that historically the system has been used to oppress
15 folk, and there is still a perception in our
16 community -- we had a case just recently where we
17 didn't have a sufficient amount of evidence to
18 prosecute a guy for killing a woman, and the victim
19 is African American, the defendant is African
20 American, and the victim's sister said -- told me she
21 had told her mother, Well, nothing is going to happen
22 in this case because nobody is going to care about my
23 sister because she's black. The system doesn't care
24 about her.

25 In 1997, that is still that

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1 perception, and we work hard every day to try to
2 change that. We work hard every day to try to tell
3 people and let people know an African American's life
4 is just as important as anybody else's, and that in
5 the Newport News Commonwealth Attorney's office,
6 we're going to fight hard to make sure there's
7 justice for everybody.

8 MS. MCCLOUD: I have to cut this off
9 at this time, but the chairperson has asked that we
10 conclude it, so we can move on to the next session.
11 I realize that it's important for you to ask the
12 question, but we really do have to move on at this
13 time.

14 I want to thank you very much,
15 Mr. Gwynn, and also Mr. Wyche. Mr. Wyche will you be
16 able to stay around a little while?

17 MAJOR WYCHE: Probably about ten
18 minutes.

19 MS. MCCLOUD: Well, I don't mean up
20 there, but if you could just stay until --

21 MR. GALVIN: We have a couple
22 questions for Mr. Wyche that we wanted to get to, but
23 I know --

24 MS. MCCLOUD: Right. But we want to
25 get to the next panel.

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1 MS. RATTLEY: Mr. Wyche, you may
2 stay there, just push the chair over.

3 REVEREND HARRIS: Thank you very
4 much. This is -- my name is Curtis Harris, and this
5 panel is Mr. Clyde Cristman, and Reverend Marcellus
6 Harris, the panelists. We'd like to do this panel in
7 approximately thirty minutes, and -- I said we'd like
8 to. I don't always get my likes. But any rate, give
9 them something to shoot at. Listen to Mr. Clyde
10 Cristman, the Director of the Community Criminal
11 Justice Board for Hampton and Newport News, and then
12 we'll hear from Reverend Marcellus Harris, First
13 Baptist Church minister here in Newport News. We'll
14 hear from Mr. Cristman first.

15 MR. CRISTMAN: Thank you, Reverend
16 Harris, Chairman Rattley, Commission members. I
17 appreciate being asked to come here and speak today,
18 and I also appreciate the fact that I get to talk
19 about something positive, that is a solution, instead
20 of continuing to talk about the problems that I think
21 we all know well exist.

22 I'm the Director of the Hampton,
23 Newport News Criminal Justice Agency. Our agency is
24 responsible for providing community corrections and
25 pretrial services to the cities of Hampton and

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1 Newport News. In that capacity, I also serve as
2 staff person to the Hampton, Newport News Community
3 Criminal Justice Board.

4 Just to give you a little bit of
5 background, Congressman Scott spoke about Plan X.
6 Plan X is something that's affected my life quite a
7 bit. There were actually some positive things that
8 came out of that. There was some compromise that
9 certain members of the General Assembly entered into
10 when they voted to abolish parole in Virginia back in
11 1994.

12 There were two specific acts that
13 were passed at that same time. One was known as the
14 Comprehensive Community Corrections Act. The other
15 was known as the Pretrial Services Act. What these
16 two acts do is that they mandated that any locality
17 that was looking for additional funding for the state
18 to increase the size of their jail, also had to
19 develop a plan to implement community-based
20 corrections programs and pretrial services programs.
21 Both of these programs are designed to try to get
22 nonviolent offenders out of the jail system.

23 Another thing that occurred along
24 with this was the creation of the Community Criminal
25 Justice Board. And let me just real quickly describe

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1 that board to you. The Criminal Community Justice
2 Board is made up of all the important members of the
3 local criminal justice system. In the case of
4 Hampton and Newport News, there's six judges, two
5 prosecutors -- Mr. Gwynn is a member of that board --
6 one police chief, one chief magistrate, two defense
7 attorneys, two citizens, a representative from the
8 Community Services Board, and a representative from
9 Education.

10 The purpose of this Board is to be
11 able to bring all of these folks together on a
12 regular forum to be able to share information and
13 ideas about ways that we can better address the
14 issues facing the criminal justice system locally
15 here. So the Board really is a forum for us to
16 discuss many of the same ideas that are being
17 discussed here today.

18 Let me tell you a little bit about
19 the Pretrial Services Act and the Pretrial Programs
20 in Hampton and Newport News. We were privileged to
21 have gotten federal funding to develop pretrial
22 programs prior to this act's passage. We were able
23 to develop a program based on the need that we saw in
24 our jail. First of all, there's a fairly significant
25 disparity that exists in our system of the release of

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1 the accused once they're charged with a crime but
2 prior to going to court.

3 I think most of you probably are
4 fairly familiar with our current bail bond system,
5 but basically, when you're arrested, you go in front
6 of a magistrate who sets a monetary amount that will
7 determine whether you're going to be released. If
8 your bond is set at a thousand dollars, if you happen
9 to have a thousand dollars cash in your pocket,
10 you're released right there on the spot. If you
11 don't have a thousand dollars cash, the other options
12 include being able to have a hundred dollars to
13 retain a bondsman, who then will sign the bond for
14 you, but the bondsman only does that if you have some
15 surety, or some relative that's going to stand behind
16 that. So what happens inadvertently is poor people
17 are not released pending trial because of the fact
18 they don't have the financial means or the property
19 to assure their appearance in court.

20 The pretrial program was designed to
21 help address this disparity. What we developed in
22 both Hampton and Newport News is a system where when
23 someone is arrested, the magistrate sets the bond.
24 If the individual is not able to post the money or
25 property to secure their release, then a pretrial

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1 investigator will interview them and will write a
2 report and make a recommendation to the Court. And
3 if the person is found to have strong ties to the
4 community and has the appearance that they will
5 appear for trial, then we recommend to the judge that
6 that person be released to supervised release rather
7 than being held in the custody of the jail.

8 It's also an important program in
9 that it provides information to the judges about the
10 background of the person that's in front of them so
11 that person is released based on their individual
12 merits, based on their ties to the community, their
13 employment history, and any other types of factors
14 that may help the Court to feel that that person is
15 going to appear in trial.

16 Another important part is that the
17 pretrial release period provides for counseling and
18 assistance for those who are charged with crimes.
19 These can include referrals for substance abuse
20 treatment, employment referrals, mental health
21 referrals. But if the folks that are released under
22 the supervised custody of the pretrial program are
23 given some assistance in trying to help them be
24 law-abiding, and also help them make sure they are
25 doing the best they can to work with their defense

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1 counsel to prepare the defense for the trial.

2 The Community Corrections Act
3 basically took something we had had in Virginia
4 for -- since 1983, was known as the Community
5 Diversion Program, it's now known as Community
6 Corrections. And basically this is a system of
7 alternative sentencing options for judges to use for
8 nonviolent individuals who are charged with crimes
9 and convicted of crimes. In the Community
10 Corrections Program here in Hampton and Newport News,
11 community service is the focus of -- in terms of
12 punishment. In other words, if someone committed
13 a -- say a shoplifting offense, then the punishment
14 would end up being they might perform 48 to 100 hours
15 of community service work to pay their debt to the
16 community. It's much more positive and it costs a
17 heck of a lot less than keeping them in jail. It's
18 also more positive in that it puts people back out in
19 the community where they've committed the wrong to
20 help repay their debt to the community.

21 Community service can also be tied
22 to the type of offense. For example, we have a
23 project that we actually work with the Hampton Police
24 Department where we had merchants whose shopping
25 center was continually being defaced by graffiti on

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1 the back of the shopping center. And we were able to
2 take several individuals, some of which had been
3 convicted for vandalism, and when they went out there
4 and painted over the graffiti, the graffiti artist
5 came back a couple days later and they went back and
6 painted it again. After about the third time of
7 repainting it, the graffiti stopped coming up on the
8 walls. But this was a way that -- we were using
9 someone who had actually been involved in that type
10 of activity, to not only see the damage that is
11 created, but to be part of the solution for fixing
12 that damage.

13 Another important focus on the
14 Community Corrections Program is drug treatment and
15 counseling. One of the things we've done is develop
16 an in-house substance abuse program where we
17 provide -- we actually brought drug counselors in
18 house, and we provide drug counseling right on the
19 spot for those individuals that the court system
20 refers to us. And I also would note that the
21 individuals that are referred to us by the judges,
22 are those individuals who have been convicted and
23 sentenced to time in jail and who have been found --
24 who the judge has determined that this is an option
25 to have them serve their time working on a community

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1 service program or participating in counseling.

2 Another important focus is
3 employment skills, not only how to look for a job and
4 where to find a job, but once you get a job, how to
5 keep a job.

6 This is an important thing that so
7 many of the folks that we deal with day in and day
8 out who end up involved in the criminal justice
9 system, they have too much time on their hands. And
10 I'm a firm believer that employment is a major, major
11 key, and think this is one area where we need to
12 continue to do more and more to provide employment
13 opportunities for individuals, particularly those
14 that we see involved in the criminal justice system.

15 Other things that we've also focused
16 on is payment of restitution and child support,
17 assistance in housing and life skills. There are a
18 lot of good initiatives that are going on out here in
19 the community. The one thing I wanted to finish
20 summarizing with is that statewide, the funding for
21 these programs, I believe, is in the neighborhood of
22 15, 16 million dollars. It sounds like a lot of
23 money. I will tell you it's about half of the
24 operational budget of one of our medium --
25 medium-sized prisons in the Commonwealth, so the one

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1 thing I could say is that I wish there was more
2 funding available for these types of programs to be
3 able to help those individuals once they do become
4 involved with the criminal justice system.

5 MR. HARRIS: I'm Reverend Marcellus
6 Harris, and a little bit about me will be -- I'm a
7 minister here locally in Newport News. I write a
8 local column for the New Journal and Guide. I do an
9 on-air forum talk show. I also am very active in our
10 community. I run for several offices, so I have kind
11 of a pulse on what's going on around here from time
12 to time. I'm a local native of this city.

13 I guess I need to begin by saying I
14 was here yesterday. And good morning to Madam Chair
15 and all of the Commissioners. Excuse me for ignoring
16 protocol, but I would say that to kind of get on the
17 record to say what I personally feel. I personally
18 feel there's a growing disenchantment, a growing
19 disgruntlement across America irregardless of race.
20 And I'm seeing too much of it and hearing too much of
21 it across the board from blacks and whites, and I
22 feel that we're on the verge of some kind of
23 Armageddon if we don't begin to address these issues
24 that are being laid and ducked on your laps.

25 But I would also say to you that the

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1 way some of the frustration manifests itself
2 continues to alarm me in that we see folks bombing
3 buildings in Oklahoma. We see folks drawing
4 para-military groups and see folks mailing out bombs.
5 They aren't African Americans. These are white
6 Americans.

7 But by the same token, I think that
8 I need to tell you in the sense of where I perceive
9 our community -- and I have much of a pulse on our
10 community than perhaps on the community at large --
11 the only way I can bring forth to the table a sense
12 of some solution would be how I operate. I guess
13 that's what I'll try to get around to, to share with
14 you how I operate, because I operate, first of all,
15 from a premise that for the system, for the most
16 part, folks seem to draw a conclusion; and after
17 drawing a conclusion, then they seem to create and
18 convolute some sense of facts, factors to support or
19 substantiate a conclusion which they've drawn.

20 This, to me, is a reverse of the way
21 it ought to work. There ought to be facts that lead
22 to a conclusion, rather than have a conclusion and
23 then go off and try to excavate, or try to dig up
24 some facts to make that conclusion come to your
25 satisfaction.

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1 I see in the sense of a triangle
2 effect, a consequence that particularly exacerbates
3 the impact on the African Americans as a whole.
4 First of all, I think it would be targeting.
5 Secondly, I think it would be tarnishing. Third, I
6 would see as terminating.

7 I have three very, very high-profile
8 activities that I've been involved in suggesting
9 something to substantiate that premise for me. It
10 would be the Alan Iverson case, or the Hampton Four,
11 which you know much about already because you
12 discussed it yesterday. The second would be the
13 Antwan Sedgwick case, which happened in Hampton, what
14 happened on October the 4th, literally the day after
15 the O. J. Simpson verdict, and I have -- I'll give
16 some in more detail to the Committee the reason
17 for -- I don't have enough copies for everyone, and I
18 talked to the registry there so you can get this.

19 But the Antwan Sedgwick case, in the
20 sense that on -- and everybody knows, none of us were
21 asleep, but the O. J. Simpson verdict literally
22 started a hemorrhage across America. Well, the very
23 next morning, 4:17 in the morning, there was a young
24 African American male, twenty years old, found hung
25 right on the grounds of Hampton Coliseum. His feet

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1 were literally touching the ground.

2 It took all we could do to even get
3 the press to even look at this issue, and when they
4 finally did look at this issue, there was a parallel
5 grave disregard for some of the things that borders
6 on decent police work, and the sense of insensitivity
7 of police work, because the crime scene was right in
8 the backyard of the young man almost.

9 His parents were not notified. They
10 didn't get a chance to even see their son until the
11 funeral to review the body. There had been questions
12 raised about spots that were not analyzed, death
13 determinations which were not substantiated, or not
14 documented properly. They never even got to get a
15 chance to get the boy's clothes until we asked for
16 it, and what we had to do to even get that case
17 moving really borders and begs for someone to
18 intercede and help us to finally get with this family
19 to continue to pursue an independent investigation.

20 We've never been able to accomplish
21 that, and we're into the third year almost, and this
22 family has been interrogated. They're disarrayed.
23 They're certainly in despair about how this whole
24 thing evolved over a period of time.

25 The other case I would bring to your

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1 attention, because I'll be giving you more detail
2 about this. The other thing would be the case of --
3 in our city, Newport News. For a period of four
4 years now, we have had young girls being assaulted
5 for a period of four years, about 16, 17 cases, young
6 girls just going to school, and on their way to
7 school someone has been assaulting them, someone has
8 been grabbing them, and certainly have been
9 terrorizing them in the sense of them feeling unsafe
10 before they even get to school. They've been dealing
11 with that threat, and no one seems to see it as a
12 crisis.

13 So someone had to step up to the
14 plate and seem to make this an issue whereby the
15 entire community would be more alarmed, and certainly
16 more attention should have been focused on the sense
17 that these were girls going to school. They should
18 have felt safe enough, they should have felt secure
19 enough that this wouldn't be a factor, because
20 learning in itself has a built-in burden, and they
21 need no other additional burdens in trying to get and
22 secure their education.

23 But it never reached an alarm
24 proportion until we began to do something. We do
25 know that if it had happened in another community --

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1 and I'll go on record as saying this, I'll stand by
2 this -- if it happened in another community, another
3 community, they would have been identified and there
4 certainly would have been captioned as a crisis alarm
5 before we were able to do something about that.

6 So we see our African American
7 population, African American community in the sense
8 of being targeted, either benignly or intentionally.
9 We see young black males being tarnished, ones being
10 targeted.

11 I have so many cases of blacks who
12 feel that they're being, not only targeted, but
13 tarnished in the fact that once they get a record, or
14 if they can get a record on someone, that they just
15 pick them up capriciously, arbitrarily, or just
16 because of their attire, or something. And once that
17 happens, there's certainly the sense of -- some sense
18 of them feeling being terminated in the sense they
19 either lose their rights, or they'll be jailed, or
20 they'll be killed.

21 Now, how I operate under all of
22 this, with all of this kind of prelude and this kind
23 of policy, or this kind of procedure and practices
24 that we're continually inundated as confronted with,
25 is that I -- sort of grass roots, I have no title; I

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1 have no authority, no jurisdiction, so I try to talk
2 to people about the only resort and the only avenues
3 that seem to be something that they can resort to
4 would be activism. First thing, you have to get some
5 sense of activism employed or initiated.

6 And that becomes something where you
7 must -- for instance, in the Iverson case, our
8 activism created a sense of national attention in
9 this case, and I must admit that the sense of this
10 boy's popularity and his name helped to expedite the
11 sense of activism being projected.

12 But in the case of these children,
13 we started the Black Ribbon Campaign, and we had
14 folks that stood out here every day for weeks and
15 months passing out black ribbons for solidarity for
16 someone to pay attention to this. Finally, the
17 Shipyard, Newport News Shipbuilding and Dry Dock
18 Company, posted a reward, I think about ten or twelve
19 thousand dollars.

20 Finally, the Newport News Police
21 Department brought an attack force, because I was
22 contending that if you can't catch the culprit, at
23 least bring in some additional sources, some
24 additional people, the FBI folks, somebody can do a
25 profile and do some other things. And they finally

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1 set up a task force that began to look at this case.
2 And so activism becomes a very important role in
3 getting some attention to some of these issues that
4 we need to address in our community.

5 The second part of that would be an
6 agenda. Once you get folks involved, then you need
7 some sense of an agenda. When we dealt with the
8 Antwan Sedgwick case, we developed a set of
9 strategies. No one -- the press would not look at
10 this because they say they weren't going to report
11 any suicide. That was their policy.

12 Well, once we finally got about five
13 hundred folks that went down to City Council, all of
14 a sudden they came to address the issue. We have
15 individuals and other things that happened to alert
16 and focus attention on what we felt was a neglect on
17 the part of folks to look at this case and look at
18 this situation, and for a sense of parents and family
19 being dissatisfied with the way the police had
20 handled it.

21 So our agenda began to focus on a
22 way to bring in attention, bring attention to where
23 perhaps the Justice Department, City Council, or the
24 State Attorney General's Office would look at this,
25 and we began to try to bring attention in that

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1 manner. I would say that we have not, to this date,
2 had a hearing whereby we have been satisfied with a
3 sense of folks getting an independent investigation,
4 but we continue to pursue that.

5 The culprit, whoever he is, or they
6 are, who have been molesting our children, assaulting
7 our children, still continue to also be at large,
8 because activism and agenda can go but so far. At
9 some point you got to move on with life. And so no
10 one has ever solved these cases. They continue to be
11 at -- under review. We're very much concerned that
12 we cannot go on in that -- in trying to go on with
13 these issues because other issues continue to
14 confront us.

15 The other thing I would say in
16 closing is that I think we need activism as part of
17 our operating agenda. We need to begin to develop
18 some access to other folks, like this panel, like the
19 governor, like the City Council, like the school
20 board. When we begin to get access to bring forth
21 our agenda, after our activism that brought about
22 attention, then we hopefully will have some better
23 sense of resolve, some better sense of results. We
24 don't always get it, and I say we are -- generically
25 so, I sense my sense of bond and camaraderie to those

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1 who always seem to pursue me, and I use the -- in a
2 sense that I'm connected to them in the sense I see,
3 after I laid for you the sense of premise by which we
4 operate, or I operate, is that someone must see them
5 as being worthy of advocacy, and I become an advocate
6 for them, because of my voice on the radio, because
7 of my writing in the New Journal and Guide, and
8 because of my position as a pastor.

9 Now, may I also add, too, that I
10 work with S.C.L.C. and that's my state coordinator
11 right there, Dr. Curtis Harris. So I'll entertain
12 any questions.

13 MS. RATTLEY: Thank you very much.
14 What we want to do -- we have ten minutes. What we'd
15 like to have you do is, Mr. Wyche, would you please
16 submit to questions by our staff person. He has some
17 questions that we want answered, to include, and then
18 we will take questions.

19 Mr. Cristman, are you in a rush?

20 MR. CRISTMAN: No, ma'am.

21 MS. RATTLEY: Are you, Mr. Harris --
22 Reverend Harris?

23 REVEREND HARRIS: No, ma'am. I've
24 been here since yesterday.

25 MS. RATTLEY: I know we stayed until

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1 8:00, 8:15 last night. Let's try to take him so you
2 can go. I appreciate very much your willingness to
3 stay.

4 But what we're going to do, at
5 12:30, we are going to take a break, a lunch break,
6 and we will come back here at 1:30, and this is the
7 place for what we call Community Forum, which means
8 anybody who wants to speak on any subject will be
9 permitted to do that.

10 Most of the staff people who came
11 down from Washington must leave -- that's why we're
12 kind of pushing it -- to catch a plane. And so we
13 have a full day, but we're going to do as much as we
14 can. If you can answer questions as briefly as
15 possible.

16 MAJOR WYCHE: Certainly. I did
17 cancel my appointment, so I am available.

18 MR. DARDEN: Thank you, Major. I
19 wanted to bring up something that came up yesterday
20 with respect to Hampton, and we heard a concern that
21 some politically active individuals felt that they
22 had been subjected to unwarranted surveillance, and
23 the question we put to the Commonwealth Attorney was,
24 how would a citizen go about alleviating a problem if
25 they felt that they were being harassed, and what

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1 sort of corrective action could they -- where might
2 they go to initiate some corrective action. The
3 Commonwealth Attorney said that they did no
4 investigation; they would refer it, but that the
5 police department really would be the initiating
6 agency to investigate its own officers; is that
7 correct?

8 MAJOR WYCHE: Yes, sir.

9 MR. DARDEN: And you used to work in
10 internal affairs?

11 MAJOR WYCHE: Internal affairs at
12 this time, effective 1 September.

13 MR. DARDEN: Okay. If we do
14 continue to hear those kinds of issues arise, what's
15 your position on the process? How do we inform the
16 public about the process for making complaints?

17 MAJOR WYCHE: Okay. First of all,
18 there's basically, in the City of Hampton, three law
19 enforcement functions. I represent the local police
20 body. Locally, those types of complaints would
21 primarily come to the Office of Internal Affairs.
22 Predominantly all those complaints are traditionally
23 handled through Office of Internal Affairs.

24 The only other way I'm familiar with
25 a complaint against a police department would be to

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1 either go to the Justice Department, or the U.S.
2 Attorney's Office in Norfolk.

3 MR. DARDEN: So now the Internal
4 Affairs has a window where you go to make the
5 complaint? How does it work? How would it actually
6 happen?

7 MAJOR WYCHE: Okay. What happens
8 is, any supervisor can take a complaint, Internal
9 Affairs complaint, from a citizen who desires to do
10 so. There are very many ways of making complaints.
11 A complaint can be done by making an appointment. It
12 can be done in the person's home, or in some rare
13 cases, if we can identify who that person is, and
14 we'll take the information over the telephone.

15 MR. DARDEN: Do you have any numbers
16 on how many complaints you've received over the past
17 several years and what the categories were of the
18 complaints -- for the bases of the complaints?

19 MAJOR WYCHE: I can give you a
20 general range. Basically, we probably incur a new
21 complaint about four to sometimes peaking at nine per
22 month, then go a year's period of time. It ranges
23 from rudeness, that an officer spoke in a rude
24 manner, to excessive force.

25 MR. DARDEN: And then the Internal

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1 Affairs disposes of the complaint through what
2 mechanism? Is there some disciplinary action, or
3 some reporting that shows the result of the
4 investigation?

5 MAJOR WYCHE: Yes. An
6 investigation, once an investigation is conducted,
7 that would be through our office, the Office of
8 Professional Standards. And what happens to that,
9 that case would be investigated by someone on my
10 staff.

11 Once that investigation is
12 completed, I'll review it and I'll send -- or meet
13 with the three majors -- we don't have any Deputy
14 Chief of Police -- the majors, the three of us, work
15 under the chief. So we would meet -- I would send
16 that investigation out once I concur with it to the
17 other functions, functional majors. I'll get a
18 consensus from those majors and come up with a
19 disposition, whether it's sustained, unfounded, et
20 cetera.

21 Once that is done, then I would send
22 that investigation to the appropriate commander to
23 make recommendations for discipline. That discipline
24 would be submitted to the chief's office. My office
25 would be notified of the recommendation of this

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1 complaint, and then we would decide what that
2 recommended discipline would be.

3 Once that is done, we send a letter
4 of proposal to the officer affected, in terms of what
5 the discipline is. Then he has two choices in terms
6 of the grievance.

7 MR. DARDEN: Now, do you find that
8 there are -- what's the proportion of complaints that
9 are sustained, compared to those that are dismissed
10 so far?

11 MAJOR WYCHE: I can't give you that
12 right now.

13 MR. GALVIN: Do you know how many
14 complaints come forward and how many actually move
15 into your office, because there seems to be a
16 discretionary area here that once it gets into the
17 system, is -- but there is a discretionary area
18 there. If a citizen makes a complaint to Internal
19 Affairs, if Internal Affairs doesn't move it to your
20 office for an investigation, what happens to it?

21 MAJOR WYCHE: All of the complaints
22 would come to me. I mean, I would know of every
23 complaint that's being investigated.

24 MR. GALVIN: But this is prior to an
25 investigation starting, only one being alleged, being

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1 asked to be started. I'm asking is there a
2 discretion in there is what I heard.

3 MR. DARDEN: I guess the term is
4 "filed." Would you get all filed complaints
5 regardless of disposition?

6 MAJOR WYCHE: That's correct.

7 MR. DARDEN: Whether they're sent
8 forward for investigation or not, you would actually
9 decide --

10 MAJOR WYCHE: I would decide upon
11 the investigation.

12 MR. DARDEN: Whether it did go
13 forward?

14 MAJOR WYCHE: Yes.

15 MR. DARDEN: I guess, you know, this
16 sort of analogy is just to the point of the
17 credibility of a police department in the eyes of the
18 public, there being some sense that the police
19 department doesn't really have a credible way of
20 responding to concerns from the community.

21 I know you described this process,
22 but are you aware -- what's your perception of the
23 way the police department is perceived by the
24 community? Do you think that they are willingly and
25 accepting of what you have now, or is there a need to

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1 do something more?

2 MAJOR WYCHE: Well, from my
3 perspective, and really I guess the trust in internal
4 investigation is probably a correlation between the
5 trust of the community and the entire police
6 department at large.

7 MR. DARDEN: Correct.

8 MAJOR WYCHE: Yes, I have received
9 complaints from people, and they ask that very same
10 question: Well, how do I know you, and you work for
11 the police, and obviously you're going to be
12 influenced in terms of the investigation. What that
13 comes to is exactly that issue of credibility, and I
14 present those credentials and satisfy their
15 complaints, exactly how we do this.

16 However, it's not entirely within
17 house, because the investigation, especially when
18 discipline is involved, it is also coordinated
19 through the City Attorney's Office, and our Office of
20 Personnel.

21 MR. DARDEN: I see, because there
22 may be other charges, or something?

23 MAJOR WYCHE: City policy violation.

24 MR. DARDEN: Have there been any
25 serious -- any complaints that have resulted in

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1 serious sanctions and serious --

2 MAJOR WYCHE: Yes, sir.

3 MR. DARDEN: Recently?

4 MAJOR WYCHE: Most recent, I can
5 articulate is an excessive force issue, and we did
6 move to terminate the officer, and the officer was
7 terminated. He grieved that to a panel, and the
8 panel did agree with the investigation.

9 MR. DARDEN: Was that this year?

10 MAJOR WYCHE: That was this year.

11 MR. DARDEN: Just to link it to the
12 kind of issues that we're talking about now, this was
13 a street-level officer?

14 MAJOR WYCHE: That's correct.

15 MR. DARDEN: Was he a patrol
16 officer?

17 MAJOR WYCHE: Patrol officer.

18 MR. DARDEN: Working in a
19 predominantly minority area?

20 MAJOR WYCHE: This was in regard to
21 a minority. Minority was not within a
22 predominantly -- he was at a business. It wasn't in
23 a predominantly black neighborhood. However, the
24 allegations came in our city lockup. It wasn't a
25 situation on the street. It was an allegation

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1 reported by another police officer to have occurred
2 in the lockup, and our office did that investigation.

3 MR. DARDEN: Uh-huh.

4 MS. MCCLOUD: Did they then fall --
5 did I understand you to say that it did involve a
6 minority person? For example, was the policeman
7 white and --

8 MAJOR WYCHE: The police officer was
9 white and the person arrested was black.

10 MR. DARDEN: So after a serious
11 incident, something like this one, is there a
12 department-wide response to sort of reiterate the
13 standards so that all of your officers now are sort
14 of put on a notice that this sort of thing is not
15 acceptable in the department?

16 MAJOR WYCHE: Yes. And, I mean,
17 because that's the other aspect, the outcome from
18 such an investigation. We always look at, how did it
19 happen, and try to put steps in place so it wouldn't
20 happen again. In this case, we did look at our
21 training issues in terms of reinforcing the
22 appropriate levels in terms of escalating the use of
23 force to rear a deputy trainee, which is also a
24 policy.

25 We also stress in our policies and

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1 procedures it being a violation if an officer did not
2 report such an incident as occurring. In this case,
3 the policy was followed, but even though it was
4 positive, we wanted to reiterate that obligation so
5 we can come forth and investigate those types of
6 complaints.

7 MR. DARDEN: Without having to talk
8 about the details of any particular case, how do you
9 then close the loop with the concern for your -- the
10 credibility of the department so that the community
11 understands what it is that you've done to correct
12 problems within your own department?

13 I think, as you started out, they're
14 not confident that you're doing it. When you do it,
15 how do you communicate that you're behaving properly?

16 MAJOR WYCHE: See, that's one of the
17 problems in the community at large. In other words,
18 the complainant in this case, the person who was
19 arrested, we send them a documented letter that we
20 did find or agree it was excessive use of force used;
21 however, we cannot discuss what happened in terms of
22 discipline as a result of that sustained complaint,
23 neither can I discuss it openly to the community at
24 large because it would be jeopardizing suit.

25 So what happens is we do not have

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1 the opportunity to go to the community and say, this
2 is what happened and this is how we resolved those
3 particular issues. Other than quoting some
4 statistics like you asked, basically how many
5 complaints come in, how many sustained, and what were
6 the dispositions of those type of complaints, if
7 asked.

8 MR. DARDEN: But if you do issue
9 a -- sort of a reiteration of policy in response to,
10 as a way of putting everybody on notice that, you
11 know, we're making sure that we're tightening up
12 here, is that the kind of information that you can
13 share through the community meetings and that sort of
14 thing, that these policies are in place and are being
15 periodically reiterated for the benefit of keeping
16 them -- keeping the attention high for all officers?

17 MAJOR WYCHE: I can't say that
18 that's routinely done, no, sir. In other words, we
19 do not approach the community and say, this is what
20 happened last month and this is what happened and we
21 are training people on those kinds of issues.

22 If those questions are asked from
23 anyone in the community and we're asked to address
24 those issues, then we do it upon request, so it's
25 not, as Mr. Harris mentioned, proactive means and go

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1 out and say these kinds of things, and once again,
2 because of the certain confidentiality that these
3 investigations have.

4 MR. DARDEN: Well, is there a need
5 to be more proactive given the lack of credibility
6 the department has?

7 MAJOR WYCHE: I would like to feel
8 in our department we have a significant amount of
9 trust between the community and the police
10 department. I am not aware of anyone expressing any
11 lack of satisfaction overall with our system of
12 investigating these types of complaints. I mean,
13 even nine people, using minimum of four to five, is
14 still a significant amount of complaints coming in.

15 MR. DARDEN: Yes. Thank you very
16 much.

17 MS. MCCLOUD: I just wanted to make
18 one comment in terms of your not routinely reporting
19 these things. I work in a university, and in the
20 educational system now, universities and colleges are
21 required to give periodical reports on the numbers of
22 harassment cases and other types of crimes that are
23 committed, so I find it difficult to understand --
24 and I guess this is something we would need to have
25 clarified some place else. I find it difficult to

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1 understand why educational institutions are required
2 to do this and why police departments, and so forth,
3 who are in charge of the safety of the people, are
4 not asked to do this.

5 MAJOR WYCHE: No, ma'am. What I
6 wanted to state was that we do report the numbers in
7 terms of how many complaints came in, and generally
8 what the dispositions are, whether they're sustained
9 or not, we do not report to the public what the
10 discipline as a result of those sustained complaints
11 are.

12 MS. MCCLOUD: Okay. Thank you.

13 MR. GALVIN: Just one more. Maybe
14 you have this written, because you have it as
15 professional procedures. What I'm interested -- we
16 heard a lot about discretion and discretionary
17 practices over the course of time from the judge to
18 the prosecutors. Then maybe you can enlighten us, or
19 if there's any written guidelines you can provide us
20 for, what are the discretionary practices that you
21 have, for example, in which community you're going to
22 be policing, or in your surveillance, or what are the
23 discretionary practices that the officer has at time
24 of arrest, or even in questioning, what is the
25 discretion of who he picks up to question? Is there

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1 guidelines that are given to the officers on this,
2 any training?

3 MAJOR WYCHE: That's a large
4 question. And where I'd like to start is, yes, there
5 is a lot of discretion in police tactics and
6 methodologies and interrogation and the way those
7 kinds of things are done. In some areas there are no
8 discretion, and by policy, it's -- especially in the
9 Tidewater area, in the area of domestic violence,
10 discretion is taken away.

11 At one time it was one of the
12 biggest discretionary areas was when -- because of
13 the fact a misdemeanor -- an officer cannot make an
14 arrest unless a misdemeanor is committed in the
15 presence of the officer. There are codes that now
16 allow us to arrest domestic violence cases,
17 shoplifting, and maybe a couple other crimes in the
18 way of misdemeanors that do not happen in our
19 presence.

20 In Hampton, presently, we do not
21 have a blanket policy that you will arrest all cases
22 involving domestic violence. In other words, it is
23 referred to as, when I go to a complaint, a domestic
24 complaint, that I'll leave with someone in handcuffs.
25 We still allow someone to have flexibility, although

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1 I do have to say we're drawing and leaning more
2 towards -- and we are presently reviewing those
3 policies that take away that type of discretion, but
4 there's a tremendous amount of discretion.

5 MS. RATTLEY: Could you please
6 provide the Committee with the statistics about the
7 complaint and the disposition? Could you do that for
8 us, please?

9 MAJOR WYCHE: Yes, ma'am. For '96
10 or how far --

11 MR. DARDEN: It's better if we have
12 a time span to see if there are any trends.

13 MAJOR WYCHE: Five years?

14 MR. DARDEN: Five years at a
15 minimum, if you have that. Okay.

16 MS. RATTLEY: Thank you very much,
17 Mr. Wyche.

18 Mr. Cristman. Are there any
19 questions of Mr. Cristman anyone?

20 MR. DARDEN: I have one.

21 MS. RATTLEY: What we're going to do
22 since you'll be here at 1:30, we can then --

23 MR. HARRIS: You can presumptively
24 assume -- yeah, I'm here for the duration. Although
25 I didn't get a dinner last night.

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1 MAJOR WYCHE: Do you have a
2 question?

3 MR. GALVIN: I just -- the question
4 here was, while it was not in your police force, here
5 is people saying they have no way to go to get an
6 investigation or concern that had to deal with these
7 girls, in other words, for protection, or
8 surveillance, someplace where there was something
9 happening on a recurrent basis in the neighborhood,
10 how would you advise them -- what would you advise
11 them to do?

12 MAJOR WYCHE: Once again, that
13 particular incident did happen in the City of Newport
14 News. I believe as Reverend Harris mentioned, that
15 our response would probably similar in terms of
16 creating a task force to look at those type of
17 things. Certainly, there is a Behavioral Science
18 Unit at the FBI who can make some type of assessment
19 in terms of correlation between the criminal activity
20 of the person and where we may be able to locate that
21 type of person.

22 MR. HARRIS: Three years to get a
23 task force.

24 MR. GALVIN: What I'm asking is,
25 what would you advise them to -- what do we need to

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1 do, or what suggestions would you have that, while I
2 understand you can't respond on every one that wants
3 everything -- you don't have resources for that, how
4 do we take something that becomes such a concern and
5 shorten the time frame so it doesn't take three
6 years.

7 MAJOR WYCHE: I can only respond in
8 our city, and certainly the Chief of Police has that
9 discretion to make those kinds of things happen. I
10 would venture to say that would come with the
11 dialogue between the community and the Chief of
12 Police.

13 MS. RATTLEY: Thank you.

14 MR. DARDEN: Just one, before you
15 go, I just wanted to be sure that we had -- this is
16 going to be our last chance to talk to you, and it's
17 very important for us to get our record as complete
18 as possible. And I just wanted to know if any of the
19 members before we left this panel had further
20 questions.

21 (No response.)

22 MR. DARDEN: All right. Then that's
23 all I have. Thank you.

24 MS. RATTLEY: Any questions of
25 Mr. Cristman?

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1 MR. HUANG: Mr. Cristman, I think
2 your comments seem to be the brightest since
3 yesterday, and I'm just curious about the results you
4 have mentioned, basically descriptive results, what
5 you're doing, what you help out, but do you have any
6 other things that you can tell us about how many
7 cases you have helped, what kind of impact that you
8 have made in the community?

9 MR. CRISTMAN: The results is one of
10 the most frequently asked, and also one of the most
11 difficult to answer questions, because of the
12 broadened result everybody wants to know is the "R"
13 word, recidivism, and what impact we're having on
14 recidivism.

15 I can take quite a while to explain
16 to you why that's so difficult, but the bottom line
17 is it's a very difficult thing to nail down. For
18 one, we'd have to be able to compare like persons who
19 went to jail and who were placed on community
20 corrections, which means we'd have to assume there's
21 someone who is in jail that should have been on
22 community-based correction. There's quite a few
23 other reasons why that makes it very difficult to be
24 able to go and study that.

25 But certainly I have a lot of

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1 anecdotal evidence available. We have many folks who
2 have been through our program over the years who come
3 back. We actually have some folks who come back and
4 counsel and mentor some of the younger offenders who
5 have just come into the program.

6 We have one offender who went
7 through the program after just spending several
8 months in jail and now has a job making -- a
9 legitimate job making a lot more than I make, and
10 before he went to jail he was selling cocaine. So
11 for somebody to say they never can get a job, or they
12 don't want to work for minimum wage -- so there's
13 lots of anecdotal evidence we can give.

14 I can give you some specifics in
15 terms of the numbers of people going through our
16 programs in Hampton and Newport News. Since July 1st
17 and through the month of January -- we haven't
18 finished the February report, but between July 1 and
19 the end of January, we have taken about 1,385
20 offenders in the Community Corrections Programs
21 between the cities of Hampton and Newport News. I
22 anticipate that during this fiscal year, running from
23 July 1 through June 30th, we will take in somewhere
24 between 1,800 and 2,000 offenders, and all of those
25 are offenders who have been convicted of either Class

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1 1 and 2 misdemeanors or Class 5 and 6 felonies. The
2 majority of them are misdemeanor offenders that the
3 judges are referring to us. Obviously, this is an
4 option the judges are using quite a bit.

5 I can also tell you that we are
6 averaging somewhere in the neighborhood of 70,000
7 hours of community service work per year; and if you
8 put that in terms of minimum wage, and I will say
9 that we have forty-five community service sites
10 throughout Hampton and Newport News. The vast
11 majority of them are local government sites. For
12 example, the Parks Department is one of our largest
13 sites.

14 And I can tell you that during this
15 fiscal year, we will have offenders that perform
16 approximately 70,000 hours of community service. So
17 if you take your calculator, you can figure out what
18 that's worth to the cities in terms of minimum wage,
19 and you compare the cost to what it would have taken
20 one of these folks in jail during that period of
21 time.

22 Another thing I can tell you is this
23 was something else specifically that we looked at,
24 and I was prepared to discuss today in case the issue
25 came up, and that is I think that -- I'm sure you've

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1 reviewed a lot of information in regards to
2 statistics and arrests, incarceration rates for
3 African Americans in the system, I think -- my
4 experience says our local jails are averaging
5 probably approximately 70 to 75 percent of the
6 population in the jails is African American. I'm
7 happy to tell you that the percentage in our
8 programs -- well, maybe not happy, but the percentage
9 in our program mirrors that, so what that tells me is
10 that someone is not more likely to end up in the
11 community-based program because of their race, or
12 otherwise.

13 We recently did an analysis on
14 success in the Community Corrections Program, and
15 while this is actually not statistically significant,
16 it is certainly interesting. African Americans were
17 84 percent successful in our program, meaning they
18 completed all the requirements that the judge gave
19 them and completed the community service hours, drug
20 counseling, whatever other requirements they had.
21 For that same study period, only 76 percent of the
22 whites in that program were successful. I don't know
23 why that difference is, but it was an interesting
24 one, and we just happened to find out looking at it.

25 MS. RATTLEY: Would you like to

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1 leave that report with the Commission?

2 MR. CRISTMAN: I'll make a copy for
3 you and drop it back off after lunch.

4 MS. RATTLEY: At this time, I want
5 to advise everyone that we will reconvene at 1:30, at
6 which time we will conduct a community forum. Each
7 speaker will be given five minutes, and you may speak
8 on the civil rights concern of your choice. And
9 those of you who would like to make a presentation
10 have been asked to sign in, and that sheet is in the
11 back, I think. Mark has the sheet for you to sign
12 in.

13 All right. This meeting then is
14 adjourned until 1:30.

15

16 (Lunch Break)

17

18 MS. RATTLEY: First of all, may I
19 apologize for being 15 minutes late, but we went, I
20 think twenty, twenty-five minutes over, and the
21 members of the Committee had to get some lunch. In
22 fact, some still have not received their lunch, but
23 we're going forward with it.

24 Please sign the form if you wish to
25 speak on any subject pertaining to civil rights, and

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1 you will be called in the order in which you signed
2 up to speak. You will be given five minutes to make
3 your statement. The members of the State Advisory
4 Committee may wish to ask questions of you, and your
5 presentation will be timed, and if any of you have
6 written statements you wish to present, we shall be
7 pleased to receive those.

8 Are there any questions on the
9 procedure?

10 Sir, did they come back with any
11 copies yet?

12 MR. PALMER: I have them right here.
13 They didn't copy the newspaper clippings. Whoever
14 gets them, please send them back to me.

15 MS. RATTLEY: All right. Thank you,
16 sir.

17 We're going to have Mr. Darden to
18 call the list.

19 Yes, Reverend Harris.

20 MR. HARRIS: Let me ask a question
21 as regard to last evening in the public session.
22 There was no court reporter to transcribe the notes.
23 How are those -- how are those complaints that --

24 MS. RATTLEY: Mr. Darden and his
25 staff have taken those notes.

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1 MR. DARDEN: Let me also explain
2 that staff, both myself and Mr. Pentino, took very
3 copious notes; and in addition to that, almost
4 everyone who spoke last night spoke from prepared
5 statements which we have copies of.

6 MR. HARRIS: I've seen your work, so
7 I'm satisfied.

8 MR. DARDEN: This afternoon, we do
9 have the transcriber who is going to continue even
10 through this session.

11 Is Mr. Pentino in the room, Mark
12 Pentino?

13 Mr. Palmer, Mr. Pentino is not here
14 yet. I have a question first because what I have
15 here shows Cathy -- is Cathy Patterson in the room?
16 Cathy Patterson. Is Cathy Patterson in the room? Is
17 Ronald Lyons in the room, Ronald Lyons? Is Warthell
18 Browne in the room?

19 DR. BROWNE-ILES: Iles.

20 MR. DARDEN: Iles, Browne-Iles?
21 Now, that's -- you're speaking -- it has Mr. down
22 here. Is Ms. Iles --

23 MS. RATTLEY: Dr. Browne-Iles,
24 Warthell Browne-Iles, I believe is a female.

25 MR. HARRIS: She's quite female. I

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1 vouch for that.

2 MR. DARDEN: The question, Dr. Iles
3 is, given the difference here between the stories
4 that I've heard from Mr. Palmer that he --

5 MR. PALMER: Go ahead. Let her go
6 ahead.

7 DR. BROWNE-ILES: No, no, no. I
8 don't have any problems. Let him go. In fact, I
9 switched with a young man up here because I'm retired
10 right now, so I am not pushed.

11 MR. DARDEN: Mr. Palmer, that brings
12 us to you if you would like to proceed. Roy Palmer.

13 MR. PALMER: Gentlemen, I have a
14 bunch of papers here that I'd like for you to read.
15 Mr. Patrick, you being a lawyer, would you get those
16 and make sure you read each one. My name is Roy
17 Palmer. I live in a black district, Ward K. I've
18 not heard anybody say anything about discrimination
19 against a white living in a black neighborhood, but
20 I'm telling you that's it. You don't know what
21 discrimination is. I'm old. I'm disabled. My wife
22 is old. She's disabled. We live on the creek bank
23 that floods in an old part of town. We got two roads
24 going into it, blocked off. And, Ms. Rattley, you
25 remember about the 16th Street Bridge, how much we

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1 had to get it open.

2 MS. RATTLEY: Yes, I do.

3 MR. PALMER: When it floods, that's
4 the only way in. Our fire insurance has went up on
5 the house next door because of two roads being
6 blocked. I can't get no answers from the city here.
7 I don't know what's wrong. I write the letter to the
8 mayor. He turns it to the city attorney, who turns
9 it to somebody else who turns it to somebody else.
10 Something is wrong with our government. Something is
11 wrong with our newspaper. They've got tons of
12 information they will not put out.

13 But I've got something real in my
14 craw. Let me tell you about this. You know what
15 this is, Ms. Rattley. It's about coming to the City
16 Council. They tell you to come to the podium and
17 talk. They tell you you got five minutes, after you
18 get through, you sit down and keep your mouth shut.
19 I've had any number of ones up there belittle me,
20 joke about me, say remarks, and you can't come back
21 at them. This is wrong. This is awful wrong, and it
22 ought to stop.

23 We don't even come over here anymore
24 because nobody listens. You had the vice mayor,
25 Chuck Allen, here this morning. I helped get him

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1 elected. I made a donation to him. He was out in my
2 neck of the woods and seen it. This past time when
3 he was running for reelection, I was telling him
4 about the condemned houses. And if anybody knows,
5 Ms. Rattley, you've been to my house and you've seen
6 them.

7 MS. RATTLEY: Yes.

8 MR. PALMER: They're valued at
9 \$50,000, and yet nothing lives in them but rats,
10 possums, and raccoons.

11 Now, I don't know just what happens
12 on this, because I went to circuit court in 1991, and
13 that box, you'll see receipts from it. I have yet to
14 get in there, and if you people got \$40 you want to
15 waste, it's a dollar a page for the five times I been
16 to the Board of Equalization. The first time they
17 lowered my property by two thousand, that's it.

18 The houses out there are not
19 selling. You'll see it in there. When I first moved
20 there, it was an all white district. We had two
21 schools, a colored school named Clark, and Woodrow
22 Wilson, a white school. Man, it was a beautiful
23 place, playground. You come out there, you'll see
24 hoops in the middle of the street where the kids
25 playing.

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1 Now they say we got gangs because
2 these kids are playing basketball, 14, 15, 16 years
3 old. They got no place to go. There's not a job to
4 be had. A lot of these people out there used to work
5 on your garbage trucks, used to sweep the streets,
6 used to work in the gas station. I had one I loved.
7 He'd take my car, because when he brought it back, it
8 looked beautiful. You got none of that now. You
9 even pay for air when you go to the gas station.

10 But the biggest thing about this,
11 you had the policeman here talking this morning.
12 We're getting a new police chief now. He's got to
13 come under Mr. Maroney, who's a dictatorship.
14 Mr. Maroney was caught drunk driving, caught running
15 into cars. He got raises out of it. Mr. Alexander,
16 who's in Codes and Compliance, spent four hours out
17 there at my place. They said he was on drugs. A
18 black man, he got fired. How come he didn't get a
19 raise and get rehabilitated? It's some bad stuff
20 going on in this neighborhood. Bad stuff.

21 You got the Daily Press, Judge
22 Spencer writing about a lady on 24th Street, 91 years
23 old. He wasn't going to take her no hot meals, Meals
24 on Wheels, because there was a gang next door. Why
25 don't you get these gangs jobs? What's wrong with

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1 the city? Why don't you put a school out there?
2 You're going to take the old white school there,
3 Walter Reed, and make it into another something like
4 they did with our library here and it all go up to
5 Hilton with a million-dollar sidewalk. You people
6 wouldn't believe it.

7 I wish you'd come out there and take
8 this scooter and ride up and down our sidewalks.
9 There's three different-sized sidewalks. On the
10 blocks that we are in, you've got a tree in the
11 middle of it, you got a stop sign in the middle of
12 it, you have a fire plug in the middle of it. What's
13 wrong? Is this the way you build a sidewalk? You
14 have specifications for building. None of that's
15 followed.

16 I'll make two more things, and then
17 I'll leave. You talk about voting, how good it is to
18 vote. I got after Mr. Hill, who was on the electoral
19 board here last summer, wanted to know why this cart
20 couldn't get in the place where we vote. He says,
21 What's wrong? I said, You haven't got a curb cut
22 there. So they put one out in the driveway. When I
23 went to vote this time, they had a handicapped
24 parking in the driveway and a van sat in it. That
25 van was in it at seven o'clock that morning. When I

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1 came back from Langley Field getting our groceries at
2 eleven o'clock, it was still there.

3 I got one more thing to say. You
4 talk about your police department that come under
5 city manager. You've heard about the kid here that
6 was molested going to school. You have bicycle
7 patrols. You had FBI. You had the state police.
8 How come when I ride this thing, I don't ever see
9 them? And, gentlemen, you read in there it's against
10 the law to ride this in the street.

11 Yet all these little toys with
12 twelve volt batteries can go any damn place they
13 want. Nobody says a word. What's wrong with
14 America? We're old people. We're not going out
15 there to be killed.

16 Thank you. Read that. Please send
17 me my newspaper clippings back.

18 MS. RATTLEY: Mr. Palmer?

19 MR. PALMER: Yes.

20 MR. DARDEN: I have a question. Mr.
21 Palmer, what is it you want us to do with these?

22 MR. PALMER: I want you to read each
23 and every page, please.

24 MR. DARDEN: You want them returned
25 to you?

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1 MR. PALMER: No. I got a copy. I
2 just want the newspaper clippings returned where it
3 says they're going to build sidewalks and spend
4 \$5,000 this year.

5 MS. RATTLEY: I will keep them in
6 Newport News, make copies and then send them to Mr.
7 Darden.

8 MR. PALMER: That would be
9 wonderful. Any time you gentlemen want to have a
10 sickening afternoon, come on out my way and be
11 handicapped and white in a neighborhood like we've
12 got. I'm going on home. My wife is handicapped. I
13 should have been home a long time ago.

14 MS. RATTLEY: Mr. Palmer, it's good
15 seeing you, and I'll get back with you sometime
16 within the next two days with those newspapers.

17 MR. PALMER: Well, Ms. Rattley, I
18 hope the next time we see each other, we can walk to
19 our houses. We sure can't do it now.

20 MS. RATTLEY: I agree.

21 MR. DARDEN: Cathy Patterson, second
22 time. Cathy Patterson. Second time, Ronnie Lyons.
23 Ronnie Lyons. Dr. Warthell Browne-Iles.

24 DR. BROWNE-ILES: I'll let him go in
25 my stead. Tell them your name.

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1 MR. BULLOCK: My name is Mr.
2 Bullock.

3 DR. BROWNE-ILES: And I'll go in Mr.
4 Bullock's place.

5 MR. DARDEN: All right.

6 MR. BULLOCK: Thank you,
7 Mrs. Chairman and the Committee. My name is Greg
8 Bullock. I'm here as a citizen. I read about this
9 event that was going in Hampton and City of Newport
10 News, and I thought maybe I could come out and gain
11 some light on the situation that was particular to
12 only myself, but I wanted to know something. What --
13 this Commission, what good can you do for our
14 community on a personal basis and from a community
15 standpoint? When you take your recommendations back
16 to where you go, what difference can you make in our
17 community as far as any changes being made in
18 reference to if we have any adverse conditions that
19 affect us as far as the legal system is concerned?
20 Mrs. Chairman?

21 MS. RATTLEY: Let me try to address
22 your concern. The body you see here today is the
23 Virginia State Advisory, Advisory Committee --

24 MR. BULLOCK: Yes, ma'am.

25 MS. RATTLEY: -- to the U.S.

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1 Commission on Civil Rights.

2 MR. BULLOCK: Yes.

3 MS. RATTLEY: We are holding what we
4 call a fact-finding meeting here, and of course
5 yesterday in Hampton. We have received many
6 complaints from citizens, and they're wide-ranging.
7 The judicial system was one, and this came out -- we
8 were out at the Iverson situation in Hampton. When
9 the staff of the U.S. Commission on Civil Rights came
10 to the city and talked to many individuals, and our
11 commission, our committee asked for a meeting, an
12 opportunity to receive all of these complaints,
13 evaluate them, make a recommendation to the U.S.
14 Commission on Civil Rights.

15 We advise them of what we find. It
16 is then hoped that the U.S. Commission on Civil
17 Rights will study these, research them, do whatever
18 they do; and if they find that there is
19 discrimination, or they believe that it is, then they
20 can turn it over to the appropriate department or
21 agency, such as the Justice Department, who could
22 then investigate this situation.

23 The committee is not here to say we
24 can solve all of your problems. Many of your
25 problems are very detailed, very personal, and if

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1 it's in the legal system, you're going to have to get
2 your politicians to pass certain laws before you get
3 any relief. But there is no hope if they don't know
4 anything about it, so I think it's well worthwhile to
5 share your concerns.

6 And I don't think anybody on this
7 panel will tell you, Mr. Bullock, tomorrow it's going
8 to be taken care of, that we're going to make the
9 federal court pay you for your injury, and for your
10 suffering, and your pain, and your loss, because of
11 how you were treated at a Wal-Mart in Hampton when
12 you bought your shoes and they tried to arrest you
13 for stealing the shoes; and when you showed your
14 receipt, they dismissed it, but that was after you
15 were attacked by the security guard.

16 MR. BULLOCK: Yes, ma'am.

17 MS. RATTLE: So you went to federal
18 court?

19 MR. BULLOCK: Yes, ma'am.

20 MS. RATTLE: And now your question
21 is, what can we make that federal judge do to give
22 you remuneration for your hurt and your pain?

23 MR. BULLOCK: My question is --

24 MS. RATTLE: You could at least
25 give the information, and it's a possibility that the

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1 Justice Department could give you some aid, but that
2 is not a promise.

3 MR. BULLOCK: My question is, if I
4 had responded in unkind -- like I was attacked at
5 Wal-Mart for allegedly stealing some shoes that I had
6 paid for, and I have a receipt for it -- I did have a
7 receipt for what, my purchases -- and I'm saying that
8 if I had responded in a very negative way by, like,
9 going back out there with a gun or something and
10 turning the place out, then that would have been
11 newsworthy, you understand, then that would have been
12 all over the public media, and what have you.

13 So I chose to pursue this matter in
14 a civil manner and sue these people, these rich
15 people, super rich people. Wal-Mart is the biggest
16 retailer in the continent of the United States, if
17 not in the world, and I'm saying I chose to sue these
18 people in federal court. And when I get to court, I
19 see a different kind of justice, you understand.

20 MS. RATTLEY: Tell us about it.

21 MR. BULLOCK: I'm upset about it. I
22 think it's because -- I think I was treated at
23 Wal-Mart because of the color of my skin and who I
24 am. Then when I got into the federal system and got
25 a jury trial, I didn't get a jury of my peers, you

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1 understand, and I got a different kind of justice
2 that wasn't according to the facts in the case, and
3 I'm perturbed about that, you understand, and I had
4 legal representation. I had lawyers. And this same
5 thing went on.

6 So, you know, I want somebody to
7 just take a review of this thing with me, you
8 understand, bring me to an understanding of how do we
9 get from, I go in a store with good intentions, as a
10 customer, and I get treated in a real bad way, and I
11 spend \$121.25. I want to know how I end up on the
12 asphalt, you know.

13 Then when I get in the legal system,
14 how you can return a judgment in their favor. You
15 know, that bothers me, you know. And I know it's
16 only because the color of my skin and who I am, see.

17 So I want to leave this, a copy of
18 the lawsuit with the Commission, and after you review
19 it, if you will, make some kind of recommendation to
20 me as to what I might do, or you can do to assist me
21 with this.

22 MS. RATTLEY: Is this a copy, Mr.
23 Bullock?

24 MR. BULLOCK: I have it here.

25 MS. RATTLEY: Do you have one

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1 yourself?

2 MR. BULLOCK: Yes, ma'am. You can
3 have this.

4 DR. AL-HIBRI: Do you have an appeal
5 pending?

6 MR. BULLOCK: No. I have no regard
7 for the federal system. I mean, I didn't even want
8 to go through that. It was expensive fighting a
9 super rich company like Wal-Mart in the first place,
10 doing all the depositions and things, so I didn't
11 even go through the appeal process. I wanted to do
12 something -- I saw that I couldn't get a judgment
13 against them after I produced the receipt for
14 something I paid for while at their store, and a jury
15 heard this and ruled against me. I don't need to
16 pursue that system any further, because I couldn't
17 afford it.

18 MS. RATTLEY: Give that to
19 Mr. Darden over there. Go back to the podium and
20 there's some questions some of the panelists would
21 like to ask you.

22 MR. GALVIN: I'd like to answer part
23 of the question that our chair answered very well:
24 What good are we doing here? And I think there's a
25 second part that I'd like to share with you on her

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1 answer, that while I know that there have been, or
2 could be injustices, things have done wrong,
3 improper, and that it may be that we can't correct
4 what has been done for you or for others in this
5 medium; on the other hand, the report that we come
6 out with, the review of what you make public, gives
7 us the ability to shine a light on the practices that
8 are going on in the community of our towns and
9 cities.

10 There are many people that read that
11 report. I hope that one of the values in that report
12 is that people will look and question whether that's
13 going on in their community. You see, if we don't
14 bring to light what's possible, we can't even begin
15 to make a change, and so one of the great
16 contributions that you make by coming here, and by
17 speaking, is not just in your own self-interest.

18 MR. BULLOCK: Yes.

19 MR. GALVIN: But you make a huge
20 contribution to everyone who can look and say, I
21 wonder if that's happening where we are. Maybe we
22 need to take a look at that because we could do
23 something about it. That's the power that you have
24 by this kind of forum.

25 MR. BULLOCK: Mr. Galvin, you know,

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1 I have been a male person and a member of a minority
2 race. We are required, especially in public places
3 like these big stores, we're required to go a little
4 further and do a few more things. When I went in
5 Wal-Mart, I was dressed like this -- I wore this
6 purposely today to let you know how I went to that
7 store. I'm a working person in the construction
8 business, and I, you know, have money, right, but for
9 these white people to observe us come into the stores
10 like this, sometimes we're marked people, you know.
11 We're marked going -- they want your business, but
12 we're marked going.

13 They want your business, but we're
14 marked going, and we're marked when we come out, and
15 I was very hurt about what happened to me. But after
16 I turned to the legal system and I got a different
17 bad deal in that respect, I'm hurt more so, and I
18 wonder, you know -- I mean, where do we go from here,
19 you know, and what kind of alternative do we have for
20 alleviating these types of problems?

21 MR. GALVIN: The biggest one, as I
22 said, to shine a light on what we're doing. The
23 legal system in federal is one issue. The question
24 of targeting, showing a bias or discrimination,
25 perceptions, is what we've been dealing with here for

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1 two days, and that, by coming forward and giving us
2 examples of where it's occurred and how it's still
3 happening, doesn't allow us to have a blind eye.
4 That's the biggest contribution. Thank you.

5 DR. AL-HIBRI: I also want to make a
6 remark about the legal system since you're asking
7 those questions. I really would not have advised you
8 to give up on the legal system so quickly. I
9 understand the cost of an appeal. Maybe even we
10 should be looking at ways to help people bear that
11 cost, or alleviate that situation for them, but the
12 reason you have three levels of legal action in the
13 courts is because if you have a problem on one level,
14 maybe the next level will take care of it, so I would
15 really suggest for you, and others who have a problem
16 with the legal system, not to give up too quickly and
17 also look at other alternatives, like you're doing
18 now with us, but don't give up your rights because
19 you lose hope.

20 MR. BULLOCK: Thank you.

21 MS. RATTLEY: Did you try to get
22 some help from the NAACP?

23 MR. BULLOCK: No, I haven't been
24 able -- I haven't tried to pursue any help from
25 NAACP; and the reason I haven't, because I had talked

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1 with them on occasions, and they weren't interested
2 in that type of case for some reason. I don't know
3 whether -- I don't know what reason they weren't
4 interested, but for my interpretation, they weren't
5 interested in pursuing it. They advised me to get my
6 personal attorney to pursue it that way, but I did
7 that.

8 MS. RATTLEY: Mr. Bullock, how long
9 ago was that?

10 MR. BULLOCK: This happened last
11 year. Well, it happened September 15, 1995.

12 MS. RATTLEY: Ms. McCloud.

13 MS. MCCLOUD: Yes. I had a couple
14 of things. First of all, I would like to add a
15 comment to what Mr. Galvin has said, in terms of this
16 being a fact-finding meeting concerning
17 discrimination, let me say, in the judicial system as
18 it affects African Americans. I think that what you
19 are contributing is very pertinent to the topic that
20 we are in the process of trying to find facts about.

21 MR. BULLOCK: Yes, ma'am.

22 MS. MCCLOUD: So I'd like to
23 encourage you in terms of that. The other thing is,
24 I had a question, and it is -- does the documentation
25 you have provided, describe all the details? For

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1 example, you mentioned that you had a receipt. At
2 what point did you provide that receipt, or were you
3 able to show that receipt to them?

4 MR. BULLOCK: Upon my exit from the
5 store's front doors coming out, I was approached by a
6 gentleman in plain clothes who worked in security. I
7 don't know if it was a contractor or whether
8 personnel or what, but he asked me something about my
9 purchases, and I told him I had a receipt for all the
10 things that I had, and he left me, and when he came
11 back with the manager, he told me that -- he said,
12 You didn't pay for them shoes, pointed at my shoes.

13 So I asked him was he accusing me of
14 stealing the shoes, and the manager said, Yeah -- he
15 said, Yeah, you stole them, like that, and shoved me
16 back.

17 MS. RATTLEY: But he bought the
18 shoes and put them on and kept them on, but he paid
19 for them, and he showed me the receipt.

20 MS. MCCLOUD: You did have the
21 receipt?

22 MR. BULLOCK: Yes, ma'am. So all
23 the pertinent information is included in the package.
24 The only thing I don't have in here is the transcript
25 of the federal trial case.

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1 MR. DARDEN: That's not necessary.
2 We'll refer the case to the extent that we can.

3 MR. BULLOCK: Yes, sir. Appreciate
4 that.

5 MS. RATTLEY: Are there other
6 questions of Mr. Bullock?

7 MS. ZEAVIN: I want to say you
8 conducted yourself so beautifully, with such dignity,
9 and just keep it.

10 MR. BULLOCK: Thank you, ma'am.
11 Thanks so much.

12 MR. DARDEN: Next. I guess we'll go
13 to Frederick Carter.

14 MS. RATTLEY: Mr. Carter, you've
15 been with us a long time. Now you get your --

16 MR. CARTER: Actually, I was here
17 first, but I don't like to make an issue.

18 Thank you very much. It's been most
19 entertaining. Most of the time I sit over there
20 where you're sitting, or I sit over where Mr. Darden
21 is sitting, and it's unusual for me to be sitting
22 here.

23 In the discussion of the criminal
24 justice system, which is not why I came down here,
25 there are two things that haven't come up at all and

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1 need to come up. One of them is, if you're charged
2 with a felony in Virginia and you're unable to pay,
3 Virginia appoints you an attorney because you're
4 entitled to have counsel. It's a Constitutional
5 right.

6 What they don't tell you is that the
7 only amount of money they give this attorney, unless
8 you're charged with a capital offense, is one hundred
9 dollars. That's what the attorney is forced to work
10 with. Unless you're charged with murder, they don't
11 even give money for investigation.

12 My daughter is the President of the
13 Bar Association here. Unfortunately, she has a
14 kidney infection and she can't be here, but she asked
15 me to bring that up, that the Constitutional right to
16 counsel is meaningless if counsel can't be paid. If
17 you ask -- you had several prosecuting attorneys
18 here, but you had nobody from the defense bar, not a
19 single person from defense bar. If they had been
20 here, they would have told you this.

21 MS. RATTLEY: Where?

22 MR. CARTER: The defense bar.

23 MS. RATTLEY: Yes. We had --

24 MR. CARTER: Yesterday?

25 MS. RATTLEY: We had David Baugh.

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1 MR. CARTER: Not today. I'm sorry.

2 MS. RATTLEY: Yesterday. He is an
3 attorney.

4 MR. CARTER: I know who he is. Did
5 he mention the fact that these people are forced to
6 work without -- virtually without compensation?

7 MS. RATTLEY: No, but he gave us
8 some very pertinent information about the system.

9 MR. CARTER: Well, that's one -- and
10 of course, the bill was brought up annually this year
11 to increase that amount, and annually it is put down.
12 Bobby Scott made a lot -- Senator Scott --
13 Congressman Scott made a lot of great points, but the
14 point is, if one person who is innocent gets a proper
15 defense and doesn't have to go to jail for a year,
16 there's \$15,000 or \$20,000 we don't have to spend,
17 aside from the injustice of the situation, aside from
18 the injustice of the situation. There's somebody we
19 don't have to incarcerate, somebody whose life is not
20 ruined, somebody who might be able to earn and pay
21 taxes, somebody that's not out of circulation for a
22 year, somebody we don't have to feed, clothe, or
23 shelter. And often, it is only the -- it is simply
24 the amount of money that's credible for the defense
25 to hire an investigator to get the facts. That's one

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1 thing I wanted to mention. The second thing was --

2 MR. GALVIN: Who sets the fee
3 amount?

4 MR. CARTER: It's set by the General
5 Assembly of Virginia. It hasn't been changed in 15
6 or 20 years. They will not change it. There should
7 be some federal action requiring that if you're going
8 to have a right to counsel, that counsel has a right
9 to be compensated. They have a lawyer whose defense
10 was, Well, I haven't enough money to prepare the
11 case, and the lawyer -- and the Court said, Sorry
12 about that. Go ahead anyway.

13 MR. GALVIN: Who would you say --
14 you say the disproportionate number of people are
15 disadvantaged?

16 MR. CARTER: In order to qualify for
17 this court-appointed attorney, you have to show that
18 you're without funds. Guess who that is. And then
19 they get one hundred dollars and that's it, and the
20 lawyers are forced to interview them, to take on
21 their case, to be stuck with them -- some of these
22 are not the most compliant clients in the world, and
23 this for a hundred dollars. So a lot of people don't
24 want to do it; and the people that do it, do it as a
25 service, and they will tell you -- prosecutors tell

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1 you they do a wonderful job, but they don't have
2 anything to work with.

3 MR. GALVIN: Bear with me for a
4 minute. I'm trying -- if you can make a little bit
5 more of the -- I understand the circumstances. If
6 you can make a little bit more of a connection for
7 our record for us on where the disparity shows up, or
8 who is disadvantaged by this?

9 MR. CARTER: The typical
10 disadvantaged person is a young black male who
11 doesn't have a job anyway. Who are the poor among
12 us? You just go to the court system and look.
13 Everybody in there, looks like a dark cloud settled
14 over the place. It's the "just us" system.

15 MR. GALVIN: I understand, sir. I
16 needed you to say that for the record.

17 MR. CARTER: Okay, I have to say
18 that. I'm sorry. The magic word. Yes, we're
19 talking about 75, 80 percent, or 90 percent of these
20 are black or Hispanic defendants who are forced to go
21 with that.

22 Now, also, since time is running,
23 there's the question of informants, paid informants.
24 These people are criminals to start with, they're
25 selected through the judgment of the court. They are

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1 unsupervised. They're supposed to be run by trained
2 officers, but I have a case in my own family which my
3 own son was busted at UVA, made all the newspapers
4 and CNN, eleven young white boys went to jail -- he
5 was the only person who went to trial, and as a
6 result of the testimony of the young men who went to
7 jail -- if they had been eleven black boys this
8 wouldn't have happened -- but eleven white boys said
9 the informant brought the drugs to us and then
10 brought the cops to us to see the drugs that he
11 brought to us. The informant went to jail. So by
12 the time we tried our case, the informant was sitting
13 in jail. And of course, now it's another thing in
14 Virginia, you can't make an entrapment defense. You
15 can't get an entrapment instruction in Virginia.
16 It's never been done in the history of the world.
17 There was one case 30 years ago, and that got messed
18 up. So you have no entrapment defense. You go to
19 the jury, tell them the story, and of course, the
20 jury sent the kid home. Thank God for that because
21 now he's in third year of William and Mary Law
22 School, and he's going to be a lawyer just like his
23 sister.

24 But the point is that these people
25 are not drug tested, so once you're named to be an

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1 informant, selected to be an informant, you can
2 continue to do drugs, you can sell drugs, you can buy
3 drugs, and there's nothing anybody can do about it
4 because you're not drug tested, and they are
5 almost -- we had a federal judge in Virginia who
6 said, Why is it that all the people arrested -- of
7 all the people who were arrested in 25 or 30 people,
8 all the white kids became informants and all the
9 black kids became defendants. And you know, that was
10 overturned about two weeks ago, and the young man
11 who -- one of the people convicted went to jail
12 yesterday, and the newspaper today writes, Thank God
13 he's in jail.

14 But the question about -- that the
15 federal judge asked was why shouldn't the prosecution
16 justify the fact that all the white kids in this case
17 became informants, and all the black kids became
18 defendants? That question could not be asked, and
19 the federal court overruled it.

20 MS. MCCLLOUD: How are informants
21 selected?

22 MR. CARTER: Discretion.
23 Discretion. In the instant case I'm talking about,
24 the informant was selected to go on the campus of
25 University of Virginia.

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1 MR. DARDEN: One minute.

2 MR. CARTER: I was answering
3 questions. I'm sorry. Do you want me to answer the
4 question or do you want me to get up?

5 MR. DARDEN: You have one minute
6 left.

7 MR. CARTER: One minute for me to
8 answer the question?

9 MR. GALVIN: You have one minute
10 left, yes, sir.

11 MS. MCCLOUD: You can omit the
12 question.

13 MR. GALVIN: You can omit the
14 question if you want and use your one minute.

15 MR. DARDEN: I need some
16 clarification on this one.

17 MR. CARTER: Normally, it's five
18 minutes for the presentation and the questions get
19 answered as they're asked.

20 MS. RATTLEY: Just a minute, please.
21 He should be permitted to make his presentation in
22 five minutes, and then if we want to ask questions,
23 we should do it after that five minutes. Let's set
24 that as the rule.

25 MR. CARTER: Well, I'll regard that

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1 five minutes as shot. I just want to answer his
2 question which was, as I understand it, how were the
3 --

4 MS. RATTLEY: Finish what you have
5 to say. Then you can answer his question.

6 MR. DARDEN: Just one other
7 question. Will you hold your questions then until
8 the conclusion of the five-minute presentation, and
9 I'll let know when they've concluded their five
10 minutes. Thank you.

11 MR. CARTER: Okay. The only other
12 thing I want to put in, because we're running out of
13 time, is the discretion of the person to select who
14 the informant is going to be is easily abused because
15 they have all these kids in trouble together, and if
16 you tell on him, you get to go home. This happens in
17 this particular case, you know, what happened there.

18 And I want to point something else
19 out, and that is, since we won the war against the
20 Afghan rebels, or won with the Afghan rebels, the
21 price of heroine, which is coming from Afghanistan, I
22 hear, is coming in Newport News on these streets, has
23 gone from \$40 to \$8.

24 MS. RATTLEY: What has?

25 MR. CARTER: The price of heroine

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1 has gone from \$40 to \$8 ever since --

2 MS. RATTLEY: How much?

3 MR. CARTER: Whatever \$40 worth of
4 heroine used to be, it's now \$8. I'm not a heroine
5 buyer so -- all I know is my daughter has told me
6 this, and everybody knows around here the price of
7 heroine has gone through the floor ever since the
8 pipeline's been opened --

9 MS. RATTLEY: I guess that's
10 measured by weight also?

11 MR. CARTER: Yes, it's the same
12 equivalent amount of drugs. The purity went up. I
13 actually had an heroine overdose burial -- I'm a
14 funeral director -- and I hadn't had that for years.
15 So the purity is going up, the quality is going up,
16 the price is going down, and everybody says that has
17 nothing to do with the -- our relationship with the
18 Afghan rebels, but who can tell. I think if we want
19 some of the drug problems -- if the government would
20 get out of the drug business, it would help us a lot.

21 Now, if you have any questions, I'll
22 be glad to answer them, and if you want to know more
23 about the heroine situation, I'll be glad to answer
24 that question.

25 DR. AL-HIBRI: I noticed today when

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1 I was talking to someone on the panel here from the
2 police department, they said they carefully
3 distinguish between paid informants and other kinds
4 of contacts. I wanted to ask, the paid informants,
5 you've already described some of the role they have,
6 but does the police department, for example, have
7 contacts in the community who are not paid, but
8 perhaps they have been earlier brought to the police
9 department, they have charges pending against them,
10 and some sort of, you know, action has been taken,
11 that they go back into the neighborhood?

12 I'm concerned about the answer we
13 were given this morning, that the police focuses on
14 black communities essentially because these
15 communities themselves call the police and say, Come
16 rid us of this crime. I want to know is it possible
17 that the police has contacts in these communities
18 that will call them and say, Come on in, we have
19 crime. So is it really the neighborhood individuals,
20 who are individuals who are suffering from the crime,
21 or is it a mixture of both?

22 MR. CARTER: In the instant case, it
23 was neither of the above. It was a political
24 decision based upon a reelection process and other
25 things, and the fact that the university had been

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1 criticized for not having anybody being arrested on
2 the university campus. And so as a result, the
3 recently elected sheriff, and the newly installed
4 Commonwealth Attorney, whose boss had just become the
5 judge in the case, they decided to set up the campus
6 and see if they could find some drugs.

7 They busted an African American kid
8 for three and-a-half pounds of drugs, and then turned
9 him loose on that -- he was a drug dealer -- set him
10 loose on the campus, and he went out and dealt drugs
11 all over the campus, and then took the police officer
12 to kids that he had given the drugs to and had them
13 arrested. It's as simple as that. And he did it
14 unsupervised, undrug tested, and paid for each bust
15 he came up with. We established that, and the jury
16 threw the case out. But the fact is, these
17 informants -- and part of the murder problem is that
18 informants are often the ones -- people suspect that
19 the informants are the ones who get murdered. If I
20 could have got my hands on that kid, I swear to God,
21 he would have been in deep, deep trouble.

22 MS. MCCLOUD: I'd like to go back to
23 my question, please. I had asked how informants are
24 selected, and now that you are finished with your
25 statement, maybe I can ask that, and you could answer

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1 it for me?

2 MR. CARTER: If you're asking me, I
3 think the informants are selected to fit the job they
4 want to do. So if they want to send somebody into a
5 crack house on 25th Street, they find an informant
6 who has been busted in the area, or who meets the
7 profile of the person they want to go after. And if
8 you choose poor black informants, you're going to get
9 poor black defendants. If you choose rich, white
10 informants, you're going to get rich, white
11 defendants. The problem is, that doesn't usually
12 happen.

13 MS. MCCLOUD: Which doesn't?

14 MR. CARTER: The statistics speak
15 for themselves. If crack use is evenly divided
16 around the whole community, and crack arrests are
17 based upon informants, and 95 percent of the people
18 are black, then it is obvious that the informants are
19 obviously black and that the community is being
20 targeted.

21 Now, of course, the community is
22 complaining, but visible drug offenses, which we
23 always talk about visible drug activity, is always in
24 poor communities, because rich people don't do their
25 drugs on the street.

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1 An addict with a problem is an
2 addict who ran out of money. If I want to do crack,
3 I can do it all day long. They can come to my
4 office, and nobody's going to ever come down there
5 and do anything about it. Nobody will complain
6 either. But if I run out of money and I stand out in
7 front of the place and start flagging down cars,
8 that's what happens, and of course, the poor people
9 run out off money first, and who are those -- the
10 unemployed, the underemployed, young black males,
11 typically. I have an arrest record. My son has an
12 arrest record. Every black person I know has an
13 arrest record. And I think I'm a pretty dignified
14 guy.

15 MS. RATTLEY: Thank you very much,
16 Mr. Carter.

17 MR. DARDEN: Next is Mr. -- let me
18 do this. Are you Mr. Langford? All right. Before I
19 call Mr. Langford, for the third and last time, Cathy
20 Patterson. Is Cathy Patterson here? I'm taking that
21 name off. For the third and last time is Ronnie
22 Lyons here? Take that name off.

23 Now, Mr. Langford. That's the
24 second call for Mr. Langford.

25 Debbie Roberts or Mr. Williams, is

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1 it?

2 MR. ROBERTS: Right.

3 MR. DARDEN: Mr. Williams. Is
4 Debbie Roberts with you also?

5 MR. ROBERTS: William Roberts.

6 MR. DARDEN: Your name is William
7 Roberts, so this should be William Roberts?

8 MR. ROBERTS: Yes.

9 MR. DARDEN: Is there a Debbie
10 somebody? Okay. So it's Robert -- William Roberts.
11 Mr. Roberts, please. You may --

12 MS. RATTLEY: Mr. Roberts, come up
13 to the podium, please. You can either stand there or
14 you can sit here.

15 MR. ROBERTS: I'd like to stand.
16 I'll be brief and short. Okay. My complaint is --
17 my name is William L. Roberts. I live at 1901 Bay
18 Avenue, Hampton. My complaint is a note was signed
19 with Bill Lewis Chevrolet, and I was working at DC
20 Department of Corrections.

21 MR. DARDEN: Repeat the name of the
22 Chevrolet dealer.

23 MR. ROBERTS: Bill Lewis Chevrolet
24 at Chesapeake, Virginia. I was supposed to sign for
25 my son, thinking I was cosigning, but I was the major

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1 buyer, but I didn't discover all this until last
2 year, about last August when I had to go to Hampton
3 City Court on delayed taxes that I felt like, and I
4 still feel like, that they took innocent money from
5 me for these taxes.

6 Why I say so, because the credit
7 reference don't tally with the ID number on
8 everything else. I had POA to sign some paperwork in
9 this deal which should have -- I should have all
10 knowledge of this work that was done. I'm a dumb
11 man. I didn't get a chance to go to school much. I
12 had to work until I went in the military. When I
13 come out of the military, I took up a trade. And at
14 times, after I had taken up the trade, I got hired by
15 D.C. Department of Corrections. D.C. Department -- I
16 was out of place with -- the people should have
17 called me and said, There's something wrong here, get
18 back with us and let's correct this thing.

19 So I'm saying they deliberately,
20 intentionally, defraud me on this deal. I got a lot
21 of stuff here that I can't go through all that to
22 give you exact information right now because my wife,
23 she helped me sometime, but she's been away for a
24 couple weeks now almost, and I need the receipt for
25 the money that I gave Quadros & Swanson. They

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1 shouldn't have taken my blood money because Mr. Gwynn
2 told me plain that after I sent it off after talking
3 with him this day, to get my city sticker because I
4 was taking treatment at VA Hospital in D.C. I had
5 taken radiation, and I needed my sticker so I could
6 drive my vehicle back to D.C. and he and I sat down
7 and talked. He said, Whatever you pay, I'll accept
8 it, which I was paying something I shouldn't have
9 been paying on, but I paid \$50 on it. Soon as I paid
10 this money, less than sixty days later, here come a
11 letter from Quadros & Swanson.

12 And there's been a lot of paperwork
13 since then, because last week, I had to go to court.
14 They took out a warrant for me and fouled up my bank
15 account, which all I had in there was retirement and
16 Social Security. And I went down to Central Fidelity
17 a few days ago and told them about, you can't touch
18 this. I told them, I say you can't touch this. I
19 say, Because this is Social Security and retirement
20 money. I needed my money because I was still under a
21 doctor. I still had to go back to D.C. to take
22 radiation.

23 But to get back with what they done
24 to me, he going to tell me in front of the Judge the
25 other day that he had recalled this. I want it in

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1 writing. I want him to tell me plainly. Don't tell
2 me nothing in words, because they back off of words.
3 I told the man at Casey -- at Bill Lewis Chevrolet, I
4 said, I'm not here to buy another vehicle now because
5 I'm buying one and he want to put my truck as a
6 collateral on the contract, but he fouled up when he
7 didn't put the ID number right on the contract -- on
8 the credit reference. The credit reference is the
9 foundation of a building. If you don't use the
10 credit reference right, it fouls up everything else
11 that you sign on. I'm a dumb man. I don't know.
12 Tell me.

13 MS. RATTLEY: Stop calling yourself
14 a dumb man.

15 MR. ROBERTS: I'm sorry.

16 MS. RATTLEY: You're not dumb.

17 MR. ROBERTS: In a few days, I'll be
18 71. I'll be 71. I worked hard to establish what I
19 have in this life, but I have a condition and a goal
20 to go. I feel like -- I told Quadros, I said, I want
21 my money. I want my blood back.

22 MS. RATTLEY: They are representing
23 this Chevrolet dealership?

24 MR. ROBERTS: They represent the guy
25 on the City of Hampton. They're not coming out for

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1 me, because on my other vehicle, I had paid tax on
2 the other one, but they got this --

3 MS. RATTLEY: That's the taxes for
4 the City of Hampton?

5 MR. ROBERTS: Yes.

6 MS. RATTLEY: Personal property tax?

7 MR. ROBERTS: Right. What I'm
8 fighting for is Bill Lewis had no business doing
9 contract work on me with the wrong ID number on the
10 credit reference, because that is the foundation of a
11 deal, because an institution going to loan money --

12 MS. RATTLEY: You had repairs made
13 there, or did you buy a car there?

14 MR. ROBERTS: I bought the car
15 there.

16 MS. RATTLEY: You bought the car
17 there?

18 MR. ROBERTS: Yes.

19 MS. RATTLEY: Did they foreclose on
20 you? Did they --

21 MR. ROBERTS: No. What has
22 happened -- excuse me. What has happened, they write
23 all over, credit companies, the credit departments,
24 you know, frustrated my creditors. The bank sued me
25 and was wrong. And they wouldn't come back clean

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1 like they should. And Mr. Rickman, I have a letter
2 that Commercial Bank, they the ones that financed
3 this deal on the foul ID number and -- but
4 Mr. Rickman give them a letter after Signet Bank
5 fouled up, that I didn't owe -- my record was clear
6 with Signet Bank, Commerce Bank.

7 MS. RATTLEY: Have you talked to a
8 lawyer?

9 MR. ROBERTS: I'm too poor. I'm too
10 poor. I had some information to see the clinic in
11 D.C. because see, I had to go to D.C. often because I
12 work with the department. I work with what you-all
13 been talking about this. That's how I learned so
14 much, but I'm going to say it again, I'm dumb. I'm
15 not supposed to know that they took my blood, my
16 innocent blood. I'm not supposed to know that.

17 MR. PATRICK: Mr. Roberts, that's
18 fine. As you probably know, I'm an attorney, and I
19 deal with a lot of these issues including --

20 MR. ROBERTS: I appreciate that.

21 MR. PATRICK: I think from a
22 personal perspective -- I live in Alexandria -- what
23 I will be able to do is make contact with you and
24 talk to you, because I've dealt with some consumer
25 law. I think I know what the heart of your problem

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1 is, and perhaps I can give you some time and try to
2 help you unravel that.

3 MR. ROBERTS: Thank you.

4 MS. RATTLEY: Would you then please
5 give Mr. Patrick some contact point --

6 MR. ROBERTS: Yes.

7 MS. RATTLEY: -- where he can reach
8 you, and I think it's very commendable. As a member
9 of this committee, he doesn't have any obligation to
10 make that offer, and I think that's quite generous.

11 (Applause.)

12 MS. RATTLEY: So you should wait
13 until we finish, if that's not too much. I'll write
14 it out and let him have it.

15 MR. ROBERTS: I can wait as long as
16 it takes. I can wait as long as it takes. Thank
17 you, Mayor Rattley. I appreciate this opportunity
18 because I'm old. I'll be 71 in a few more days,
19 because God has helped me.

20 MS. RATTLEY: You're a young man and
21 you're not dumb.

22 MR. ROBERTS: I can see my victory
23 because I'm standing in right. I'm standing in
24 right. My heart is not out to covet people's goods
25 like the hyenas and whatever. When the bad lion is

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1 there, the hyenas stand back in the dark. But if
2 they had contacted me with the phone number at my
3 workplace, this matter would never have happened.

4 MS. RATTLEY: Okay. Let's get some
5 advice from someone trained in the law. Thank you.

6 MR. ROBERTS: Thank you.

7 MR. DARDEN: Thank you, Mr. Roberts.

8 Next -- third call for Mr. Langford. Third call,
9 Mr. Langford. Take that name off the list.

10 Joe King -- I'm sorry. Patricia
11 Smith. Patricia Smith and Joe King.

12 MS. SMITH: Good afternoon, ladies
13 and gentlemen.

14 MS. RATTLEY: Good afternoon.

15 MS. SMITH: I said good afternoon.

16 This is my first time here.

17 MS. RATTLEY: I was just saying good
18 afternoon to you.

19 MS. SMITH: Well, anyway, I want to
20 talk about the justice system. I have some copies
21 here, and this is about a young man -- one is black
22 and one is white. There was a young black man in
23 Hampton tried with three armed robbery charges, which
24 the law says if you have armed robbery charges,
25 you're not allowed parole. Okay. Then there was a

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1 --

2 MS. RATTLEY: To vote?

3 MS. SMITH: You're not allowed
4 parole.

5 MS. RATTLEY: Parole.

6 MS. SMITH: Right, you're ineligible
7 for parole. But then there was a white person, white
8 fellow, which did the same crime, but there were
9 provisions made -- and I've got copies of this -- and
10 I just want to say that the justice system is not
11 fair. I mean, you take -- these are two people. One
12 is black and one is white, and they both did the same
13 thing, but they made provisions so that the young
14 white man could be eligible for parole. It's not
15 fair. I mean, it's just not fair. So I would like
16 for you to read these copies if you will.

17 MS. RATTLEY: Is this a copy we can
18 keep?

19 MS. SMITH: Yes, it is.

20 MS. RATTLEY: Give it to Mr. Darden.

21 MR. DARDEN: Do you have any further
22 comments?

23 MS. SMITH: No. I just wanted to
24 get this -- I want it to get known. Thank you.

25 MR. DARDEN: Next is Joe king.

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1 MR. KING: My name is Joe King. I'm
2 from Hampton, and I was here last night. After
3 listening to several people -- how much time do we
4 have here?

5 MR. GALVIN: Five minutes.

6 MS. RATTLEY: To speak, you have
7 five minutes. Mr. Darden will keep time.

8 MR. KING: Okay. I can't say with
9 certainty what I'm going through in five minutes, so
10 I'll be as brief as I can, and that's saying a lot.
11 I am a business person in Hampton, been there, built
12 a business, automotive business, I've got a recycling
13 center and I've worked hard all my life. And in
14 Hampton, I can tell you that if you see a black man
15 who has been successful in developing and building a
16 business without any help, and I mean from the bank
17 or whatever, you've seen something. That is -- you
18 think Michael Jordan has done something, you ought to
19 try that. I mean, that is a tremendous, tremendous
20 thing to do, and I'll tell you -- not that I'm
21 anything special, but I can tell you it's very
22 difficult to do in Hampton, Virginia today, and
23 before today.

24 Some of the things that I want to
25 say -- and there are many, and I learned a long time

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1 ago -- and I'm retired military, so I learned a long
2 time ago you just take it and keep going, so that's
3 what I've done. For example, most recently there was
4 a woman that had me arrested and said that I had
5 threatened her life. She called me in my business,
6 said I threatened her life. And of course, I was
7 taken to court, and I asked the judge, you know, when
8 we -- when the thing came up, Judge Kashouty, what
9 the situation was. I mean, Where was the evidence,
10 where was the motive. Lady didn't know me or
11 anything. I sold her a car seven months ago. I told
12 her I could not fix the transmission after seven
13 months, and there was no problem. She said at that
14 time, and when I asked what the problem was, she said
15 that I had threatened to take the skin off her body,
16 and I didn't know -- this, of course, was a white
17 woman from Williamsburg, and I'm in Hampton.

18 And, of course, the Judge found me
19 guilty, and I asked him, Guilty of what? And I said,
20 Where is the motive, you know? No money, no nothing.
21 He said -- and, Where is the proof? She called me.
22 I never called her. She admits that. He said, Mr.
23 King, I don't need any proof. I believe the lady,
24 and, you know, guilty.

25 And, of course, I went to appeal the

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1 case and -- went to appeal the case to the higher
2 court, and that was like just doing nothing, just
3 throwing your time away. And when I got in there, of
4 course, the evidence was -- you know, certainly,
5 there was no evidence, and this time, of course, the
6 lady testified, and when she was asked why I would
7 have threatened her, she said -- she changed her
8 story then and said that I said that you don't know
9 what black men do to white women when they come down
10 here from the north, or something like that.

11 And, of course, no evidence, no
12 nothing, and guilty again. And, of course, you know,
13 I wanted to go to jail, but they don't send you to
14 jail, they take your license, and all those other
15 kinds of things, because I certainly would have gone
16 to jail because I have no problem with that. I was
17 in the city. I have no problem with that. They can
18 lock me up for as long as they want, doesn't bother
19 me at all. But at any rate, that's just one
20 instance, and it cost me about \$5,000, you know,
21 because they're going to take my license and stuff.

22 The other thing was, I was running
23 for city council one time -- and these are just a few
24 things -- running for city council one time and was
25 in court, and there was a young lawyer in there

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1 giving a case, and her name happened to be Rattley,
2 and I was listening to the case, and my case was
3 next. So after we saw what the Judge did --

4 MR. DARDEN: One minute.

5 MR. KING: -- the lawyer and I from
6 the other case, after we saw what the Judge did, we
7 said we're not going to be in this court because it
8 was very, very discriminatory, and we just said,
9 Well, we're not going to be here, and the other
10 lawyer against me agreed, and we got up and we went
11 to the bench, and we both had agreed, and we said we
12 wanted to postpone our case until the next month or
13 whatnot.

14 And Judge Kashouty asked me why. I
15 said, Sir, based on what I just saw there, you know,
16 I'd rather we have another judge. And so he said,
17 Why? I said, Well, just based on what I saw. And
18 so, you know, we left and he said -- you know, we
19 left, and the next three days I got a summons to
20 court for contempt of court, for contempt of court.
21 He wrote in his writing, that I charged the bench,
22 got up from my seat, directly charged the bench,
23 disrupted the Court.

24 When I went to court with him for
25 this thing, I said -- you know, I really thought he

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1 was mistaken. When I went to court for this thing,
2 he says to me that you disrupted the Court, such and
3 such and so on and so on. I said, Well, sir, it
4 seems like you're serious about this. I think I need
5 a lawyer.

6 We don't have time. Guilty. And of
7 course, I went to Judge -- what's his name --
8 Overton's court again, same thing. Thank you.

9 MS. RATTLEY: Thank you, Mr. King.

10 MR. DARDEN: Next is Lieutenant
11 Commander Robert Cobb.

12 MR. COBB: Good afternoon.

13 MS. RATTLEY: Good afternoon.

14 MR. COBB: First of all, as you will
15 see in my cover letter when you read it, I am
16 extremely pleased that there is a forum that was
17 developed to hear these cases and these appeals. I
18 had a similar circumstance in which involved a
19 traffic ticket in the City of Hampton, as you will
20 see in the handout.

21 I happened to own a Jaguar, and it
22 was over the weekend, and I was traveling --

23 MS. RATTLEY: Can everybody hear
24 him? Come down and sit here by this mike.

25 MR. COBB: As I was traveling down

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1 Hampton Boulevard, I was stopped by a police officer
2 for speeding. In that instant, I was traveling with
3 a car in front of me, a car behind me, and a car on
4 the side. As the car was turning, the cab -- the
5 police officer was parked about a block away at an
6 intersection at Hardee's. He pulled out, followed me
7 approximately a mile and-a-half down the road behind
8 an elderly gentleman, Caucasian, driving a town car.

9 After passing through four stop
10 lights -- three stop lights, he turned his light on,
11 left from his left lane, pulled in behind me from
12 behind the other vehicle and proceeded to stop me.
13 When he approached the car, he approached in a manner
14 that was provoking, shouting various things, and I
15 just sat there, and I listened to him. And later on,
16 once we got into our conversation, then he realized
17 that I was, in fact, in the military and I was an
18 officer.

19 Whenever we arrived in court -- I
20 had various handouts, as you will see, drawn up. The
21 lawyer -- not the lawyer, but the police officer
22 stood up in court and told the Judge that none of it
23 was the case. It was down the road. He stopped me
24 in the same block in which he wrote the citation,
25 which is not true.

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1 What bothers me, after listening
2 this morning about all the cases of drug deals and
3 how one group is being persecuted much more so than
4 another group, is when I think about the number of
5 personnel that are in jail now because the police
6 officers invite planted evidence or a lie during the
7 prosecution. That is the biggest thing we have.

8 I look at the Iverson case, which
9 brought all this down, being a high-profile
10 individual, George Thompson, Chaney and the rest of
11 them got together, and we are here now, but now what
12 happens to Joe Blow who is walking downtown, gets
13 picked up, same situation, same circumstance, not a
14 high-profile individual. He has no recourse. He's
15 lost in the system somewhere.

16 I asked a question, How do we get to
17 that point. This morning you asked that question,
18 Where did the drugs come from? What's the hope you
19 have coming out of the neighborhood if you go down
20 Marshal Avenue up here to this Be-Lo? Look at the
21 food that's in that store, look at the prices that's
22 in there, and the conditions of the store. Now go to
23 Denbigh and look at that and compare the two. That's
24 why you have people standing out on the street now
25 selling drugs because they're being ripped off

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1 through the legal system. They can't get anything,
2 and they feel that they're in a lose-lose situation.

3 Yes, we are reactive. We're not
4 proactive. We're taking the low guy on the totem
5 pole that's selling five dollars worth of crack
6 cocaine. Yes, he is wrong. He needs to be punished
7 and taken off, but yet Uncle Sam up here, who has
8 four billion dollars' worth of drugs coming in on the
9 boat, nobody's taking the time to persecute him; but
10 if you stop him, then you stop 50,000 Joe Blows out
11 in the street, because there is nothing for him to
12 use.

13 If you open up education, you open
14 up jobs, give these kids a future that you have
15 something to work towards, it's not only the ones
16 walking around with baggy clothes. As I said in my
17 letter, when myself and my wife pulled into a parking
18 lot in Denbigh, driving the Jag again, the police
19 officer called for a backup, ran a check of our
20 license plates, came in behind us into a store which
21 we went in and he leaned up against the wall and see
22 if we were going to rip the place off.

23 Soon as we came out and left, he
24 came out, both cars pulled off as soon as we pulled
25 off, but what, I was targeted because of the

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1 complexion of my skin. I have a master's degree in
2 mechanical engineering. My wife has a decent job.
3 And we can afford these things, but yet I watch cars
4 pull up alongside of us, police pull up behind, you
5 see them get on the radio, do a license plate check,
6 see if the car was stolen; or they'll run up
7 alongside and look over at you and hoping that you
8 will speed down the road and give them some reason to
9 pull you over to check you out. And it's not right.

10 MR. DARDEN: One minute.

11 MS. RATTLEY: Thank you very much.

12 This ends your --

13 MR. COBB: Yes, ma'am.

14 MS. RATTLEY: I have to feel
15 compelled to just make a statement, so deja vu. I
16 was born and reared in Alabama, and when I came to
17 this area, it necessitated my going back and forth on
18 the highway home, so I have been there years before
19 you were born. And aside from not being able to stop
20 to eat anything, or to use the bathroom, as you know
21 or read, if you were driving a certain car through
22 those states -- I had to go through like, you know,
23 Virginia, and North Carolina, South Carolina, and
24 Georgia before you get to Alabama, and many times
25 instead of driving an expensive car, you either

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1 borrow a cheap car to drive -- I didn't do that.

2 MR. COBB: I understand.

3 MS. RATTLEY: Because you knew you
4 were going to be stopped. You didn't have to do
5 anything. You could be driving within the speed
6 limit. You have all your inspections, and everything
7 is right.

8 And I have a close friend who went
9 to jail, decided they wanted to carry him to jail.
10 They were driving a Lincoln, I believe. And what
11 you're telling me now, this is 1997, isn't it?

12 MR. COBB: Same thing. Same thing.

13 MS. RATTLEY: So that's why I said
14 deja vu. It's there, and I think the Chair of the
15 U.S. Commission on Civil Rights made the observation
16 when she took her tour a little while ago and came
17 out with her report, that it is still there. And, of
18 course, there are some people here now, or in the
19 city now, who say this forum isn't necessary and all
20 we would do is to stir up, or to remind, or to breach
21 this calm and this peace. I just had to say it
22 because it sounds like something I would have been
23 saying to a similar panel years ago even before you
24 were born.

25 Anyone else? Any questions?

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1 MS. MCCLOUD: I have a question.

2 MS. RATTLEY: Yes.

3 MS. MCCLOUD: I wonder if you could
4 tell us what some of the things were that the police
5 shouted at you. This is primarily for the record.

6 MR. COBB: Basically, yes, the
7 police officer was approaching the vehicle. He had
8 on his gun, and he was screaming, Do you know what
9 the speed limit, How fast were you going, Do you know
10 what the speed limit is out here, over and over and
11 over, although I repeatedly said 35. It was more of
12 a badgering type thing trying to provoke me into
13 saying, or responding, or making some type of move.

14 MS. MCCLOUD: Thank you.

15 MS. RATTLEY: Are there other
16 questions?

17 REVEREND HARRIS: Did you file a
18 complaint?

19 MR. COBB: I filed my complaint
20 through the Chief of Police, which I also sent it to
21 the mayor's office. Their investigation was
22 unsubstantiated, We do not have enough evidence to do
23 anything, so this is closed.

24 MS. RATTLEY: That was in Hampton?

25 MR. COBB: City of Norfolk. I'm a

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1 resident of Hampton, but I'm stationed in Norfolk,
2 and that's why I was over in that area.

3 REVEREND HARRIS: You're in the
4 military?

5 MR. COBB: That's correct.

6 MS. RATTLEY: What do I see up there
7 in gold?

8 MR. COBB: Lieutenant commander, oak
9 leaves.

10 MS. RATTLEY: Colonel?

11 MR. COBB: No. If it was the Army,
12 it would be major, but we call them lieutenant
13 commander in the Navy. Since you mentioned that, by
14 no means is it just in the civilian sector. I can
15 tell you some things in the military definitely.

16 REVEREND HARRIS: I'm trying to find
17 out, did anybody -- did your commander know about
18 this situation, and did the commander help you to
19 resolve it?

20 MR. COBB: The CO of my command did
21 not know about it, but my immediate officer over me
22 did know about it, but that's as far as it went.

23 MS. RATTLEY: What was the outcome?
24 Were you fined?

25 MR. COBB: I was fined. That's

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1 correct. I was fined. Initially I appealed it, and
2 I was going to take it to the next highest court, but
3 as response came in the courtroom, and you could see
4 that the questions from the Judge was, Officer, did
5 you calibrate your equipment this morning; Did you go
6 through the serial check? Yes, yes, yes. Oh, okay.
7 Well, he did everything he did. Well, okay, so he
8 basically spoon fed him the whole time into what to
9 say.

10 And I knew if you went to the next
11 highest level, it would be the same. I tried to go a
12 different route, and if nothing else, I was willing
13 to take a polygraph. If he would take one, I would
14 pay for it. All I ask for is that I had a
15 representative there, he had a representative there,
16 and a neutral party administering it, and that would
17 have been it. If I was lying, great. If not, I
18 would accept an apology from the city, and you
19 reimburse me and clear my record, but as you see,
20 they found no need of doing it.

21 REVEREND HARRIS: All right. So
22 you've given up on it?

23 MR. COBB: I'm here.

24 (Applause.)

25 REVEREND HARRIS: As it relates to

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1 this hearing, we will make a report to the
2 Commission, our finding; but in the meantime, if you
3 want to pursue it further -- I'm not a lawyer, but I
4 have strong ties in the Civil Rights Commission -- I
5 mean the Civil Rights Organization. I work with a
6 Southern Christian Leadership Conference, and our
7 local president is here, and if you want to pursue
8 this matter further while you're waiting for the
9 report from the Commission, then we would be glad to
10 serve you in that particular capacity.

11 MR. COBB: I really appreciate it,
12 and I think that would be great because I have some
13 more news I think you would be interested in hearing
14 about.

15 REVEREND HARRIS: See Reverend
16 Harris, our local president, and get all the
17 information. We will pursue that.

18 MR. COBB: Yes, sir.

19 MS. RATTLEY: Mr. Cobb, thank you
20 very much.

21 MR. DARDEN: The next person -- I
22 apologize for making a mistake -- is Dr. Warthell
23 Browne, and as Dr. Browne is arriving, just to inform
24 the Committee, we have had additional sign-ups, and
25 we have currently 16 more who are waiting to be

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1 heard. We've been averaging about 12 or 13 minutes
2 per to this point.

3 DR. BROWNE-ILES: I'm going to be
4 very brief.

5 My name is Warthell Browne. I want
6 to say truly it's a pleasure to me to be here. I
7 never thought I would get to bring my case before
8 anyone except my close friends and colleagues. My
9 name is Warthell Browne-Iles. I came here to begin
10 here as a middle-aged or senior citizen with a clear
11 record; clear financially, as far as my credit
12 record; clear criminally, as far as criminal record;
13 clear of traffic.

14 I'm a registered professional nurse,
15 a clinical practitioner, family nurse practitioner,
16 nationally certified, and I have a PhD in public
17 policy and health service administration. I have
18 worked many years. And I, too, have had serious,
19 serious problems happening to me since I have been
20 here in Virginia. I'll try not to get emotional
21 about it. So I will read what I have.

22 My name is Warthell Browne-Iles,
23 born -- I'm a senior citizen -- 1931. I currently
24 live in Hampton. I was accused of forgery,
25 utterance, and false pretenses in May of '84. I have

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1 copies of the information.

2 In early 1983, while out of town, I
3 was called and notified that my house had been
4 burglarized. This burglary should be of record at
5 the Hampton Police. The police investigated this and
6 an Officer Fittler (phonetic) informed me that the
7 fingerprints left were those of a small hand, perhaps
8 left by a teenager. I questioned a teenager with
9 small hands, but they thought because the
10 fingerprints were small, they were a teenager's. And
11 I said I think it must be a female because of the
12 items taken.

13 I am retired military. I had many
14 items and artifacts from traveling, including
15 imported china and crystal, and those things were
16 taken, in addition to women's clothing, and I doubt
17 very seriously if a teenager would take china and
18 crystal. So I went around to the pawnshops, and they
19 said, No, we don't handle those things; they're too
20 delicate, we can't keep them. So I assumed they had
21 been taken by a young female, but I couldn't have
22 said who could have taken them because I have a big
23 strapping son, a football player, so it wouldn't be
24 small fingerprints, and the items that were taken
25 were items that I had even before he was born, and he

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1 had grown up in the house with them, so I didn't even
2 think of him having taken them.

3 So some months later, my checking
4 account showed some discrepancy. Upon careful
5 observation of my account, there were several forged
6 checks. Those checks were taken to the bank for
7 investigation. My checking account was consistently
8 coming up short of funds, and by January '84, this
9 had occurred -- the burglary had occurred in '83. By
10 January of '84, my payroll check was held up because
11 I had so many outstanding checks that some had come
12 in that had taken my money, and at this time, I was a
13 Professor of the Medical College of Virginia.

14 I walked down to the bank, down from
15 Broad Street, to try to find out what had happened to
16 my checking account, and they had said you had so
17 many outstanding checks that we're holding up your
18 payroll check. So when the statement -- I said, I
19 haven't made all those checks. But when my statement
20 came out, that's when I looked through the statement
21 carefully, and I found all these forged checks.

22 So in early February, the bank
23 closed my account, said we'll close your account.
24 They sent me the money and said, We'll go ahead and
25 start all over again. I said, I need some money now.

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1 I have to pay my utilities, and I'll never forget
2 because it's February '84, was a snow day. I
3 remember that because I was up at the bank. I didn't
4 even go to work from here in Hampton to MCV that
5 morning. I said, I have to get my money because I
6 have to pay my heat, my utility bill, my fuel bill.
7 So I went to the bank here in Hampton, and they gave
8 me money, and they said we closed your check and
9 canceled them, and we're going to send you the rest
10 of the money.

11 So then two or three months later, I
12 got a letter, a call from the bank, and the bank said
13 that a check had come in and been deposited in my
14 account, and these checks had been drawn out. And
15 they showed me a photostat copy of the check. It was
16 for \$2,061.24. This check was dated January '83.
17 When they called me to the bank that the check had
18 been put in my account, was in January '84, a year
19 later.

20 So at that time, I began to receive
21 notices from merchants that they had received return
22 checks stamped "account closed." I had not written
23 any checks nor purchased any items from these
24 merchants. There were stores such as Thalhimer's,
25 Hair Cuttery here in the mall, the music stores in

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1 Hampton, and Thalhimer's even stated that the lady
2 for whom -- they had looked at her license as
3 identification, driver's license, had my name on it;
4 however upon seeing me, because I went around to
5 these merchants to say, Who came in here? What
6 identification did you have? Did they have a
7 driver's license?

8 So I said, Did the person look like
9 me? They couldn't remember, but the lady at
10 Thalhimer's saw me and said, No, the lady did not
11 look like you. I said, Well, someone is writing
12 checks on me. So I couldn't imagine how they could
13 have my driver's license. That's the thing that
14 disgusted me. This was when they had the driver's
15 license before they was laminated now. This is when
16 they had the driver's license where you could insert
17 parts to it.

18 So we discussed this, and they
19 admitted the person probably had put the picture in
20 my driver's license. How did they get my driver's
21 license? So then I recall, I said, Uh-huh. When
22 somebody broke in my house in '83 -- because things
23 were in a mess, and they broke in my file cabinet,
24 and I had had a duplicate license back when I
25 misplaced my license. When I found my license, I

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1 filed my duplicate. And I said that's where they got
2 my driver's license. I had forgotten all about it,
3 so in -- but a few months later, after the bank had
4 gone through and they closed the account, started
5 another account, I was suddenly rushed in my house in
6 May '84 and was arrested by Hampton Police and a
7 Detective Corona. They charged me with forgery,
8 utterance -- three things I mentioned. I had -- I
9 knew what forgery was. I said, What is utterance?
10 And what was the other one? There were three of
11 them -- forgery and false pretense. I said, What is
12 false pretense? What is utterance?

13 So they had accused me of those
14 three entities. And at that time, I was in a state
15 of shock. A friend came down. She said, Get
16 dressed. She said, They're going to lock you up. I
17 said, For what? I'm going around -- I had put my
18 clothes on. They escorted me out in the police car.
19 I'm still in a state. Took me downtown. Now, mind
20 you, I never even been in a cell. They put me in a
21 cell, fingerprinted me. I'm sitting there in a daze.
22 I couldn't even hardly tell my name.

23 So finally, they suggested a lawyer,
24 a friend of mine. So I called a Mr. Lacy Scoggin and
25 explained to him. He's supposed to take the case,

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1 but next thing I knew, I was going to court, and when
2 they took me to court, they said nolle prosequere, nolle
3 prosequere, and they accused me of the false pretense. I
4 tried to find -- how you accuse me of false pretense
5 because I didn't forge any checks, I didn't utter any
6 checks. I didn't do anything in reference to the
7 checks. No one could tell me. I tried to get
8 information from Mr. Lacy Scoggin, because he was the
9 one that had the case.

10 MR. DARDEN: One minute.

11 DR. BROWNE-ILES: He never, never
12 talked with me. The thing of it is -- so finally, to
13 summarize it, because I have it written up, I would
14 like to check here because I tried to find out how
15 did they come to the conclusion of false pretense
16 when I did not utter -- I didn't write a check, I
17 didn't forge a check, I didn't do any of those
18 things. How did they come to that? No one has been
19 able to tell me, and that has been over 12 years. I
20 want my record clear.

21 As of this point, it hasn't bothered
22 me as such, but I have an opportunity, and have been
23 graciously invited as an ambassador to go to the
24 People's Republic of China, and I think it's an honor
25 that I have been asked to do so by the American

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1 Public Health Association.

2 I have a clean record. I want this
3 cleared. And I'm asking is there any way, any way --
4 because I have written, before this governor was in
5 there, to the other. I said, I have to write the
6 governor. The governor wrote back, Well, if you can
7 show us that you didn't do it? How can I show you
8 that I didn't do it? They told me I'm supposed to
9 give them money back --

10 MR. DARDEN: Time.

11 DR. BROWNE-ILES: -- which I have,
12 to the bank. I already gave the money back to the
13 bank. And they said, Well, What did you give the
14 money back for? I said, Because they said that I
15 owed the money. They said, We never charged you with
16 anything like this. And so I said, I'm going to give
17 it back to you because I don't want to go jail. They
18 said, Lady, you don't owe us this, money. We did not
19 accuse you of this. They said I was accused in the
20 court here in Hampton.

21 MR. PATRICK: One question. It may
22 be obvious. When your house was burglarized, were
23 checks taken?

24 DR. BROWNE-ILES: I don't recall.
25 You know, I have some copies of the checks that were

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1 forged, and there was some checks sent that had my
2 name spelled incorrectly, and I had cut them up, and
3 thought I cut them all up and destroyed. Then they
4 had another -- on another account with the name
5 spelled correctly. So we thought about this. Do you
6 think someone got those old checks, because one of
7 the checks that came back in Hampton, incorrect name.
8 They had been done away with months, and it was a
9 different checking account number. That's why I
10 can't understand. And I have to validate the
11 different number and my name is spelled differently,
12 so it could have been from there, and then maybe they
13 made checks, I don't know, but I don't recall. I
14 said maybe they skipped numbers, took checks and
15 skipped numbers because I couldn't remember how they
16 got my driver's license until months later.

17 MS. MCCLOUD: I have one brief
18 question. What kind of investigation was done when
19 you reported the burglary at your house?

20 DR. BROWNE-ILES: They came in and
21 they took fingerprints.

22 MS. MCCLOUD: That's about all?

23 DR. BROWNE-ILES: That's all.

24 DR. AL-HIBRI: Let me ask you
25 another question. You said you noticed that there

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1 was something wrong with your account for a while,
2 you were coming up short on the balance. How long
3 did that last before you actually finally found out?

4 DR. BROWNE-ILES: When my
5 statement -- I called the bank because I said, Why am
6 I coming up short? They said, You have over written
7 your checking account. So my statement came in, and
8 I looked through my checks. I could see there were
9 some that didn't have my signature on them.

10 DR. AL-HIBRI: Was that only one
11 statement cycle, or more than one?

12 DR. BROWNE-ILES: One and the
13 second -- two.

14 DR. AL-HIBRI: So the burglary was
15 in '83, but it took a while before they started using
16 your checks?

17 DR. BROWNE-ILES: The burglary was
18 in the latter part of '83, and this started like the
19 early part of '84. And even the check -- now, I
20 don't know whether they -- we sort of discussed
21 whether they was going around stealing checks,
22 depositing people's accounts, and writing checks,
23 because the check that was deposited in my account
24 was a year old.

25 DR. AL-HIBRI: How long was it

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1 between the time you discovered there was a problem
2 with your account, and the time you closed out the
3 account, or the bank closed it out?

4 DR. BROWNE-ILES: About three
5 months.

6 MR. GALVIN: This is in your papers
7 that you're leaving with us?

8 DR. BROWNE-ILES: Yes.

9 MR. GALVIN: Very good. We'll take
10 those from you. Those are for Mr. Darden. Thank you
11 for coming here.

12 MR. DARDEN: Thank you.

13 MR. GALVIN: Mr. Darden, next person
14 on your list, please?

15 MR. DARDEN: Reverend Helen
16 Williams.

17 MS. WILLIAMS: Good afternoon.
18 Thank you-all for hearing me. I'm here on behalf of
19 my son, Roy Williams, who is an inmate in City of
20 Newport News Farm. I don't know of any incident of
21 discrimination because I think it's built in the
22 system, you know, and I don't know what he went
23 through in these situations, but my son was a drug
24 addict since 1990. We lost my daughter. They were
25 very close. And somehow he got hooked on drugs.

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1 He's forty-five and he has eight children and a wife
2 and small children from six months to 17, and he has
3 one daughter that's finished college and is married.

4 He'd had no record of pushing or
5 selling drugs. He was an addict, and it got to the
6 point that he couldn't keep a job because when he'd
7 get paid, he'd go and lose -- get high, or something,
8 and lose his job, so he resorted to shoplifting.

9 Through all of the situations that he's had, he never
10 used a gun, he never harmed no one's body, or broken
11 in, or done anything but go to a store, which is a
12 crime, which he has here in writing he admits what
13 has happened to him to end up in Newport News City
14 Farm, but he's been incarcerated altogether since
15 January of last year.

16 So in December last year, he was
17 over here in the city jail, and he had a \$7,000 bond,
18 so I came before Judge Morris and asked -- you know,
19 brought my petition before her. His wife was his
20 fiancée at that time. And we talked to her about the
21 situation and she looked at the record and he didn't
22 have any violence whatsoever, so she released him to
23 get -- to us to get drug treatment.

24 Well, he enrolled in a program and
25 since he had been in here for six weeks, he was

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1 clean, so they kept him 72 hours, and we tried
2 everywhere to get someplace he could get in and get a
3 long time, because he's a good father, he loves his
4 children and all, but we couldn't find any place to
5 take him because he didn't have insurance to cover it
6 whatsoever, but that was his main reason. He's been
7 a good person.

8 And so he winds up back here again,
9 and during that time, of course, he had -- was placed
10 on probation, and he violated that, so he has five
11 years. He has two one-year sentences and he has two
12 years and six months -- no, he has three years on
13 probation. And he's still at the City Farm, but he's
14 multi-talented, and since he's been there, taken away
15 from the drugs, the true person has come through. My
16 son has gone back to the Lord. He has found -- he's
17 taking courses through the Chaplain's Association,
18 and there's a revival up there at the City Farm that
19 Roy Williams is leading. He worked with chaplain.
20 He works with ministers that come in. He teaches the
21 literacy program, and now he's in a parenting
22 program, which they meet, you know, often. They meet
23 with the wives and then they meet separately. And I
24 was up there last weekend when they had it, and he
25 has truly improved himself.

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1 The only thing he's asking for --
2 and all these references from different officers from
3 the City Farm telling the certificates in the
4 ministry that he's taken through the Chaplain's
5 Association Correspondence since he's been in there,
6 and we're asking that his sentence be reduced so that
7 he can go on work release and support his family,
8 which they're being taken care of now by the state.

9 And his wife, she's -- I don't know
10 how she's doing it, but she is. She found a job.
11 She went to work for MCI last Monday, and she has a
12 six-month old baby, and I've been writing and trying
13 to help -- with no transportation -- to do whatever I
14 can to help them so she can have some of the nice
15 things for her children. And so if he's allowed to
16 have his sentence reduced, or whatever you-all could
17 help, do for him, so that he can support his own
18 children, contribute to the support, he wants to do
19 that so badly, and I do -- I know in my heart that
20 his trouble was a drug addiction, not that he -- I'm
21 a minister. His father is a deacon. And now he's
22 following in that footsteps.

23 And I just want to read a letter
24 that I have because I can -- I don't have another
25 copy of these, but I can leave these with you-all,

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1 but if I can read his letter and mine, and then I can
2 leave the rest with you.

3 This is what I wrote to the Court
4 after I received all these recommendations from the
5 officials up there at the City Farm.

6 MS. RATTLEY: Can you just highlight
7 that for us rather than reading the whole letter?

8 MR. DARDEN: That's five minutes.

9 DR. AL-HIBRI: Time is up.

10 MS. WILLIAMS: Is it up? Okay. I
11 don't know whether anything can be done here or not,
12 but I want someone to hear my son and see if we can
13 recycle him to get him back out to be -- to help.
14 His wife really needs help with these children, and
15 not only that, she's having problems finding a
16 babysitter for the three smallest ones that's not in
17 school, and she went to Social Services, and they
18 said that they would pay for a babysitter, but ones
19 that she's found so far, they're not certified to be
20 babysitters, so this week she had two or three
21 different people come in and try to do it until she
22 can get before them to get certified. She wants to
23 work to help take care of her children.

24 He wants to come out, and he has
25 seen the error of his way, and you'll find in here

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1 letters from the -- where he's gone through all the
2 phases there of the rehabilitation that's up there.
3 Not only has he helped himself, but he's helping
4 other young men to know through his experience to
5 help lead them to a better way of life. He's an
6 inspiration when you go there. I'm so proud of him,
7 and my letter is telling how much I was proud because
8 it had gotten so bad until I -- the last time he was
9 caught, I didn't try to get him out. I thank God for
10 taking him off the street until he could find
11 himself, because I know there was a person inside of
12 him that wanted to get out.

13 MS. RATTLEY: If you have any papers
14 to leave, give them to Mr. Darden. I would suggest
15 you try talking to the Judge in the same way you
16 talked to this body and see if you can get an
17 appointment and go in and talk with the Judge.

18 MS. WILLIAMS: All right. Thank you
19 very much. Any specific judge?

20 MS. RATTLEY: The judge who
21 convicted him.

22 MS. WILLIAMS: All right. Thank
23 you.

24 MR. DARDEN: Gene Melton.

25 MS. RATTLEY: Yes, sir.

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1 MR. MELTON: Good afternoon, Lady
2 Chairman.

3 MS. RATTLEY: Good afternoon.

4 MR. MELTON: Distinguished guests,
5 and the general public. I'm here to share with you
6 today, I take pleasure -- it's an honor really to be
7 here today to share with the other people sitting in
8 the audience some of the disparities and injustices
9 that they've experienced, but let me just get at the
10 crux of the situation I have.

11 Apparently, the system that we have
12 is a workable system; however, a lot of things within
13 the system apparently are broken, and it appears that
14 the mechanic must be out on strike. But at any rate,
15 I have a situation here that I want to shed some
16 light on. We talked primarily this morning about the
17 individual that committed crime and equality within
18 the justice system after the fact.

19 Let's address some proactive
20 situations that I can use myself to -- as an example
21 in making my point. I served in the military with
22 honor. I rose through the ranks. I was very
23 competitive. I came out in the private sector, and
24 although I was trained to do a mission, I had the
25 tenacity, the willpower to go to the university to be

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1 trained, refined all over again to deal and to
2 compete in the American society, the civilian world.
3 I took on a job. I was successful in that area as
4 well.

5 So we talked basically about people
6 who were caught after the fact. What do you say
7 about a man who have done the thing, and the American
8 dream that was mentioned by one of the people, or
9 persons, this morning should be afforded each
10 American. Supposing he's able to acquire the job, in
11 essence to reap the benefits, the dollars, to procure
12 those things that we love in life, properties,
13 automobiles, and so forth and so on.

14 That's great, but say you got those
15 things, you were able to acquire those things. Now
16 you have another evil to deal with, and that evil is
17 doing everything possible to protect what you have.
18 Right here in Virginia, probably all over the
19 country, if not all over the world, people are losing
20 thousands upon thousands of acres of their
21 hard-earned land to those in power through
22 corruption.

23 Case in point, I have a farm. It's
24 a family farm. There were two tracts to this family
25 farm. I purchased one. Another gentleman purchased

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1 the other. What happened was, people in power
2 working with those so-called business tentacles out
3 there went into the system, altered records, changed
4 the map to coincide with another piece of property
5 that is adjacent to the property that the family
6 owned, and they applied the configuration of the map
7 to your piece of puzzle.

8 So when I first brought this
9 situation to the proper authority, everybody backed
10 off. But since that time, surveyors have gone in
11 with the hope of substantiating injustices, with the
12 hope of making something that's wrong, right, by
13 coming up with different versions or configurations
14 of maps. But I'm one step ahead, because I was able
15 to get the original of everything that was there
16 prior to them going in.

17 Problem is, I'm not able to find an
18 attorney in Virginia. I have sought all over the
19 Tidewater area to get help. I've been told it's a
20 bag of worms. I'd like to help you. It's a
21 political thing.

22 Ladies and gentlemen, let me tell
23 you why it's a political thing. Let me tell you why
24 it's a political thing.

25 It's a political thing because

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1 people that were in the local office after I
2 contacted my representative, and what have you,
3 things have a tendency to kind of filter out in the
4 community, so the conspirators then had an
5 opportunity to get their act in order, and they
6 started what we call the coverup process. Here we
7 are in America. We are supposed to be the
8 government, we, the people. We allow these sissies,
9 these hypocrites, to try to persecute our president,
10 taking our attention away to the evils that are
11 committed right in our midst. These things are
12 happening right here in America.

13 I need help, but apparently either
14 those that I ask help from are caught up in the
15 political arena, or maybe there's some fear that they
16 can't deal with the pressures that I'm dealing with.
17 I'd like to know which is what. And I do need some
18 help.

19 MS. RATTLEY: Thank you very much.
20 My question is, this property is in Suffolk, right?
21 York?

22 MR. MELTON: I'm not going to
23 discuss where it happened.

24 MS. RATTLEY: Oh, okay. Of course,
25 to give you help we would have to --

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1 MR. MELTON: Every time I talk, they
2 go and they change something else. And when I go
3 back to my file, what I got here, wasn't like this
4 before. Keep in mind, I said --

5 MS. RATTLEY: Are they trying to
6 take your property?

7 MR. MELTON: Yes.

8 MS. RATTLEY: They're trying to say
9 that there is a public need for it?

10 MR. MELTON: No, nothing of that
11 nature. It's a business individual who is a timber
12 commerce type of business who goes out, and checking
13 the record who has acquired hundreds and thousands of
14 acres of land that he didn't own before. And after I
15 got involved in looking at what was happening to me,
16 then I began to discover what had happened as far as
17 them acquiring all of this land, but he's not doing
18 it by himself.

19 MS. RATTLEY: Let me ask you this.
20 You have a title to your property?

21 MR. MELTON: Every attorney, every
22 individual that I talked to asked me the basic things
23 I'm telling you.

24 MS. RATTLEY: But they have turned
25 you down?

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1 MR. MELTON: And I'm telling the
2 general public, I'm not talking about generic things.
3 I am not talking about a run-of-the-mill everyday
4 situation. I am talking about a complicated
5 situation in which somebody has altered records,
6 constantly changing the configuration of things to
7 take over what is not theirs. In essence, what I'm
8 saying to you, the configuration of the map that they
9 drew up, it was never recorded in the court; and this
10 individual who owned the property, he took the
11 configuration of another piece of parcel and applied
12 to the parcel that I own. But one mistake they made,
13 they put on their parcel the same basic
14 configuration, creeks and beds, whatever I had on my
15 property.

16 MS. MCCLOUD: I have one question.
17 You mentioned -- if I understood you correctly, you
18 mentioned that this is something that you have been
19 able to determine that's going on not only with you,
20 but with others?

21 MR. MELTON: With other people.

22 MS. MCCLOUD: All right. Could you
23 identify the areas of the city or the --

24 MR. MELTON: No, I'm not going to do
25 that, but let me say this. I want you to respect

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1 what I'm asking --

2 MS. MCCLOUD: Okay.

3 MR. MELTON -- because of the
4 sensitivity of this issue. I can say this. That one
5 individual who was trespassed on recently, the
6 records reflect that this so-called person that
7 existed, that gave the property, or sold the property
8 to this guy who is working with the power to be to
9 take mine, woke up out of bed one day and gave him a
10 deed to this other little piece of parcel.

11 I'm talking about a complicated
12 situation where you have, ladies and gentlemen, total
13 corruption. I don't know how else to put it. Total
14 corruption.

15 We talk about what happens to the
16 little guy when crimes are committed. Hey, I'm
17 military-trained, and where I came from in the
18 military, Hey, we all do this together. But in this
19 society, we talk about world order. You know, we
20 talk about world order because we can't get it
21 together here. We need to get it together.

22 MS. RATTLEY: Thank you very much.

23 MS. MCCLOUD: Sir, we have a
24 question.

25 REVEREND HARRIS: Let me ask you a

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1 question before you go. You have shared with us some
2 of your concerns and conditions and the -- we are
3 conducting a fact-finding conference here, so we're
4 trying to find out how people are being affected in
5 the system at the end. We need to know the
6 information that you are not ready to depart from.
7 So --

8 MR. MELTON: The information that
9 you're making reference to -- excuse me, sir, not
10 being impolite -- I do have that available in
11 writing. I made mention from the onset, the
12 situation is so sensitive.

13 REVEREND HARRIS: Yes.

14 MR. MELTON: It's so sensitive, a
15 lot of things that I wish to say, a lot of the
16 questions that I wish to answer, for my safety right
17 now, I cannot say that. For my safety, I cannot say
18 that.

19 REVEREND HARRIS: Well, what I was
20 going to suggest to you, that since you cannot give
21 up this information presently, that at some other
22 point, some later point --

23 MR. MELTON: Yes, sir.

24 REVEREND HARRIS: -- you may be able
25 to give up some more information, and I was going to

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1 suggest that at that time, could you contact our
2 staff in Washington so that then your concerns then
3 will become part of the records.

4 MR. MELTON: All right. What staff
5 were you making reference to, sir?

6 REVEREND HARRIS: Our staff over
7 here.

8 MS. RATTLEY: U.S. Commission on
9 Civil Rights.

10 MR. PENTINO: If anyone would like
11 to submit any information to us, you want to write
12 this down. We're Eastern Regional Office, U.S.
13 Commission on Civil Rights.

14 MS. RATTLEY: Here's a card. I
15 believe he has other cards.

16 MR. MELTON: I can't talk on the
17 phone either because I'm being tapped. Go ahead.

18 MR. PENTINO: 624 -- U.S. Commission
19 on Civil Rights, 624 Ninth Street, Northwest,
20 Washington, 20425. Thank you, sir.

21 MR. MELTON: I want you to say that
22 because I want to say something to that. I have
23 submitted something. It's a situation that I have
24 been fighting since 1989. I have even gone on a trip
25 to talk to Reverend Curtis Harris in regard to this

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1 situation, because it's an ongoing situation of
2 coverup, trespassing, coverup, trespassing, this
3 criminal activity, per se.

4 MS. RATTLEY: Thank you very much.

5 MR. PENTINO: Next speaker is John
6 Jop.

7 MR. JOP: Good afternoon, panel and
8 chair.

9 MS. RATTLEY: Good afternoon.

10 MR. JOP: My name is John, last name
11 is Jop. I was a cardiac technician for the City of
12 Hampton, and there's a few things I want to talk
13 about the federal court system, but I'd like to first
14 address to what happened to this young man over here,
15 this military officer. I was inside with these
16 police officers. I know some of the things that they
17 do, and I can speak for the City of Hampton, but it
18 took place in Norfolk. I'm sure it goes on all over
19 the place.

20 In the City of Hampton, they have a
21 code that they use, and how they use this code, they
22 use it over the 911 system, and basically what the
23 code, it's NDC. Can I state what the code is? It's
24 kind of erratic. It stands for "Nigger Driving a
25 Cadillac."

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1 Basically, what that means is
2 there's a black person driving a very expensive car,
3 and that tells the guy in the next sector that he
4 wants backup to come over there because this man is
5 going to pull him over for some reason. And what
6 these officers will do, they'll go over and they'll
7 try to provoke the guy.

8 And I think there should be a study
9 done to find out how many people stopped in a motor
10 vehicle, especially black residents in Hampton -- not
11 motor vehicle accidents, but motor vehicles stopped
12 and are arrested for assault and battery. I bet you
13 the statistics are just great.

14 I've got a picture right here that I
15 was involved in one of these incidents. It was a
16 motor vehicle accident. I'd like to show the panel
17 this picture. There was a motor vehicle accident.
18 It was in Hampton. I was on the scene, and in this
19 picture -- this was in the Daily Press. It happened
20 in 1995. And my ambulance is in the picture, but I'm
21 not in the picture.

22 What happened was, we had a chain
23 reaction collision, and what happened was there was
24 three white people involved and one black guy. When
25 we arrived on the scene, it's my job to go and check

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1 on injuries. I have to go check and see if anybody
2 is injured and wants to go to the hospital. I was
3 dealing with this black male. He was driving this
4 Isuzu. You can't really see it. It's a Tracker
5 Isuzu. You can't really see it in the picture, but
6 it's right there.

7 And his car door is open, and I
8 opened the door to ask him if he was okay. He told
9 me he had neck and back pain. My ambulance is parked
10 over here, so I went to the ambulance to go get a
11 neck collar and a KED, the instruments we use to take
12 people out of vehicles. Well, the next thing I know,
13 four white Hampton police officers -- and it's
14 pictured right here -- went in, put this guy in
15 handcuffs, grabbed him out of the vehicle. In this
16 picture right here, it shows them. They're getting
17 ready to slam him on the ground. There's the
18 picture, right there.

19 Now, I went over to the police
20 officers. I said, That guy is hurt. He's got neck
21 and back pain. I need to take him to the hospital.
22 They told me to get away. I asked them, I said,
23 Well, what's his name so I can write in my report?
24 They said, None of your business. And I heard the
25 guy ask, What are you charging me for? They wouldn't

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1 answer him. They slammed him on the ground and they
2 arrested him. Involved in a motor vehicle accident,
3 and he was the first vehicle in line of the motor
4 vehicle accident.

5 I didn't want to address this. What
6 I wanted to address was federal courts. We got a
7 terrible problem going on in the federal courts
8 around here. Everybody says when you got a problem,
9 take it to court. Well, if you take it over to court
10 over here in federal court -- and there's been a
11 number of workers before me, and there will probably
12 be a number of workers after me. We have all taken
13 our cases to court over here in federal court and got
14 the same result, a summary judgment.

15 I have spent \$26,000 of my own
16 hard-earned money to take it over to court. I've
17 never been able to speak. I've never been able to
18 say anything. I have gone over there and watched the
19 city put on a case and degrade me, degrade my
20 witnesses, and degrade everything, and the Judge
21 listened to them and dismisses my case. I said I
22 never even got -- I never even got to refute what
23 they were saying, never got to say anything, and I
24 paid that attorney good money to represent me.

25 And when I asked the attorney why he

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1 didn't say anything, he said, Well, there's nothing
2 you can do. You're dealing with a real powerful
3 bureaucracy.

4 And let me just give you a few
5 examples. We had a black female that worked in the
6 Public Works Department, and she was raped, sexually
7 assaulted by a white supervisor. She reported it.
8 Guess what happened to her. She was fired. She got
9 fired. So she goes, and goes to EEOC and takes a
10 lawsuit out. Well, EEOC doesn't even do an
11 investigation. I've been there. And I'm sure
12 there's a number of other people that have been
13 through EEOC. They don't do anything. They give you
14 the same cover letter. This girl got the same cover
15 letter I got, and I got my letter right here.

16 Well, anyway, let me go through this
17 real quick. This girl files a lawsuit. The court
18 sends it over to City of Hampton. City of Hampton
19 loses it. They claim they lost it. Well, federal
20 law states that if you don't respond to a lawsuit by
21 a certain date, the other party automatically wins.
22 Well, this girl automatically won her lawsuit. It
23 even came out in the headlines, states right here, it
24 says, Mistake may cost the City of Hampton five
25 million dollars. She won automatically. Even her

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1 attorneys were celebrating. I knew this girl, talked
2 to her, and she was happy she won five million
3 dollars according to federal law.

4 Well, it comes out the City of
5 Hampton goes over to court -- and I don't know what
6 they did. They talked to a judge or whatever. Now
7 the City -- the Judge just totally had a disregard
8 for the law and now is going to listen to the City's
9 side of this lawsuit. What happened was, this case
10 went to the court, and again the poor girl goes into
11 court, sits there. The City puts on a case,
12 discredits her, discredits everybody, and she gets a
13 summary judgment. She loses. She spends a lot of
14 money to hire an attorney. The Judge never even
15 listened to her. The Judge didn't even follow the
16 letter of law.

17 I have another case here, a
18 firefighter, a black firefighter in the City of
19 Hampton who was involved in a motor vehicle accident.
20 Hundreds of white guys have been involved in motor
21 vehicle accidents. He was involved in a motor
22 vehicle accident, and they fired him. He went
23 through EEOC, the grievance procedure. he didn't get
24 no justice. Went and hired an attorney, paid
25 \$26,000, Saad Alamine (phonetic) up in Richmond.

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1 Same thing happened. Didn't even get to speak in
2 court. Went to court, summary judgment. Another one
3 loses.

4 I've got a terrible case right here.
5 This is real sad. And I'm trying to get this lady
6 some help, but I don't know what more I can do to
7 help her. Her two children -- they had a fire at 309
8 Pennsylvania Avenue in Hampton, right across the
9 street from the fire station. Her two children were
10 in this fire. Two -- I want to say 30 seconds into
11 this fire, there was over 26 firefighters on the
12 scene. This is a very small house. It's a
13 ranch-style house, typical three-bedroom, one
14 bathroom. It's a very small -- I think they even
15 call it a cottage, not a ranch. They call it a
16 cottage, very small house like a vacation house.

17 Well, when the firefighters arrived
18 on the scene, they waited 16 minutes while these
19 children screamed for their lives inside that house
20 before they did anything. They stood outside and
21 waited. They didn't do anything, and this is
22 documented that they waited 16 minutes. They did
23 nothing.

24 The woman managed to escape. The
25 mother managed to escape and she was outside. She

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1 heard her children screaming. Neighbors heard the
2 children screaming. Neighbors and the mother tried
3 to go in the home to rescue the children because the
4 firefighters weren't doing nothing but joking and
5 smoking outside. Didn't do anything. Didn't even
6 hook up to the fire hydrants, didn't do nothing.

7 So what ended up happening is the
8 firefighters had to restrain the mother and restrain
9 the neighbors. Well, the two children were burnt to
10 death.

11 What ended up happening is they had
12 a meeting over at the Wythe Fire Station over in
13 Wythe, Station Number 3 on Kecoughtan Road, right in
14 front of where this fire happened, and high officials
15 from the City of Hampton came over there, and they
16 were talking about what happened. They wanted to
17 know why the firefighters didn't do anything. Well,
18 I can't tell you what's on the tape recorder, because
19 I never heard it, but one firefighter went up there
20 with a tape recorder and tape recorded the whole
21 conversation. This mother was outraged, because the
22 firefighter gave the tape to her. Her attorney was
23 outraged in this case. So they filed a lawsuit. And
24 I have the lawsuit right here.

25 This case went to court, didn't even

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1 get heard, summary judgment. Appealed, summary
2 judgment. You cannot be heard. I want --

3 MR. DARDEN: Mr. Jop, can you sum
4 up, please?

5 MR. JOP: Okay. I want to state
6 real quickly here, in the City of Hampton, when you
7 do have a case, this is what happens to you. This is
8 the fire chief. This is my fire chief. His name is
9 Gregory Cane. This is a sworn deposition that he had
10 given talking about this house fire, and he went to
11 all the firefighters that were involved in this and
12 put a gag order on everybody, told them not to talk
13 to anybody. The investigator that investigated these
14 firefighters found the city negligent of these two
15 children's deaths. There were firefighters that
16 filed reports and everything.

17 All these reports were gathered up
18 and destroyed and the fire chief put a memo out, and
19 I'm going to just state real quickly what he said in
20 his deposition.

21 "Are you familiar with the incident
22 or fire at Pennsylvania Avenue in which two kids died
23 in a house fire?"

24 "Yes, I am."

25 "When did that occur, roughly?"

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1 "I believe in 1993."

2 "With respect to that incident, did
3 you tell firefighters and other members of your staff
4 not to discuss the incident?"

5 "Based on recommendation from the
6 City Attorney's Office, I advised everyone in the
7 department they were not to discuss the case."

8 "Would that be commonly referred to
9 as a gag order?"

10 "I don't know if it's commonly
11 referred to as a gag order to it, but I did put out a
12 memorandum telling the firefighters they could not
13 discuss the case."

14 That's intimidating witnesses. I
15 don't care what anybody says. That's a felony right
16 there. And they get away with it.

17 Now, this poor lady lost her two
18 children and can't even get heard in a court of law
19 around here. There's a lot of us that can't get
20 heard in a court of law.

21 My case is outstanding. I've been
22 trying to get an attorney to take on the case. They
23 look at my case and say, Man, you've got a great
24 case. As soon as I say it's against the City of
25 Hampton, they back off and say, We can't touch it.

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1 They won't even deal with it. I can't go anywhere.

2 MR. DARDEN: Mr. Jop, can I save
3 some time for the Committee members to ask a few
4 questions?

5 MR. JOP: Yes.

6 MR. DARDEN: Do you have any
7 questions for him? We do have to move on because we
8 have a lot lined up.

9 MR. JOP: We need help on this
10 stuff. The community needs help on this stuff, and
11 I'm an eyewitness for this. I have a lot of
12 documents to prove that this stuff is going on, and I
13 wish someone would do something.

14 MR. PENTINO: Thank you. Paul
15 Blowe.

16 MR. BLOWE: My name is Paul Blowe,
17 and I'm 49 years old. I'm a registered master barber
18 in Norfolk, Virginia. And in 1991, I leased a barber
19 shop in a small shopping center, and I had an
20 attorney to write the owner of the property to notify
21 him the condition it was in. Building is probably
22 about a hundred years old, little, small shopping
23 center, and it was leaking. And once the city
24 inspectors notified him in '92 that it needed to be
25 repaired, he never repaired it.

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1 Come 1994, it collapsed while we
2 were working, and I was taking him to court on it,
3 the lower court, general district court. And my
4 attorney and the landlord's attorney had a retired
5 judge to come and hear the case. In the State of
6 Virginia, for some reason, attorneys are allowed to
7 continue cases until they can appoint a judge that's
8 retired off the bench and come in and just rule
9 outside the law, and I don't guess he can be charged
10 with it.

11 Anyway, I have documents of the
12 lower court. The Judge informed me that while the
13 property is being repaired by the owner, that I
14 should have gone somewhere else and got a job and
15 came back and hope the owner fixed his property, that
16 I was paying \$800 a month. And, two, when I
17 leased --

18 MS. RATTLEY: Paying how much?

19 MR. BLOWE: \$800 per month.

20 MS. RATTLEY: \$800?

21 MR. BLOWE: Yes. I found out that
22 he was charging me double the amount the rest of the
23 tenants out there paying. Everybody else out there
24 was paying \$400 a month, and from '91 until '94, he
25 had raised my rent all the way to \$800.

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1 And after the lower court ruled for
2 me to get out of the property, we had the city
3 inspector that testified that he had been notified to
4 fix the property. He notified his insurance company,
5 and they came in after the city inspector had been in
6 and gave him notice that he was violating certain
7 codes. And after they notified him that he was
8 violating certain codes, he called his insurance
9 company. His insurance company comes in with
10 experts, without notifying me that they were going to
11 investigate, because I was operating the shop every
12 day, every day until the accident. And once the
13 accident, the city code told me don't operate it no
14 more until they fix it or somebody else could get
15 hurt.

16 And he brought in his insurance
17 company, brought in investigators, and this is the
18 evidence they used in court, was evidence that they
19 went in and manufactured, so this led from the lower
20 court to the high court, and when I got to -- not
21 high court, circuit court.

22 I heard the panel state then that we
23 have rights to go from each one level to the other
24 one, but in the State of Virginia, the Supreme Court
25 really upholds the lower court, don't care how

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1 corrupt the rules, don't care how wrong it is, they
2 uphold it here in Virginia. So this led to me even
3 going to jail, because when I refused to accept
4 \$2,000, and I had over \$25,000 worth of damage to my
5 property and loss of business -- I was out of
6 business for something like six months before we got
7 to court, and I was still paying rent as I couldn't
8 work.

9 For the Judge to tell me I should
10 have gone somewhere else and got a job -- so I got
11 documents here, and I got a copy of when I was
12 arrested. The landlord's attorney filed a summary
13 judgment like the total was -- asked for a summary
14 judgment for me to pay the landlord \$9,000, and when
15 the court denied it, he came outside the court and
16 asked me if I would take \$2,000 and move. So when I
17 refused, me and him got into an argument. He goes
18 back in the courtroom and tells the Judge I
19 threatened him. His word against my word. I goes to
20 jail.

21 One bad thing the court here in
22 Norfolk does is after the case is heard, they tells
23 the attorney to prepare a order, and the attorney
24 goes and prepares an order, you know, anything he
25 wants to add that didn't even happen in court, and

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1 the Judge signs it.

2 MS. RATTLEY: Are there any
3 questions? Thank you very much. Just one comment.
4 You're going to give those papers to him? Do you
5 have another copy?

6 MR. BLOWE: Yes, ma'am.

7 MS. RATTLEY: You kept --

8 MR. BLOWE: Yes, ma'am.

9 MS. RATTLEY: From what you have
10 said, it appears to me that you need to go on with
11 your appeals. You went to the circuit court, you
12 say?

13 MR. BLOWE: Yes, ma'am. I have
14 spent something like twenty-some thousand dollars in
15 attorney's fees, and this landlord's attorney, what
16 he's using is the evidence that they have
17 manufactured and obtained illegally.

18 MS. RATTLEY: Do you have a good
19 lawyer?

20 MR. BLOWE: No, I had nine.

21 MS. RATTLEY: You had nine?

22 MR. BLOWE: Nine attorneys. And
23 this is what this landlord's attorney is using to
24 make them want them accept the case. He tells them
25 the kind of evidence he got, some experts, which is

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1 illegal really.

2 MS. RATTLEY: Sir, when did this
3 take place?

4 MR. BLOWE: '94. So I appealed --

5 MS. RATTLEY: You live in Norfolk?

6 MR. BLOWE: Yes, ma'am. I appealed
7 that all the way to the Supreme Court.

8 MS. RATTLEY: State Supreme Court?

9 MR. BLOWE: Yes. And the last
10 attorney that I had, I paid him \$3,200, and he forgot
11 to notify the opposite attorney that he was using the
12 transcript in the case, which was defenseless.

13 DR. AL-HIBRI: Have you done
14 anything about that?

15 MR. BLOWE: I went to court last
16 week, and the court -- appellate court, because I did
17 want to turn it back, but they --

18 MS. RATTLEY: You got no
19 consideration?

20 MR. BLOWE: No.

21 DR. AL-HIBRI: Is there legal aid in
22 your community so that you can get legal help without
23 spending a lot of your money?

24 MR. BLOWE: Yeah, but they didn't
25 take mine.

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1 MR. GALVIN: They don't deal with
2 civil matters.

3 MS. RATTLEY: Do you live in
4 Norfolk?

5 MR. BLOWE: Yes, ma'am.

6 MS. RATTLEY: What is your status
7 now? Are you out of the building?

8 MR. BLOWE: Yes.

9 MS. RATTLEY: Were you able to get
10 another location?

11 MR. BLOWE: I have bought another
12 barber shop, and the Judge informed me I already had
13 a barber shop so --

14 MS. RATTLEY: What does that mean?

15 MR. BLOWE: Good question.

16 MS. RATTLEY: Would you please turn
17 over to the staff person what you have there. Why
18 don't you give him your complete name and address in
19 Norfolk and a telephone number.

20 MR. BLOWE: I thank you.

21 MR. DARDEN: Frederick Overby.
22 Frederick Overby. David Williams.

23 MR. WILLIAMS: My name is David
24 Williams, and I would like to talk about a horrific
25 incident that took place in Newport News last year,

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1 an act of urban terrorism that seems to permeate our
2 city.

3 On May 5th, 1996, I was arrested in
4 front of my door in Newport News, Virginia. After I
5 was incarcerated, my name was deliberately altered on
6 the warrant that was served me, as well as the
7 property-intake form. Earlier that morning, I
8 sustained a severe knee injury resulting from an
9 altercation with two police officers that assaulted
10 me. I was denied immediate care from a qualified
11 physician.

12 On or about 5 a.m. I was able to
13 contact my sister, Ms. Shirley Davis. I summoned her
14 to the lockup facility to pick up my belongings so
15 she could obtain \$1,500 cash to post my bail. It was
16 then that my right of due process was denied.

17 When my sister returned, the
18 magistrate began blocking every attempt to disrupt my
19 legal departure.

20 For three days, she and my mother
21 and a host of my family were told lies about my
22 status in jail. They were told I had been bonded
23 out; the picture identification that they brought
24 didn't look like me; and they couldn't find the
25 paperwork to process; and they had no such person

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1 there in jail.

2 Now, during this entire ordeal, I've
3 been suffering with pain, freezing from the intense
4 cold without a blanket in an overcrowded cell. The
5 third day of incarceration, my relatives had to draw
6 from all their options to rescue me and sought the
7 services of Epstein, bondsman.

8 She informed -- she was informed by
9 the sheriff department clerk on duty that I was
10 released at eleven o'clock. She emphatically refused
11 to meet Shirley at the other building and Mr. Terry
12 Ferguson was watching the whole ordeal that my family
13 was going through, and he offered his services to
14 expedite my release.

15 Now, the conspiracy heats up. The
16 character assassination was employed by the
17 magistrate to sabotage his --

18 MS. RATTLEY: Speak a little louder,
19 please.

20 MR. WILLIAMS: I'll repeat that for
21 you. Now the conspiracy heats up. The character
22 assassination to gain -- was employed by the
23 magistrate division to sabotage his attempt to gain
24 my release, and Mr. Ferguson was told that I had
25 caught AIDS to discourage him from assisting in my

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1 release. Here was a blatant attempt to demolish my
2 Constitutional right of due process.

3 As witnessed by bail bondsman and my
4 family, they would stop at nothing to keep him from
5 ending my unlawful detainment. The most contemptuous
6 of all in this deceit was a Juvenile and Domestic
7 Court Judge who said, I'm aware of the problem with
8 your ID, and I will not get involved in this matter
9 between you and the magistrate.

10 All you need is one piece of ID to
11 identify yourself. These fingerprints were taken
12 over 20 years ago by the United States Government. I
13 served in the military three years, so they knew who
14 I was in three seconds, plus I had my ID with me, my
15 driver's license and birth certificate in my wallet.

16 I was subsequently abandoned in the
17 courthouse holding cell while three deputies ended
18 their shift and they left the building after telling
19 me they would be back with a wheelchair.

20 A conscientious deputy saw them as
21 they were getting off and conferred with them briefly
22 and went about his way to check the cells one more
23 time before he made his rounds, and he saw me alone
24 in a drafty cell with no provisions for sustenance or
25 pain, and he allowed me to limp on his shoulder from

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1 this courthouse building all the way back to lockup.

2 I had a torn ligament. My knee was
3 this big by the time Oscar Blayton of the NAACP
4 attorney called and had me released in 15 minutes.
5 This is after almost three days of incarceration in
6 intense pain.

7 Now, this is a problem that any
8 black man faces here in Newport News. You will not
9 see justice done in these so-called hallowed halls.
10 You talk about persecution. I was arrested twice for
11 a capias in which I had handed the courtroom, days
12 before trial, documentation that I would be at a
13 doctor's appointment. That form got lost. They
14 issued a capias, had me arrested. There I was back
15 in jail without a mattress to lay on. Okay.
16 Freezing again. No medication, didn't see a
17 physician.

18 These are the things a black man has
19 to deal with here in this town, and it's not much
20 different in Hampton either.

21 MS. RATTLEY: Can you tell us the
22 time frame?

23 MR. WILLIAMS: Okay. This was May
24 5th of 1996. And I want you to remember Cynthia
25 Marie Jones. This was the young lady that I was

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1 accused of assaulting, in which they filed charges
2 twice on assault and battery, which is another
3 Constitutional violation of my rights, let's say
4 double jeopardy, filing charges twice.

5 Cynthia Marie Jones is dead today
6 because the state kept hiding her to avoid my
7 prosecuting her. I told them Ms. Jones had a
8 substance abuse problem. They kept hiding her and
9 hiding her and they refused to allow me to prosecute
10 her for stealing a \$2,000 computer from my home and
11 half of the electronics equipment in my home, but
12 because she was their witness for an alleged assault
13 and battery, they wouldn't allow me access to
14 prosecute her.

15 I informed the detective when he
16 contacted me that I didn't want to prosecute her, I
17 wanted to get her some help, get her in a hospital.
18 But they kept hiding Ms. Jones. Now Cynthia Marie
19 Jones is dead, leaving three children and a
20 grandchild behind.

21 MR. DARDEN: One minute, please.

22 MR. WILLIAMS: That concludes my
23 statement.

24 MS. RATTLEY: Did she die of an
25 overdose?

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1 MR. WILLIAMS: I wasn't able to get
2 details on her death because when they found her
3 body, they said she had died in a suspicious manner,
4 but I wasn't able to get any other information on
5 that.

6 MS. RATTLEY: How old was she?

7 MR. WILLIAMS: 43 -- 39; 38, 39.

8 MS. RATTLEY: So where do you stand
9 now?

10 MR. WILLIAMS: Well, where we stand
11 right now is I had contacted the FBI when I was
12 released from jail. Ms. Beth O'Bryan didn't do an
13 investigation at all. She asked me to find witnesses
14 that saw the police jump me. She claims she saw a
15 report and that I would receive a letter. I haven't
16 received a letter yet to ascertain what the status of
17 my case is.

18 MS. RATTLEY: Did you have legal
19 counsel through all of this?

20 MR. WILLIAMS: Not really. I
21 represented myself mostly throughout the criminal
22 matters. I obtained Lawrence Lipka to represent me
23 on one charge of what they call obstruction of
24 justice. I brought Mrs. Jones' daughter from
25 Blacksburg, Virginia to testify on my behalf. He

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1 never even called her. So I was found guilty of that
2 charge. But for the assault and battery, Ms. Jones
3 died before they --

4 MS. RATTLEY: What is your status
5 now?

6 MR. WILLIAMS: My status right now
7 is the criminal matter has been dispensed with since
8 they could not prosecute it because Ms. Jones died,
9 and right now I'm seeking counsel to take the --
10 Newport News to court for the things they did to me.

11 MS. RATTLEY: You don't have an
12 appeal in the works?

13 MR. WILLIAMS: No, ma'am.

14 MS. RATTLEY: You want to prove that
15 the City was --

16 MR. WILLIAMS: Negligent.

17 MS. RATTLEY: -- negligent by
18 design, they persecuted you?

19 MR. WILLIAMS: Right.

20 MS. RATTLEY: All right. You leave
21 that with him.

22 MR. WILLIAMS: I've also been left
23 crippled in my knee.

24 MS. RATTLEY: In your leg?

25 MR. WILLIAMS: Yes, ma'am.

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1 MS. RATTLEY: And, of course, you've
2 gotten medical care?

3 MR. WILLIAMS: Well, thanks to my
4 stint in the military, VA performed the surgery to
5 correct the torn ligament and the cartilage damage,
6 but they did say there's no guarantee I'll ever be
7 the same again.

8 MS. RATTLEY: Do you have any
9 problem proving where that injury took place?

10 MR. WILLIAMS: No problem at all
11 because the night that I was attacked, my knee -- the
12 ligament was torn that night, and when I got out, I
13 went straight to the hospital. My knee was this big,
14 and I went straight to -- my parents took me to the
15 hospital and they did x-rays and they bandaged me up
16 and tried to get me set up for an MRI. That took
17 months. And it was established that I had a torn
18 ligament, and they performed the surgery.

19 Had it not been for the VA, I would
20 probably be dead today with gangrene or something.

21 MS. RATTLEY: Thank you.

22 MR. WILLIAMS: You're welcome,
23 ma'am.

24 MR. DARDEN: Sheila Bryant. Sheila
25 Bryant.

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1 MS. BRYANT: My name is Sheila
2 Bryant, and I'm 45 years old.

3 MS. RATTLEY: You don't look it.

4 MS. BRYANT: I'm here on behalf of
5 my son. My son is in Powhatan Correctional Center,
6 and he's been there almost five years now, and he's
7 there for armed robbery. And his father, who he's
8 only spent thirty days of his whole entire life with,
9 went to prison when he was 11 months old, and I
10 raised Larry by myself, and I also raised my daughter
11 by myself.

12 And when his father got out of
13 prison, Larry was almost 18 years old, and when he
14 came to Larry, he came to Larry and he took him out
15 and got involved in robbing and stealing, and for one
16 month out of Larry's whole entire life, he winds up
17 in jail, and he's -- right now he's doing 97 years,
18 and his father told him, Don't tell that he had
19 anything to do with the robbery because they would
20 throw the book at him, but they threw the book at my
21 son.

22 And I told Larry -- it was like four
23 robberies, and I told him, I said, Why are you
24 getting all the time and your daddy isn't getting
25 anything? He said, Daddy told me not to say he had

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1 anything to do with it because he was going to get a
2 lawyer and get him out.

3 And I told him -- it was his third
4 trial, and I said, Larry, I want you to tell
5 everything you know. If your dad was involved in
6 this stuff, tell. So he told, and his dad got thirty
7 years and Larry is doing 97 years. And where Larry
8 is right now, I go see him all the time, and I don't
9 like the prison that he's in now. He's been in
10 several ones, but this one, every time I go to see
11 him, there's always something because -- it's always
12 hard for me to get in to see him, and they make me
13 stand outside in the cold. And once they had me take
14 off my shoes to go through this detector to see if
15 you're carrying any weapons or anything. And once I
16 get inside, then I have to wait again.

17 And once when I went to see Larry,
18 they told me that Larry wasn't there and he was
19 someplace else and they had moved him, and I said,
20 Well, Larry didn't tell me or call me and tell me
21 that they were moving him someplace. And they told
22 me to come back later, another day, because it's like
23 a weekend and the person I needed to talk to wasn't
24 there. And I didn't go anywhere, so I walked around
25 to a lot of the buildings trying to find out where

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1 Larry was, and it was cold outside, and I finally
2 found out where he was. He was in the same building,
3 but they said that they had added a C-1 onto his
4 number.

5 And every time I go to that prison,
6 it seems like I'm in prison because it's always
7 something, and he tells me things like, Mom, they
8 don't give me proper sheets. They don't do this.
9 They don't do that. And he's a veterinarian (sic)
10 and they don't give him certain foods. He can't go
11 to school. He can't do this. He can't do that.

12 And I always talk to the warden, and
13 every time I talk to the warden, he tells me none of
14 that is going on here. He's getting proper care, and
15 he's this, and he's that.

16 And on this past Christmas, Larry
17 told me they moved him to another cell, and in this
18 cell, he said, Mom, it was cold. He said, There is a
19 draft coming in through the window. And he said, I
20 am cold. And he caught a cold. And when I went to
21 see him, he was all sick and everything. I went to
22 the warden and told him -- I said, Warden, my son is
23 sick. I said, You-all put him in a cold cell. Now
24 he's sick and he has an ear infection and he's
25 coughing, and he told me he would check into it.

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1 And I called back Larry. He hadn't
2 checked into it. I went back down there again.
3 Larry still didn't look good. He was still sick. I
4 called the warden, talked to him on the phone, and he
5 is always telling me that he's going to check into
6 things, but he never really checks into things. And
7 last time I talked to Larry, Larry told me they had
8 to come and get him, take him out on a stretcher
9 because he was so weak and so sick. And I told the
10 warden about this, and he said, Well, nobody told me
11 they had to take him out on a stretcher. They're
12 supposed to report these things to me. And half of
13 the stuff that goes on, the warden doesn't even know
14 about it.

15 MS. RATTLEY: Where is he?

16 MS. BRYANT: He's in Powhatan,
17 Powhatan Correctional Center, and I just think that
18 there's something that needs to be done, and he's got
19 charges that Larry told me he didn't even do. He
20 said when he went to court, they got him down for
21 charges -- robbery charge that he didn't even do.
22 And I just want to have another trial, and I need
23 help and I don't know how to go about doing all these
24 things, and my son got all this time. He didn't hurt
25 anybody. Nobody was hurt.

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1 I mean, I know he did wrong, and I
2 know he shouldn't have did what his father told him
3 to do. He just wanted to spend time with his dad
4 because he didn't know the man. And his father
5 couldn't possibly love him to take him out there and
6 do these things. And I told Larry, I said, It's just
7 bad you're in a situation like this. His whole life
8 is all messed up because he spent thirty days with
9 his dad, and his life is all over. And they gave him
10 all this time and gave his dad thirty years, and he's
11 going to be out before Larry gets out, and he's the
12 one responsible for influencing Larry this way, and I
13 really don't know what to do.

14 I really don't have any money. I
15 just need some help, if you-all know something that
16 you can do for me and talk to that warden down there
17 and tell them at least do things that they say
18 they're going to do, and give the boy proper clean
19 sheets. He don't get a chance to go outside. He
20 said, Mom, I haven't been outside in such and such a
21 time.

22 They put him in restriction or
23 isolation, or whatever you call it, but he was there
24 from the last prison that he was in. And when they
25 sent him to this prison, he had been there like six

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1 months, and he said, Mom, they won't take me off
2 segregation. They said that there are other guys in
3 here that did a lot more than they have.

4 MR. DARDEN: Time.

5 MS. BRYANT: And I haven't had any
6 charges since I been here. Well, I guess that's it
7 so --

8 MS. RATTLEY: All right. Are there
9 any questions?

10 MS. BRYANT: I have a piece of paper
11 here with my name and my phone number on here, and
12 Larry's address where he is, anything like that, if
13 somebody wants to contact me, call me and let me know
14 how they can help me or get something more for my
15 son.

16 MS. RATTLEY: Give that to Mr.
17 Darden. Thank you.

18 MR. DARDEN: Clarence Pierce.

19 MR. PIERCE: Good evening, Lady
20 Chairman and other board members. I'm here today on
21 behalf of some nephews of mine.

22 MS. RATTLEY: How many?

23 MR. PIERCE: Two. And a friend of
24 theirs, had an altercation, supposedly a shooting in
25 the Newsome Park area in 1994, which in turn, when

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1 the shooting took place, however, it was stated that
2 there was a drive-by, no one seen anyone, okay. The
3 shooting took place right across the street from
4 where my nephews were living at, but it was in the
5 summertime. There was a whole bunch of people out
6 there. There was a whole bunch of people so-called
7 seeing the individuals that supposedly did the
8 shooting. The statements were given to the police
9 department which was in the newspaper.

10 However, three young man is not so
11 stupid they're going to take and shoot someone and
12 just live across the street and there's a bunch of
13 people that can identify them, stated that they had
14 hoods on. And these young men that supposedly did
15 the shooting that was stated by one of the witnesses,
16 didn't never even check into that.

17 However, this is the end result, not
18 to take up a whole lot of time. My nephews were
19 sentenced on circumstantial evidence. There was no
20 motive, no opportunity for them to get involved with
21 a situation that -- just a random shooting. They
22 wasn't even in the area. The witnesses that they had
23 from the areas that they was located in at the time
24 this took place, all these people's statements and
25 things, or witnesses' statements, was on the stand,

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1 was just discarded. It wasn't -- just like it wasn't
2 even there. And as far as the prosecution is
3 concerned, had a paid informant, okay, a paid
4 informant.

5 The name that was mentioned by one
6 of the people that said he knew the individual that
7 seen him and spoke to one of them, said the name was
8 "Mookie" and described and named some other
9 individuals. None of these individuals', you
10 understand, name was "Mookie."

11 One of my nephews' name is
12 "Moochie", which in turn lives right across the
13 street from where the shooting took place. He was
14 grown. My youngest nephew was only 15 years of age
15 at the time. The youngest boy was -- mother -- when
16 they came to the house for him, they came there, the
17 officers did. They didn't inform my sister or my
18 nephews of any rights at all. They just only said,
19 We'd like to take and speak to your son Daryl, and
20 asked to speak to him. Said, Was it all right if we
21 take and talk to him outside. They carry him across
22 town. They didn't inform her that she could have an
23 attorney present, that they could be present, or
24 anything. I was there, and they didn't do anything,
25 and they didn't document that they did do anything.

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1 MS. RATTLEY: Did they have an
2 attorney?

3 MR. PIERCE: Huh?

4 MS. RATTLEY: Did they have an
5 attorney?

6 MR. PIERCE: Sure, they had paid an
7 attorney. Not only had they -- also had paid private
8 investigator, because the police department do not
9 investigate anything that can try to clear you. They
10 only take and do the job that they arrest you and try
11 to get you locked up.

12 And the court system is run the same
13 way, because all the inconsistencies that was in the
14 trial that was given, the boys are sitting on the
15 stand giving one statement, then another statement
16 how it was stopped. In one trial, the Judge asked,
17 Well, what statement is true? The boys turned around
18 and tell the Judge that either one you want to take.
19 You know, if you see the transcripts, it's just
20 ludicrous to even think they could actually be in the
21 penitentiary for anything, for what they were charged
22 with.

23 The oldest boy, he received life, 78
24 years, and a quarter-of-a-million-dollar fine. The
25 baby boy received 130 years. The other friend of

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1 theirs got 114 years, you know, and they didn't have
2 any concrete evidence that they did anything; and
3 they had a lot of conflicting statements from
4 different people that was there, and they caught
5 individuals in lies and things, and all that was
6 conspiracy.

7 MS. RATTLEY: When did this take
8 place?

9 MR. PIERCE: Here in Newport News in
10 '94.

11 MS. RATTLEY: '94.

12 MR. PIERCE: Yes. And my oldest
13 nephew, he had been back on retrial, and upon the
14 retrial, when he came back, when he sent his papers
15 to the appeals board, the appeals board sent the
16 letter to the Judge -- I don't have the papers in
17 front of me, but we do have them -- stated to the
18 Judge, the Judge in the transcript stated to the
19 Judge that the judge said that -- to Middlebrook,
20 which was the prosecuting attorney, Well, I am on the
21 line here, and said what the appeals board says here,
22 you know, there is something really wrong with this
23 case, and said, when you come in here, when you come
24 back in court, you better have your stuff right.

25 Middlebrook resigned, which hit the

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1 newspaper the very next day. He resigned that
2 evening. The next day he left town.

3 And it's really something wrong with
4 the justice system in Newport News, not only here, a
5 lot of other places as well, but this is a case that
6 really needs to be looked into. There's enough
7 inconsistencies, and don't no one judge want to take
8 and overturn another judge's decision, you know.

9 And I mean, it is just pitiful, you
10 know. I mean, all the things that you think that you
11 can do, you're still not doing anything because you
12 say something, they're just going to pass the buck,
13 you know, and you really not getting anything done.

14 I mean, it's basically torn my
15 family apart to think that they're in prison like
16 this and they're buried alive, all this time that
17 they have for something they didn't even do.

18 MS. RATTLEY: Do you have anything
19 in writing?

20 MR. PIERCE: I don't have anything
21 here with me in writing. I just came to state these
22 facts that I have, but I can get something from
23 you-all to where I can take and send whatever, take
24 and verify things that I'm saying.

25 MS. RATTLEY: We have your statement

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1 down.

2 MR. HARRIS: What's the age of your
3 two nephews?

4 MR. PIERCE: He's about 28 now, and
5 the -- Daryl, he just turned 18. He was 15 when he
6 was locked up.

7 MS. RATTLEY: He was 15 when it
8 happened.

9 REVEREND HARRIS: Was he tried as a
10 juvenile?

11 MR. PIERCE: He was tried as an
12 adult. He went to juvenile, and when they went to
13 juvenile, his case should have been dismissed there,
14 you know. If you see the transcript, the facts
15 showed it should have been dismissed because if it
16 had been -- he was taken the very same night over
17 there. The boys stated Daryl was taken standing over
18 top of him. One boy said that he was shot in the
19 hip. He didn't see him shoot it, but he said he saw
20 him standing over top of him shooting.

21 They carried him over for forensics
22 test for gun powder residue, and he had none
23 whatsoever. And they didn't ask or request to carry
24 him anywhere, even though they did this here and they
25 came back and said the test was negative. Powder

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1 burns, you just can't wash it away. However, he
2 didn't do this anyway. The boys are not crazy.
3 They're not little kids, you know.

4 If I live right across the street
5 here, right at the courthouse across the street, I'm
6 certainly not going to come in here and just go off
7 and shoot somebody, and run back across the street
8 where I live at under cover where somebody is going
9 to recognize me and say, Oh, I know him. I'm going
10 to go over there like I didn't do anything. The fact
11 is they was totally railroaded and just nothing can
12 be done. I don't care who you speak to here, and if
13 you don't really make -- the money that you spend,
14 the money that has been spent, you know, the lawyers
15 that they had actually broke. They did what they
16 could do and all, but the judge just overrule. State
17 the fact this case nolle proesse, dismissed for
18 whatever reason, and they had substantial ground at
19 the time that they said this here. The judge
20 overruled. They want to just go ahead and pass the
21 case on. We got somebody for it. And that's it.

22 REVEREND HARRIS: Can you tell me
23 if, in your opinion, that they were treated the way
24 they were treated because of their race?

25 MR. PIERCE: True. True.

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1 MR. HARRIS: Can you tell us how?

2 MR. PIERCE: Well, for one thing,
3 they're treated this way because they're black. They
4 don't have any money. They can't hire truly
5 independent counsel to take and come in, you
6 understand, and fight their case like it supposed to
7 be fought. And for them to take and have a good
8 counselor, come in, when they take and speak towards
9 the bench, the counsel will be recognized in what he
10 says, you understand, because he's a top-notch
11 counsel, you know.

12 And it's another thing -- it's
13 something else. I mean, it's put a lot of stress on
14 us. This basically, like I was saying to you, I know
15 for a fact my youngest nephew, which was 15 years old
16 at the time, he was taken out of the home. He was
17 asked -- I mean he was asked by my sister -- I mean
18 to my sister by one of the officers, was it all right
19 if we take and speak to him outside for a moment.
20 She said, Sure. He said, Darryl, you want to go?
21 Yeah, I ain't did nothing. Went outside, they put
22 him in the car and brought him across town and they
23 didn't inform him of none of his rights, about what
24 his rights were, and decided that they brought him
25 over here, and that's when the gun powder residue --

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1 MS. RATTLEY: You did pass the
2 appeal period, or did you appeal?

3 MR. PIERCE: Filed the appeal and
4 the appeal was denied.

5 MS. RATTLEY: All right.

6 MR. PIERCE: As far as filing a writ
7 of habeas corpus because it was denied, you know, I
8 mean, however he hasn't received any reason why he
9 was denied.

10 MS. RATTLEY: All right.

11 MR. PIERCE: This is what I'm
12 saying. I would like to take -- as far as letting me
13 know how it's being carried here, what could we
14 possibly do? Is there anything that, you know, I or
15 my family can do towards writing to the Justice
16 Department in Washington where they will take a look
17 at this case and see that justice be done?

18 MS. RATTLEY: We have your
19 transcript, and it will be made part of the record.

20 MR. PIERCE: You know, the facts to
21 show whether or not, just saying, it's just word of
22 mouth.

23 MS. RATTLEY: We have your record,
24 and if you want to give more information, you can
25 send it to the U.S. Commission on Civil Rights, and

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1 Mr. Darden would be pleased to give you the address.
2 There were some cards out there with the address on
3 it. Maybe they're all gone. I think that would be
4 the wise thing to do.

5 Would you take his address, please.

6 MR. DARDEN: I've already provided

7 --

8 MR. PIERCE: I have one of the
9 envelopes as far as concerning me, as far as a
10 complaint that I had personally, but I was talking
11 about as of now about the complaints, the injustice
12 that has been done to my sister's kids.

13 MR. DARDEN: Meet me to the side.

14 DR. AL-HIBRI: May I ask a
15 procedural question?

16 MS. RATTLEY: Yes.

17 DR. AL-HIBRI: I'm not sure anymore
18 how -- we were supposed to conclude at 3:30, and I
19 believe we still have a long list. I just want to
20 know what's the procedure from here on.

21 MS. RATTLEY: How many do we have
22 now?

23 MR. DARDEN: That's Mr. Pierce. We
24 have Stewart Fleming. Would you tell me if you're
25 here, please?

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1 MR. FLEMING: Yes, I'm here.

2 MR. DARDEN: Jerome Neal?

3 MR. NEAL: Here.

4 MR. DARDEN: Mike Preston? Henry
5 Upton?

6 MR. UPTON: Here.

7 MR. DARDEN: Reginald Mitchell?

8 MR. MITCHELL: Here.

9 MR. DARDEN: Pamela Brisco? James
10 Cousin? Bill Hines?

11 MR. HINES: I'm going to withdraw.

12 MR. DARDEN: Deon Robinson?

13 MR. ROBINSON: Right here.

14 MR. DARDEN: That sounds like --
15 what did I count, five?

16 MS. RATTLEY: Thereabouts. Now, you
17 asked for procedure. If any of you have to leave, I
18 would understand that. Most of you are going to
19 catch a plane, or you have to get out of the area by
20 a certain time in order to get home by a certain
21 time.

22 I will sit here and listen, and if
23 we still have the services of the stenographer, those
24 that are on the list, if that's agreeable with the
25 Commission.

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1 DR. AL-HIBRI: Sure.

2 MS. RATTLEY: So at least it will
3 all be a part --

4 MR. FLEMING: I won't take more than
5 two or three minutes.

6 MS. RATTLEY: Because one member had
7 to leave in order to catch his plane.

8 All right. Mr. Fleming.

9 MR. FLEMING: I spoke to you
10 yesterday, and I just wanted to reiterate, you-all
11 are here concerning matters related to discrimination
12 and the justice system. The matter that I provided
13 significant written information about concerns
14 discrimination and the value of property.

15 What we see here in Newport News is
16 the city itself taking advantage of the most
17 powerless who live in the -- how about the
18 southeastern community of the city, regardless of
19 what race they have, and the advantage is all going
20 to the most powerful. They don't live in the
21 southeast community. This discrimination is
22 evidenced in City records that are required by state
23 law to be maintained by the City. The City of
24 Newport News refuses to make those records available
25 to the people that are entitled to see them. It's

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1 really great. You get to control the records that
2 prove you're guilty, and therefore they say nobody
3 can prove us guilty. It's really super.

4 I have tremendous sympathy for all
5 the other people that were here. They are being
6 taken advantage of right and left. I'm asking this
7 Commission to use your power to bring somebody into
8 this city from the outside and determine whether or
9 not property in this city is being valued for what it
10 is capable of selling for. I've spent five years
11 looking at that one thing, and I know that tremendous
12 disparities exist.

13 It's not -- they're not off by ten
14 percent. They're off by 500 percent in many
15 situations, and when it comes to the people in the
16 southeast community, those are the people who have
17 been rendered powerless to do anything about it at
18 every step in the process.

19 This process was created by the
20 legislature. It just doesn't work in Newport News.
21 It doesn't work. Why? Because the people that are
22 required to enforce it, won't enforce it on
23 themselves. These are the city authorities. Nobody
24 makes them obey the law. There's a whole lot of laws
25 on the books that require the city authorities to do

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1 certain things, but nobody makes them do them.

2 There's no enforcement of those statutes.

3 And you can't get it into court to
4 get it enforced by the courts. The court won't hear
5 the case. Mr. Palmer was here. He told you. He's
6 been in court since 1991. The City of Newport News
7 uses their legal power, uses their city attorneys,
8 whose salaries I'm paying and Mr. Palmer is paying
9 and you're paying, Ms. Rattley, to keep it from
10 coming before the court. The court never hears it.

11 And then if they can get it to the
12 court on their terms, a summary judgment. It's in
13 the city's favor every single time because they've
14 made it so expensive, you can't possibly bring in the
15 evidence that the judge requires.

16 Now, the Shipyard, they went to
17 court, too. And the Shipyard won, but the City kept
18 them in court for five years and then settled with
19 them out of court. What was the settlement? They
20 reduced the Shipyard's tax assessment by
21 \$230,000,000. You think the City's losing that
22 money? No, no, no. They raised the tax rate on
23 everybody else by a nickel. They got the same amount
24 of money from all the other people that they were
25 losing from the Shipyard.

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1 Well, this year the Shipyard's
2 property has gone down in value again. It went down
3 by another 73 million dollars this year. Why can't I
4 get my house to go down in value? Why can't one of
5 these people down in the East End get their house to
6 just be valued for what it can sell for, not \$75,000.
7 It ought to be valued for what it might actually
8 bring in the market. The City is extorting that
9 money every single year, year after year after year,
10 and the powerless are rendered helpless to do
11 anything at all about it. I'll stop right there.
12 Thank you for your time.

13 MR. DARDEN: Next is C. Jerome Neal.

14 MR. NEAL: Hi, Ms. Rattley. I'll
15 make it brief. I heard on WNIS yesterday that
16 you-all were over here, so I decided to come and
17 chime in my two cents' worth. I was head of the
18 church. I go to church in Virginia Beach. I live in
19 Hampton. Born and raised in Newport News, 800 48th
20 Street, an old house, been torn down. 1947 was when
21 I was born.

22 I was speeding on 44, along with
23 everybody else, and I have a bright little red pickup
24 truck which I bought from Casey Chevrolet, brand new,
25 '89. I'm a grease monkey, so 200,000 miles on it,

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1 but I keep it up. I work occasionally. I'm an
2 electrician, industrial electrician. I just came
3 from California working right on the coast over in
4 Manhattan Beach with Chevron Oil Refinery. I just do
5 shut-downs. Drove on back across country, and I was
6 going to church when I'm in town in Virginia Beach.
7 It's a spiritual -- it's called Robert Quamby's
8 Spiritual Society and we meet from 10:00 to 11:00 on
9 Sunday. As I said, I was speeding. The cop pulled
10 me over, state trooper, and he hollered at me -- I'm
11 not going to holler like he hollered. I'm incapable
12 of doing it.

13 So he hollered at me, Roll your
14 window down. So I rolled it halfway down, and I
15 didn't have my driver's license on me. I had it in
16 another car at the time I let my sister use, and so I
17 give him my city decal, city decal for your property
18 taxes we're talking about. That has your name and
19 has your Social Security number on it. And so he
20 asked me for my Social Security number even though it
21 was on there. I told him it was on there. He said,
22 No, I want you to tell me. I didn't say anything
23 else to him because I already talked to him. He had
24 everything.

25 So he said, If you don't tell me --

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1 Mr. Neal, if you don't tell me, I'm going to throw
2 you in jail. And he's turning red. It was a white
3 cop. I'm going to throw you in jail, and you're
4 going to stay in there until you tell me.

5 So I was going to church, looked at
6 my watch and everything so I could still make it,
7 just go about my business. So I told him. I wrote
8 it down. No, I want you to tell me. That's what he
9 told me. That's what he told me, I want you to tell
10 me. Okay.

11 So I said it to him, and he went
12 back and did what he did back there, and the next
13 thing I looked up, there's four cop cars around, so
14 I'm still just sitting there, dressed up, suit and
15 tie, overcoat. It's October of 1995. And so he
16 comes back up there and he gave me the book and
17 everything to sign the ticket. Now, I don't want you
18 to run over top of me. Better not run over top of
19 me. That's what he told me.

20 I'm wondering, How can my truck be
21 on the side of me, roll like that. I know they come,
22 wheels turn, but I'm a grease monkey. So anyway, I
23 don't know what he's talking about, so when -- after
24 he gave me the ticket, I signed the ticket and
25 proceeded to leave. Now, he said he didn't want me

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1 to run over top of him. The truck was running all
2 the time. The transmission was a junkyard
3 transmission in it. I bought it from a junkyard.
4 The truck broke down on me going to Emporia. My
5 mother stays in Danville. I was going to see her to
6 do some work for her.

7 So I put a junkyard transmission in
8 there because I was kind of low at the time, so when
9 I put it in first gear, the truck said, boop, a
10 little four-cylinder, like that. And he pointed, Did
11 you see that? Did you see that? So he come down the
12 street, pulled me over again. I was on Birdneck and
13 44, right on Birdneck almost to the Convention Center
14 there, so this big hotel we meet at, so I got out,
15 and I -- Now what's the problem? He just trotted
16 down, up against the truck, up against the truck, and
17 he -- all the cop cars pulled, he grabbed my arm and
18 put it behind my back and pushed it up and pushed it
19 up. I had an overcoat, a sweater and stuff, so the
20 reason it didn't hurt that much because I had all
21 that stuff on. It was damper to keep it from
22 hurting. He was shorter than I was. He was going
23 like "ehh, ehh, ehh" pushed my arm up behind me. So
24 I figuring, What's he doing? He was trying to
25 provoke me, and I wouldn't go for it because I had

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1 figured it out, so that wouldn't work, so then he put
2 the handcuffs on me and trots me off to the state
3 car, the cruiser.

4 So as I'm trotting off to the state
5 car, my left foot -- because he's got control of me
6 now. I've got to go where he takes me to. I'm not
7 capable of walking like I normally walk, because I
8 run marathons, and I play some -- got a nice gait and
9 everything, so I had to walk where he leading me to,
10 and so the bottom of my foot run across the top of
11 his foot. I wanted to say, Excuse me, but that would
12 have been out of character because I wasn't saying
13 nothing to him, but that's all that happened, so I
14 ain't think nothing of it. So I'm waiting in the
15 car. I don't know what's happening. I ain't saying
16 nothing. They're talking. The next thing he took me
17 down to the magistrate down there. I went down later
18 and found out the guy's name. It's a black
19 magistrate, and the black magistrate said, What was
20 he charged with? So he says, Assault. First I heard
21 of it. Assault and reckless driving. Reckless
22 driving?

23 So I asked him right there, I
24 said -- the magistrate asked, What was the assault?
25 He said, He kicked me. And the magistrate said,

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1 Where did he kick you? He said kicked me on this
2 leg. He pointed to his leg. So I said, Well, can
3 you show him the bruise or scuff print or anything on
4 his leg, just like that, because I didn't kick the
5 man.

6 So we went to court, the magistrate
7 told me right there, he says, We're not required to
8 do anything but take the officer's statement. He
9 said, Your chance don't come until you go to court.

10 So I went to court and I hired
11 Robert Hagans, paid him a lot of money to go over
12 there, and he saw me 15 minutes before court, wrote
13 it right down going to court. He told -- he got up
14 and he said, Well, Mr. Neal pulled off after he gave
15 him a ticket. He says his truck went like that, and
16 his truck went like that. It's a four-cylinder
17 pickup truck. Okay. So I'm listening, and then he
18 says, He kicked me and left a bruise and some blood
19 on his left leg. I didn't never see nothing, no
20 hospital records or no nothing.

21 So my lawyer, Robert Hagans, he
22 didn't ask him nothing about that. So I'm slow to
23 figure this thing out. I knew what happened. I'm
24 just trying to work it out. So I got thirty days in
25 jail with 20 suspended. Can do them at night if I

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1 wanted to. We appealed it. My license was suspended
2 for six months. Told me a \$100 fine. I just tuned
3 out when he mentioned the jail.

4 So I went to California and did some
5 more work, and Robert Hagans calls and said he needs
6 \$1,500 more dollars. I paid him \$700-and-something,
7 so I send him \$1,500, and we went to the other court.
8 And before I went to the court, though, I asked to
9 speak to Robert Hagans after I paid him the money,
10 and he never returned my phone calls, so I had
11 suspicions about him after he didn't ask the officer
12 nothing about what happened. So I told him forget
13 about it. I'd rather represent myself. So he
14 went -- I told him to send my money back. Out of
15 \$2,200 he sent me \$500.

16 So I represented myself. It was one
17 black guy in the jury pool. The prosecutor strike
18 him out. I'm not experienced. I didn't know what to
19 do. He asked me who did I want to strike out. I
20 didn't want to strike none of them. So the Judge
21 struck someone out. I stated my case. He stated his
22 case. When I got to the lawyer -- I mean the officer
23 telling his lie, I said, Well, show me where I kicked
24 you at. And he said, Right here, and pointed to his
25 leg, left leg. Right here, right here. I said,

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1 Well, can you pull your pants up and show the jury.
2 I wanted him to show it. And the Judge broke in
3 right there, and he said, It's probably healed up.
4 He's already told me that I kicked him. He's made
5 all this grandiose stuff about not guilty until
6 proven and all this stuff, and he comes out like
7 that. So I listened, didn't say nothing. So to make
8 a long story short, I got supposed -- I got convicted
9 of a reckless driving and assault, and I got fined
10 two thousand so many hundred dollars. They didn't
11 send me to jail. They could have, but I honestly
12 believe they believed my story, but they were scared
13 of the cops. I think that's what happened, so this
14 is one of the things that happened. I mean, when
15 you're just minding your business and trying to be
16 civil about life.

17 MS. RATTLEY: Hagans was afraid to
18 defend you?

19 MR. NEAL: I think so. He didn't
20 send me -- he sent me \$500 back out of \$2,200, and
21 all he did was stand in the court for 15 minutes
22 before the Judge. I got all that time. I defended
23 myself and just got a fine, which was wrong, but that
24 just goes to show you about lawyers. This is a black
25 lawyer.

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1 MS. RATTLEY: I know him.

2 MR. NEAL: I asked for Sharon Cole.
3 She said she didn't have any influence over there.
4 She's a good lawyer over here, but she didn't have
5 any influence. She's the one who recommended me to
6 him.

7 This stuff out here about black
8 people. This is what we go through every day, like
9 the guy from the funeral director. He said he
10 thinks -- The funeral black man out here who don't go
11 through that kind of stuff. I was in the Marine
12 Corps for four years from '65 to '69. I've been
13 through there, too. I understand what's happening
14 out here. Thank you for your time.

15 MR. DARDEN: Next is -- that was --
16 you're Mr. Preston?

17 MR. NEAL: Jerome Neal.

18 MR. DARDEN: Then next is Mike
19 Preston. Mike Preston. Mike Preston. Take that
20 off. Henry Upton.

21 MR. UPTON: Yeah, right here.
22 Hello, Ms. Rattley, members of the council. I'm
23 Retired Lieutenant Colonel Henry Upton. This is my
24 wife Henrietta. I'm speaking on her behalf. She's
25 the victim in this particular incident. What I want

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1 to talk to you about this evening is an incident of
2 inappropriate behavior by the Newport News Police
3 Department. On 18 November, my wife went into a
4 local store --

5 MS. RATTLEY: '96?

6 MR. UPTON: '96, yes, 18 November
7 '96. My wife went into a local store. The owner
8 accused her of shoplifting and asked her to undress
9 in the store so she could see. She refused, of
10 course, and the owner called the police.

11 My wife waited for the police, and
12 upon their arrival, they commenced to use racial
13 slurs and intimidation, rather than do an
14 investigation. They never even asked her for her
15 name, didn't ask her for any identification. They
16 just commenced to kind of interrogate and terrorize
17 her, and I feel that this was done because of her
18 color.

19 A total of five police cars, first
20 of all, responded to this call. She could count
21 eight policemen. There may have been more, but they
22 were -- this was a store up in Denbigh on Warwick
23 Boulevard. The police cars were all around the
24 outside, and inside the store. The policemen
25 positioned themselves where she was completely

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1 surrounded. She hadn't done anything. She's just
2 been accused of shoplifting, but they responded in
3 this manner.

4 And when they came in, they appeared
5 to be all hyped up and geared up for something. And
6 later on, we found out there had been a robbery on
7 this day, and this is what we were told when we went
8 through the complaint process down at the police
9 station, and they tried to explain maybe the way they
10 were hyped up from the robbery.

11 But they came in, and let me read to
12 you some of the things they said to her. One
13 policeman said, You smart. You are a smart one. You
14 are a real smart one. As he adjusted his shirt,
15 pants, gun, and billy stick. And my wife's been
16 around for quite a few years, a little bit more than
17 forty, and she knew that he was not speaking about
18 her intelligence. He was calling her a smart nigger.
19 And she was terrified at this thought, and you know,
20 she said, I better not respond because they're trying
21 to get me to do something.

22 If she had responded, then the next
23 step would have been probably some police brutality
24 and she would have come out on the losing end.

25 And he didn't stop there. He went

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1 on -- this same officer went on to say, Don't get
2 smart, try to talk back. Then another officer came
3 in to reinforce what this one had said, and said,
4 We're not going to have any smart talking -- bad
5 talking here. Don't be belligerent. Now, this
6 officer had a clipboard, and he was hitting his
7 clipboard against the side of his leg as he was
8 speaking these words.

9 So here's my wife in the store with
10 only the owner, no other customers in the store now.
11 This store is right next to the Food Lion up on
12 Warwick Boulevard, and they had her completely
13 surrounded.

14 MS. RATTLEY: Is that the Dollar
15 Store?

16 MR. UPTON: Right next to the Dollar
17 Store.

18 MS. RATTLEY: Okay.

19 MR. UPTON: The name of it, if you
20 need to know -- I didn't want to bring it up.

21 MS. RATTLEY: Let us know.

22 MR. UPTON: Big Lot's, the close-out
23 store. It's right next to Food Lion, used to be a
24 Revco, if I remember.

25 Okay. Now, following this

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1 intimidation, all of this had gone on, one of the
2 officers came to my wife, and you remember the
3 original demand made by the owner was that she
4 undress -- she said remove her top so she could see
5 what she had. And the policeman then came to my wife
6 and looks as if he was reinforcing that, and he asked
7 her if she would let them search her in the store.

8 Now, before they were talking all
9 loud and harsh, and now they were coming close to her
10 face and sort of whispering in her ear -- these are
11 policemen doing this. Keep that in mind. And they
12 did this on three occasions, and each time, of
13 course, she really felt frightened. She had nowhere
14 to go. She didn't have anybody. There was no one
15 else around there except for her, the owner, and the
16 owner just kind of stood back and went on the way to
17 the other side of the store, so it was just the
18 policemen, eight policemen and my wife here.

19 Each time they did this, she didn't
20 know whether they were going to hit her or were they
21 really trying to speak to her, but they made her feel
22 like if she had done anything negative, that they
23 would have hit her with their clubs. She tried to
24 reason with them by asking them -- the store is
25 equipped with videotapes. She told them to go look

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1 at the tapes to see if there's anything on there that
2 would help you, because she wanted them to
3 investigate the crime; but remember, they didn't even
4 ask for her name. They didn't care about what it was
5 that she was accused of. Somewhere that got lost in
6 the shuffle. They were just concerned at this point
7 about her -- she was a smart nigger who wouldn't do
8 what they wanted her to do, which was to remove her
9 blouse so they could see what she had, see if she had
10 anything. And they wanted her to do this right there
11 in the store, and the store had glass windows in the
12 front.

13 MS. RATTLEY: They do a lot of strip
14 searching, I understand.

15 MR. UPTON: So this incident now,
16 eventually they got to the point -- I want to add at
17 the end of this, towards the end of this, the same
18 officer who had called her a smart one, towards the
19 end they asked her three times to submit to search,
20 and she, of course, refused. She just didn't feel
21 comfortable, you know, not that she didn't have
22 anything. That wasn't the reason why she didn't let
23 them search her. She didn't want these eight people
24 who had been talking to her the way they had -- you
25 know, they came in there and treating her in this

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1 manner. These are the same people who want to go and
2 search her.

3 The one officer went back and met
4 the owner in the back of the store, and they talked
5 in a little voice. My wife could overhear a little
6 bit, and he asked her, What do you have in this store
7 that's small enough to fit in her bra. And my wife,
8 based on what was going on, she felt like they were
9 looking for something in the store that was small
10 enough that could, maybe they could put it on her;
11 and then, of course, she felt like they were going to
12 make her guilty regardless of the fact that they
13 searched her and didn't find anything, then, of
14 course, they would have something they could put on
15 her that would make her a shoplifter.

16 This whole thing ended now when one
17 officer -- I don't know what it was, but something
18 triggered him, and he said -- he asked the owner, he
19 said -- they had been conversing. They took her
20 outside and talked to her first, but he came in and
21 asked her, he said, Did you see her put anything in
22 her chest? And then the owner, of course, said, I
23 didn't see her put anything, but I saw her hand move
24 to her chest.

25 I'm going to leave you a statement

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1 here which kind of gives -- I've kind of summarized
2 it here, but basically my wife, she tried to recall
3 back of what gestures she may have made. She said
4 she remembers taking her hand and putting it inside
5 to adjust her bra strap. Maybe this is what the
6 owner had seen.

7 But now since this time, we have
8 been through a series of events with the Newport News
9 Police Department, and those slides that I gave you
10 there, on 13 December '96, we submitted a formal
11 complaint. Reverend Harris, the local SCLC president
12 submitted that for us.

13 On 16 December, we had an harassing
14 call from the police department which told us that
15 Reverend Harris could not represent my wife, that she
16 had to come down to the police station, represent
17 herself and file a complaint. And this was done in a
18 very arrogant tone of voice.

19 On the 20th of December, we went
20 down to the police station for an interview. We were
21 a little bit reluctant about going after getting the
22 16 December phone call, so we had Reverend Harris to
23 go with us down there, and we spent about an hour
24 being what I call interrogated and threatened. Some
25 of the things that I will tell you here that took

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1 place, the interview was recorded first of all, and
2 we were not offered a copy, so they have a copy
3 somewhere of what was said.

4 They said they could not determine
5 who responded to this call. They didn't know they
6 said. They kind of thought they knew of two or three
7 officers, but they were not real sure, so they wanted
8 my wife to look through a book of all the officers in
9 the Newport News Police Force and pick the ones out
10 that responded to the call. And we asked a question,
11 myself and Reverend Harris, How come you can't use
12 your police logs, your dispatch records to determine
13 who called. And then they told us that the policeman
14 could sue us for slander, that they were citizens,
15 too. If we continue, they could sue us for slander
16 as a result of filing this complaint and we'd be
17 liable for damages, any damages to their reputations
18 or careers. And they also said that in the past,
19 they've had cases where citizens have complained of
20 police harassment after filing a complaint. They say
21 this office has no control over that.

22 So where does that put us? We
23 really felt like we're in deep giption (sic) here now
24 because we have come down here and now they're
25 telling us that they can't even protect us anymore

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1 from the police, and we're coming to them because we
2 have a complaint, and we're the citizen. We haven't
3 committed a crime. We're just trying to get rightful
4 things done.

5 It didn't stop there. On 14 January
6 '97, we got a letter, which refuted a lot of the
7 things that took place on 20 December. It said that
8 my wife had made additional serious allegations and
9 they were not contained in the original complaint and
10 that she was unable to identify any of the officers.
11 But she identified one during the 20 December
12 interview. And they say now they need a complete
13 statement of complaint, and they gave us a deadline.
14 They said you must contact this office by 22 January
15 and set up an interview where you can come and do
16 these things.

17 And, of course, at this point, we
18 went and sought some legal advice, and based on that
19 advice we got, we decided it was not in our best
20 interest to go back down to the police station and
21 pursue this matter, you know, in the manner they
22 wanted us to, so we have taken other avenues since
23 then.

24 But anyway, on 27 January, they
25 wrote us another letter, and in this letter, it said

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1 that my wife needed to come down there and transcribe
2 a new statement. Here it is three months after this
3 thing happened. They want to do a new statement now.

4 That's kind of where we are now.
5 Start all over again. And then this new statement,
6 they're going to give us a copy of it and then give a
7 copy we can send to Reverend Harris and also to our
8 attorney.

9 MS. RATTLEY: I think your lawyer
10 should prepare that statement. That would be -- and
11 it's worth exactly what you're paying for it. That's
12 just off the top of my head. I would not go through
13 that harassment any longer, and, of course, nothing
14 you said was new to me. I've heard many instances of
15 this. The hard part is, what do you do?

16 MR. UPTON: That's where we are.

17 MS. RATTLEY: You have to be
18 persistent, but I really think you need somebody to
19 go in between you and the police.

20 MR. UPTON: Okay.

21 MS. RATTLEY: Okay. Because your
22 wife doesn't need any more of the stress and the
23 harassment.

24 MR. UPTON: No.

25 MS. RATTLEY: Okay.

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1 MR. UPTON: That's really --

2 MS. RATTLEY: Where do you live?

3 MR. UPTON: We're living up on
4 Stevens Road, 113 Stevens Road up in the Denbigh
5 area. But we tried --

6 MS. RATTLEY: They didn't ask you
7 for any identification or anything?

8 MR. UPTON: Never did. Had she not
9 come and filed, they wouldn't have even known her
10 name. They didn't care, just her color was good
11 enough.

12 MS. RATTLEY: I've been called worse
13 names than that, yes, ma'am.

14 MS. UPTON: They said -- at the
15 police department, said that they don't deal with
16 lawyers, that you have to represent yourself.

17 MS. RATTLEY: Now, wait a minute.
18 Come on. Come on.

19 MR. UPTON: That's what we were told
20 in one of the phone calls.

21 MS. MCCLOUD: Is that documented in
22 your statement? Did you mention that in your
23 statement?

24 MR. UPTON: I don't have that
25 particular phone call, but I have all of the others,

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1 but I can give you something.

2 MS. MCCLOUD: I think that would be
3 helpful. The question I want to ask is in
4 conjunction with our fact-finding mission, and that
5 is, number one, you indicated that you do feel it was
6 because of the fact that you are an African American;
7 is that correct?

8 MR. UPTON: Yes.

9 MS. MCCLOUD: Secondly, of the, I
10 think you said eight people, eight people who were
11 there, how many of the policemen who showed up were
12 female? Were any of them female?

13 MR. UPTON: No, none of them.

14 MS. MCCLOUD: And the person in the
15 store who asked you to undress, or whatever, was he
16 or she female? Was it a male or female?

17 MS. UPTON: Female. It was a
18 female, her husband, and a worker in the store there.

19 MS. MCCLOUD: Is the gender of these
20 people identified in the statement?

21 MS. UPTON: No.

22 MR. UPTON: I don't know whether the
23 gender is. I don't think the gender is identified,
24 but the fact that --

25 MS. RATTLE: Did you put the names

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1 in there?

2 MR. UPTON: The names.

3 MR. DARDEN: The next one would be
4 Reginald Mitchell.

5 MR. MITCHELL: How are you doing
6 today?

7 MS. RATTLEY: It's been a long day.

8 MR. MITCHELL: It has been. I
9 wanted to try -- I didn't see her when she -- I
10 wanted to ask for that attorney's -- I had her card
11 and all because I need some representation. My
12 problem is that I'm afraid of who I hire because of
13 politics, you know, attorneys. You know, it's hard
14 to find someone that I can trust.

15 MS. RATTLEY: Mr. Darden will give
16 you, I'm sure, her name and address, but she had to
17 leave.

18 MR. MITCHELL: I understand.

19 MS. RATTLEY: She was driving and
20 she was alone.

21 MR. MITCHELL: I understand.

22 MS. RATTLEY: She teaches law.

23 MR. DARDEN: If you wanted -- any
24 one of the members can be contacted through me at the
25 Washington office.

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1 MR. MITCHELL: Okay.

2 MR. DARDEN: So you would send your
3 letter or make a telephone call to me and we would
4 transfer it through the office to the members instead
5 of directly from you to the members.

6 MR. MITCHELL: Okay. That's another
7 question I want to ask you.

8 MS. RATTLEY: I wanted to say that
9 she is an instructor of law at Richmond University.
10 I don't know if she practices law. I don't know.

11 MR. MITCHELL: Okay. Another thing
12 I want to ask you. You-all are from the White House
13 in Richmond -- I mean, Washington D.C. Civil Rights
14 Committee, or some sort?

15 MR. DARDEN: Only very indirectly.
16 The Civil Rights Commission is part of the Executive
17 Branch of Government, so that's where the White House
18 is, but we're not part of the President's staff.

19 MR. MITCHELL: Okay. I had wrote
20 Room 6. I had wrote to the White House, Room 6.

21 MR. DARDEN: In the White House?

22 MR. MITCHELL: Yes.

23 MR. DARDEN: That didn't come to us.
24 That wouldn't come to us.

25 MR. MITCHELL: Okay. The thing I

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1 want to talk about -- I'll make it short and brief.
2 I work for the City of Hampton, and I was there about
3 four years, and I was illiterate. Now I can read a
4 little, and I was in the literacy program and all.
5 What started happening to me on my job was I worked
6 at Langley NASA, operating an overhead crane and
7 steam plant. I made approximately \$23,000 a year,
8 and one day I was sitting in the break room eating my
9 lunch, and the chief of operations walked in and he
10 grabbed his grouse and shook it at me and asked me
11 would I bite on it. That was one of the things he
12 did.

13 MS. RATTLEY: His what?

14 MR. MITCHELL: Asked me would I bite
15 on his penis, okay. And so I had told the plant
16 manager and them about it. They did nothing about
17 it.

18 So later on down the road, he was
19 taking my vacation from me, wouldn't let me take my
20 leave. He just wanted to pick on me. He called me
21 in the office one day, said I was abusing my
22 vacation. I told this man -- I taped him. When I
23 went in there, he didn't know I had a tape-recorder,
24 but I taped him. And I told him, I haven't abused my
25 vacation, and we went on to a lot of stuff. I'll not

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1 get into all of it, but later on he apologized for
2 shaking his thing at me. I have that on tape, so
3 that was an admission of guilt, but yet he didn't
4 stop there. He went and told an employee that if I
5 said anything to upper authorities, that he -- I
6 would lose because he knew a lot of people downtown
7 in the City of Hampton.

8 So what I did was, being the plant
9 manager didn't do anything about it, I went to EEOC
10 and filed charges. During the time, I had another
11 employee come in, a bore operator, white male. He
12 walked up to me intoxicated, drunk. I mentioned it
13 to my supervisor. Nothing was done.

14 Three months later, another employee
15 wrote a letter downtown to the Public Works
16 Department, and they went on and just wrote him up,
17 the supervisor, because the supervisor let him work
18 drunk.

19 So then my mother had passed, and
20 they took up an offering in the plant to get some
21 flowers for the funeral hall. My mother, she
22 remarried, so she had a different last name. The
23 lady in the weigh shack asked Mr. Whitlock, What's
24 Mr. Mitchell's mother's last name? And Mr. Whitlock
25 said to her, said, Well, them son-of-a-bitches, they

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1 don't know who their mama is. He once said, If
2 there's any smart nigger, they got a white mama.

3 So what the City did was -- I went
4 to EEOC and filed charges. They hired an
5 investigator to come in and investigate this
6 statement that he made about my mother. So what the
7 City of Hampton did, to cover themselves, the witness
8 that gave me the letter, he was there at the steam
9 plant for approximately twelve years. They fired
10 that man for giving me that letter. They didn't fire
11 the man that stated it. They fired the man for
12 giving me the letter. That man lost his home and
13 everything. So he had to move away from here.

14 So my thing is that I have cried out
15 for help to a lot of people. I have wrote the White
16 House, which I have a letter here that the White
17 House sent me back -- well, came back that EEOC
18 saying responded by the White House, saying that my
19 case would be closed in 90 days.

20 It's been three years, and my case
21 has been sitting over at Norfolk at EEOC. It hadn't
22 been investigated yet. I had Reverend Harris go to a
23 fact-finding hearing. The city brought who they
24 wanted, who they wanted to be there. The EEOC, to
25 me, works right along with the City of Hampton.

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1 MR. DARDEN: One minute.

2 MR. MITCHELL: And the thing is, is
3 that they told me in this letter here I got saying
4 that the White House saying they would have it done
5 in 90 days. This letter was August 6, 1996. It's
6 been almost a year now. They still haven't
7 investigated my case. I filed bankruptcy. I have
8 lost my car. I have been without gas, water. These
9 people have really caused my family to suffer a great
10 deal. Okay.

11 And this is just part of my -- part
12 of what happened to me. I'm not going to go in
13 detail all the things they done to me. I went to
14 court yesterday for my unemployment money. The City
15 of Hampton prolonged my unemployment thing for a
16 whole year, then tried to have it dismissed saying I
17 didn't do things in a timely manner.

18 The clerk that was helping me, they
19 fired her. The clerk goes to my church that I go to,
20 and that's the only way I get my case heard. And
21 what they're doing is, when I went to circuit court,
22 they didn't even have a lady to type my stuff up,
23 because it's supposed to be a transcript of all
24 unemployment hearings. They didn't have that, and
25 then on top of that, when I do go back to court for

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1 trial, the Judge told me that he have so many things
2 in that courtroom that day, he going to move --

3 MS. RATTLEY: Trial for what?

4 MR. MITCHELL: My unemployment
5 benefits.

6 MS. RATTLEY: Your hearing? You
7 mean your hearing?

8 MR. MITCHELL: Yeah, they going to
9 move it down to another courtroom where nobody be
10 there but me and the City Attorney and the State
11 Attorney. I been mistreated by the State Attorney --
12 she scream and hollerèd at me -- and by City of
13 Hampton very bad, and I'm just crying out for some
14 help. I need some help. I need to find a lawyer. I
15 need help real bad because I'm not an attorney. I
16 don't know what I'm doing, but everything these
17 people have done to me, I can prove. I can prove how
18 they sent me to a fitness for duty -- I mean send me
19 to the Employee Assistance Program, and the Employee
20 Assistance lady told me, she said, I'm not here to
21 help you. She said, I'm here for information purpose
22 for the City only. That sentence is so big, they put
23 it on paper, said she was only there for the City,
24 not to help me with my problems because I been in the
25 hospital for mental stress and everything. These

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1 people have disrupted and destroyed me and my
2 family's lives.

3 MS. RATTLEY: You worked for the
4 City of Hampton?

5 MR. MITCHELL: I was working for the
6 City of Hampton. They forced me to resign. That's
7 basically all I have to say, but if someone can help
8 me, I would highly appreciate it. And every
9 statement I have made in here about the sexual
10 harassment, what he said about my mother, and
11 everything they have done to me, I have proof, I have
12 tapes, cassette tapes.

13 MS. RATTLEY: Do they still have the
14 same man who started this, as far as his approach to
15 you about some abnormal sex?

16 MR. MITCHELL: Yes, ma'am. They
17 ain't fire him. All them people still work out
18 there. Man who come in intoxicated, they moved him
19 up to a higher position. All them people still
20 working out there. I don't have a job. My family
21 suffered. I lost a car, about to lose my house.

22 So the thing is is that the City of
23 Hampton, they're doing whatever they can do to cover
24 these people. Okay. The chief -- the head of Public
25 Works told me, said that I begged him for a transfer

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1 to another department. Public Works told me, said
2 that because you went to EEOC, I took that as a
3 threat. He said, So Because you went to EEOC, I'm
4 not going to transfer you. I have that on tape. I
5 taped this man saying that to me. I taped the stuff
6 that these people have done to me. I can prove
7 everything that they have done. It's nothing being
8 done.

9 MS. RATTLEY: When is your hearing,
10 as far as your unemployment compensation?

11 MR. MITCHELL: On the 7th of next
12 month.

13 MS. RATTLEY: Do you have a lawyer?

14 MR. MITCHELL: I had a legal aid
15 lawyer, but when I went to one of those hearings, out
16 of 45 minutes' worth of talking, she only asked one
17 question. I understand that the City of Hampton,
18 they pay your legal aid part of their salaries and
19 stuff. These people are not here to help me. I'm
20 fighting against the wall, fighting against the City.
21 You know, it's -- you know, and like I said, if I
22 give it to a lawyer, I don't know what's going to
23 happen. I know all the people's that had cases
24 against me had a lawyer back out last minute and all
25 this stuff, all politics.

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1 MS. RATTLEY: You live in Hampton?

2 MR. MITCHELL: Yes, ma'am.

3 REVEREND HARRIS: What's the
4 unemployment situation? Have you had the first
5 hearing?

6 MR. MITCHELL: I've had a hearing in
7 Unemployment Office. Then I went to Richmond and I
8 had a hearing. Then they sent it back to the
9 Unemployment Office for another hearing. I had a
10 hearing. Now I'm going to court, which I filed my
11 petition and my papers and all. But what the City of
12 Hampton did, was they prolonged it for a whole year,
13 and when I went to court yesterday, the lady -- I
14 asked the lady why it was not in the evidence that I
15 gave in the file, the State Attorney, I asked her
16 that. She said it got lost. So all my evidence that
17 I gave them ain't in there. The only evidence the
18 City gave, all them in there.

19 The Judge is telling me he's going
20 to move us to another courtroom when I come back so
21 can't nobody hear what's going on. The thing is,
22 when I went back that morning, won't nobody in there.
23 I can't understand that when I walk into the
24 courtroom, ain't nobody in there but me, City
25 Attorney, and the State Attorney, and the Judge.

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1 REVEREND HARRIS: Let me ask you,
2 how long has it been since you were terminated?

3 MR. MITCHELL: I resigned in '95,
4 February 17th, 19 -- I think '95. And like I said,
5 it took this long for me to get to court with my
6 unemployment because --

7 REVEREND HARRIS: You resigned?

8 MR. MITCHELL: They forced me to
9 resign, yes, sir.

10 MS. MCCLOUD: How so?

11 MR. MITCHELL: My doctor.

12 MS. MCCLOUD: How did they force
13 you?

14 MR. MITCHELL: Well, my doctor, what
15 he did was he wrote me a statement saying I was
16 unable to perform the duties he got me in. He didn't
17 tell me to quit my job, but he wanted them to do was
18 transfer me to another department.

19 When I went to see the head of
20 Public Works, the head of Public Works said he didn't
21 want to talk to me about it, or he ain't going to
22 transfer me because I went to EEOC.

23 REVEREND HARRIS: Let me ask you
24 further. When you resigned --

25 MR. MITCHELL: Uh-huh.

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1 REVEREND HARRIS: -- did you tell
2 your boss --

3 MR. MITCHELL: I gave him a typed --

4 REVEREND HARRIS: -- why you were
5 resigning?

6 MR. MITCHELL: I gave him a typed-up
7 letter stating that due to medical and personal
8 reasons that the doctor wrote, I was no longer able
9 to work there because of the fact that I went -- I
10 even put in the letter that I went to talk to
11 Mr. Panther about it. He wouldn't see me. I also
12 put in there because of the fact that the plant
13 manager, he was giving out confidential information
14 on me. I also put that in that in the letter. I put
15 in the letter, Because he was giving out confidential
16 information on me, because my doctor said I couldn't
17 perform my duties there anymore, okay, that's why I
18 was resigning.

19 And the thing is, is that these
20 people -- so much had been done to me, I filed for
21 Workmen's Compensation, on the job, because of the
22 mental stress that they put me through, and they want
23 me to see a particular doctor, so they stopped my
24 Workmen's Compensation because -- I got a letter
25 where they show particular doctor here. Then I got a

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1 letter showing, Well, you can't pick a doctor.

2 What these people done to me, I
3 mean, I have everything they ever done to me, every
4 piece of paper. I have records where they went in
5 there and erased stuff. I didn't go into all details
6 on all the charges I got against them at the EEOC. I
7 went to EEOC. EEOC told me that they heard my case,
8 heard this man retaliate against me and tell me, he
9 said, You filed too many charges; you don't need to
10 file that.

11 This is what I'm dealing with. I'm
12 dealing with -- I'm not just fighting up against the
13 City of Hampton. I'm fighting up against the people
14 that supposed to be helping me, so I have to write --
15 I wrote NAACP, the White House. I wrote everybody to
16 try to get -- put some pressure on the EEOC to make
17 them do their job against the City of Hampton.

18 These cities are very powerful, and
19 these people do like they want to do and don't
20 nothing get done about it. I'm just the type of
21 person that I can lose everything I got, but I want
22 to try to get something done for what they done to me
23 because I got kids. You-all have children. And I
24 know one day my kids will grow up, and I don't want
25 this to happen to any one of mine what's happening to

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1 me.

2 MS. MCCLOUD: Madam Chairman, I
3 would like to make a few comments, if I may, please.

4 MS. RATTLEY: Yes.

5 MS. MCCLOUD: The first one is, I'm
6 not a lawyer; I am a mediator, and at the university
7 where I work, I serve as mediator for sexual
8 harassment complaints. The one thing that a lot of
9 people are not aware of is that sexual harassment can
10 happen between men, because sexual harassment is a
11 power play.

12 MR. MITCHELL: Yeah.

13 MS. MCCLOUD: So I would
14 characterize what this person, who was your
15 supervisor, or whatever, what he said to you, I would
16 characterize that in terms of sexual harassment.
17 That's one thing.

18 The other thing is that in addition
19 to contacting the other person who -- the other
20 lawyer on the committee, you may want to also contact
21 this man.

22 MR. MITCHELL: I have his card. He
23 gave me his card.

24 MS. MCCLOUD: In talking with him
25 earlier today -- and this is information you may just

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1 like to have -- he said that if a person does not
2 feel comfortable in going to a lawyer in Virginia,
3 they can go to a lawyer in another state as long as a
4 lawyer in Virginia is willing to work with this
5 lawyer out of state.

6 MR. MITCHELL: Oh, okay.

7 MS. MCCLOUD: You see what I mean?
8 So he may be able to make some suggestions to you
9 along that line.

10 MR. MITCHELL: That's my biggest --

11 MS. RATTLEY: I have some people
12 back there shaking their head no.

13 SPEAKER 1: I shake my head no
14 because that does not work. The lawyer here will buy
15 out that lawyer in the other state. You're right.
16 They need a Virginia lawyer- I apologize for my
17 throat -- to bring that lawyer in, but it does not
18 work in Hampton; it does not work in Newport News.

19 MS. MCCLOUD: Now, this gentleman is
20 from Virginia. He's from Northern Virginia, and he
21 is an African American, and it could be that he would
22 know someone that could not be bought out.

23 SPEAKER 1: That's like finding a
24 needle in a haystack. We did that with African
25 American -- with an African American in Northern

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1 Virginia. Did not work.

2 MS. MCCLOUD: Okay.

3 SPEAKER 1: I hope you have a
4 solution for that.

5 MS. RATTLEY: I saw another hand.

6 SPEAKER 2: I was just going to say
7 the same thing.

8 MS. RATTLEY: Oh, okay.

9 MR. MITCHELL: That's been my
10 biggest problem, just getting someone that will -- to
11 be fair.

12 MS. RATTLEY: I think if you would
13 follow some of these suggestions, you may get an
14 answer.

15 MR. MITCHELL: I got his card. I'll
16 give him a call.

17 MS. RATTLEY: I think it may be a
18 charge of sexual harassment would go very well.

19 MR. MITCHELL: But the EEOC told me
20 that they were going to rule in my favor on a lot of
21 the other charges, but they trying to be specific at
22 one point. But all the other charges, I can prove
23 because, see, first of all, they told me I didn't
24 have a case, after I proved it to them. But then
25 after I wrote the White House and wrote all these

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1 people, these people get in contact with them,
2 You-all need to do something about this. Then they
3 call back and say, Well, yeah, we going to rule in
4 your favor. They told me they were going to rule in
5 my favor.

6 MS. RATTLEY: When did they tell you
7 that?

8 MR. MITCHELL: The lady told me
9 that, but she hasn't finished with the case, the
10 investigator.

11 MS. RATTLEY: Are they going to pay
12 you back pay for a year?

13 MR. MITCHELL: I asked -- I'm almost
14 out of work now for going on three years, but the
15 head of the EEOC, I spoke with him. He asked me --
16 he said, If we rule in your favor, what would you do
17 with it? So the only thing I said to him was I don't
18 know.

19 MS. RATTLEY: What would you do with
20 what?

21 MR. MITCHELL: If they rule in my
22 favor, my case that I have against the City, they
23 asked me what would I do with it. I ain't -- like I
24 didn't know.

25 MS. RATTLEY: With what?

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1 MR. MITCHELL: With the case, what
2 would I do with it.

3 MS. ZEAVIN: Get some money.

4 MR. MITCHELL: But the thing is, I
5 didn't tell him that, because if they rule in my
6 favor, he's supposed to do something about it.

7 MS. RATTLEY: All right. Thank you.

8 MS. BRIGGS: Good evening. My name
9 is Pamela Briggs. My case is concerning the Justice
10 Department. I live in Chesapeake. On October 30th,
11 1994, a white couple, which is a husband and wife,
12 kicked my door in, came in my house and beat me up.
13 Okay. Both of us went to the -- all of us went to
14 the hospital. Okay. I went and took out warrants on
15 them. They took out warrants on me. We went to
16 court. Somehow or another they took -- somehow or
17 another they took the warrants that I took out on
18 them, and they turned it around, said it was
19 trespassing.

20 They dismissed all the warrants I
21 took out on them. They took warrants that they took
22 out on me and sent it to the grand jury.

23 What I don't understand is how can
24 they change things around like that? And I'm the
25 victim. I was the one that was beat up in my house.

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1 I went to court. They gave me eight
2 years, okay. I go back to court June the 20th to see
3 what's going to happen. I put in an appeal. In the
4 meantime, when I went back to court, the Judge said
5 that I have to teach you-all people a lesson here,
6 locked up for six months. He wouldn't give me a
7 bond, no reason why I'm locked up.

8 So somehow I hired a lawyer, John
9 Brown, and he went back to court on appeal, and he
10 let me out on a PR bond. But I don't understand is
11 that he let me out on a PR bond, but he made me sit
12 in jail for six months with no bond.

13 To me, my civil rights been violated
14 all the way around. Every time I try to find an
15 attorney to take the case, don't nobody want to touch
16 it. I done called the NAACP. I tried to get help
17 out of my church. The church said they're afraid
18 because they might burn down the church, so I don't
19 know what to do.

20 I have a 14-year-old-son. I live
21 alone. I'm separated from my husband. And I don't
22 bother nobody. I work and I take care of, you know,
23 my son. And I don't want to go to prison for
24 something I didn't do because I didn't have the
25 proper attorney at first to represent me. I had a

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1 court-appointed attorney when I first went to court.

2 So if you-all can help me any kind
3 of way, or lead me to someone that can help me, I'm
4 begging you to please help me. I don't want to go to
5 prison.

6 MS. RATTLEY: It has to be something
7 you're not telling us. Why did the couple break into
8 your house and beat you up?

9 MS. BRIGGS: Okay. What had
10 happened was there was a convenience store had opened
11 on the corner. Everybody in the apartment complex
12 had applied for a job. I got hired. This white lady
13 got hired. I didn't know anything about it. Okay.

14 I was supposed to start working that
15 Sunday when they came to my house. What had happened
16 was that the manager, which is white, he came and he
17 testified. He said the lady was prejudiced, that the
18 lady was upset because he had given me forty hours,
19 because I had more experience than she had, and he
20 given her twelve hours. So what they call themselves
21 doing, I guess, I don't know, is that stop me from
22 going to work so she could get the hours.

23 MS. RATTLEY: That's bizarre.
24 That's a bizarre case. And I'm sure I guess it can
25 happen. So what did she take out a warrant for you

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1 for? What was the charge?

2 MS. BRIGGS: She took -- both of
3 them took out warrants on me, assault and battery and
4 --

5 MS. RATTLEY: The man and the woman?

6 MS. BRIGGS: Yes. Malicious
7 wounding or causing bodily injury.

8 MS. RATTLEY: And it happened in
9 your house?

10 MS. BRIGGS: In my house.

11 MS. RATTLEY: And what did you take
12 out a warrant --

13 MS. BRIGGS: I was trying to defend
14 myself in my house.

15 MS. RATTLEY: What did you charge
16 them with?

17 MS. BRIGGS: I thought I was
18 charging them with the same thing, but up here, you
19 can see where they changed it all around and put it
20 to trespassing. We went to court for that, they
21 threw everything out.

22 MS. RATTLEY: You charged them with
23 trespassing?

24 MS. BRIGGS: No, I charged them with
25 assault and battery, malicious wounding.

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1 MS. RATTLEY: But you said trespass
2 appeared on the paper?

3 MS. BRIGGS: This is what -- when I
4 went to get copies, this is what was up here,
5 trespass. And I didn't -- but you can see right here
6 where it's typed in right here somebody scratched it
7 out and put trespass, so somehow or another in the
8 court, they changed it.

9 REVEREND HARRIS: Is that against
10 you? Did they charge you with trespassing?

11 MS. BRIGGS: No.

12 MS. RATTLEY: The charge she made
13 against them she said was changed to trespass.

14 MS. BRIGGS: Trespass. And it was
15 dismissed. I'm the one that got beat up. My eye was
16 black. My nose was busted, lip and all.

17 MS. RATTLEY: And you live in
18 Chesapeake?

19 MS. BRIGGS: In Chesapeake then.

20 MS. RATTLEY: This happened in
21 Chesapeake?

22 MS. BRIGGS: In Chesapeake.

23 MS. MCCLOUD: You said the person
24 who had hired you spoke in your behalf at the
25 hearing?

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1 MS. BRIGGS: He spoke in my behalf,
2 and Judge Townsend said, I'm not going to have that
3 talk in here. But he spoke in my behalf, said the
4 lady was prejudiced and she was a racist and she was
5 upset because she had twelve hours and he had given
6 me forty hours.

7 MS. MCCLOUD: Was the person who --
8 was the person who hired you black or white?

9 MS. BRIGGS: He was white.

10 MS. RATTLEY: Did you have an
11 attorney?

12 MS. BRIGGS: I had a court-appointed
13 attorney.

14 MS. RATTLEY: You kind of laughed.
15 That person didn't represent you sufficiently --

16 MS. BRIGGS: (Speaker shakes head.)

17 MS. RATTLEY: -- or that's your
18 feeling?

19 MS. BRIGGS: He didn't even know
20 what the prosecutor's name was. Worked along with
21 the prosecutor attorney. He didn't work for me.

22 MS. MCCLOUD: Did anyone see this
23 couple break into your house?

24 MS. BRIGGS: Yes.

25 MS. MCCLOUD: I mean other than your

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1 son?

2 MS. BRIGGS: Yes.

3 MS. MCCLOUD: Were they at any time
4 involved in testifying as to --

5 MS. BRIGGS: Yes. They said they
6 would still testify for me.

7 REVEREND HARRIS: You say -- did
8 they testify on your behalf when you went to court?

9 MS. BRIGGS: Mr. Green did, but his
10 wife was out of town because her mother was sick, but
11 she said she would testify for me if I could get a
12 new trial.

13 MS. RATTLEY: Have you tried to get
14 a new trial?

15 MS. BRIGGS: It's up for appeal now.

16 MS. RATTLEY: Do you have a lawyer
17 now?

18 MS. BRIGGS: Yes.

19 MS. RATTLEY: One that will
20 represent you?

21 MS. BRIGGS: No -- yes, I think he
22 would represent me, John Brown.

23 MS. RATTLEY: Are you paying him or
24 --

25 MS. BRIGGS: I'm paying him.

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1 MS. RATTLEY: You have documentation
2 you want to leave?

3 MS. BRIGGS: Yes.

4 MS. RATTLEY: Give it to Mr. Darden.
5 Okay. We have one other person.

6 MS. BRIGGS: Is there anyone that I
7 can -- that can follow up on this as far as my civil
8 rights being violated?

9 MS. RATTLEY: I don't know if we can
10 give you any advice until we get the specific
11 information. We need to find out a little bit more
12 in detail about what has happened.

13 I'm not going to give you any false
14 hopes, but I certainly would like to look at it
15 because something seems to be missing there. I'm not
16 a lawyer, so --

17 MS. BRIGGS: Okay. Thank you.

18 MS. RATTLEY: Thank you.

19 Yes, sir.

20 MR. ROBINSON: My name is Deon
21 Robinson.

22 MS. RATTLEY: Yes, Mr. Robinson.
23 Make your statement loud enough for the reporter to
24 hear.

25 MR. ROBINSON: This is about like an

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1 EEO on Fort Eustis, Fort Monroe, TRADOC, and all
2 that. I had sent letters to you and Congressman
3 Bateman and addressed Washington on this issue. I'm
4 not getting no replies about it, but that ain't the
5 problem.

6 The problem is that I put in an
7 application February 14, 1996, and I went to go to
8 reapply, to look into the application because I was
9 wondering what was going on. My boss turned around
10 and told me don't fill out the application in the
11 first place.

12 MS. RATTLEY: Application for what?

13 MR. ROBINSON: For a maintenance
14 mechanic position on Fort Eustis. So I go to -- go
15 back to see what's wrong with the application, or
16 what's going on with it. They told me that my
17 application isn't there. I said, Well -- you know,
18 to make it a little bit shorter, the application
19 disappeared.

20 So I took -- the EEO turns around
21 and said I did threaten, the whole nine yards on me
22 taking it to them. So I had to resign from my job.

23 Once I resigned from my job, I
24 turned around and still working with the EEO today
25 with TRADOC over there on Fort Monroe, and still

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1 going through the same thing.

2 The investigation isn't properly
3 getting investigated from formal to informal to
4 formal. It's not being properly investigated. The
5 investigation is getting sloppily handled, and things
6 that I'm writing is getting documented, but they're
7 changing it in the investigation. And I'm basically
8 having a problem.

9 MS. RATTLEY: Why didn't you fill
10 out another application?

11 MR. ROBINSON: Why didn't I fill out
12 another application? Because the application was
13 correct. According to the way that application was
14 filled out in the first place is correct.

15 MS. RATTLEY: Do you have anything
16 in writing?

17 MR. ROBINSON: Yes, I do.

18 MS. RATTLEY: You want to leave it
19 with Mr. Darden?

20 MR. ROBINSON: Yes. I have his
21 card.

22 MS. RATTLEY: Were you working at
23 either one of those installations?

24 MR. ROBINSON: Yes, I was.

25 MS. RATTLEY: You were at Langley?

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1 MR. ROBINSON: Fort Eustis.

2 REVEREND HARRIS: Did you resign?

3 MR. ROBINSON: Yes, I did.

4 REVEREND HARRIS: What was your
5 reason for resigning?

6 MR. ROBINSON: My reason was because
7 I was only making \$4.85 an hour, and I was trying to
8 get into a job that was paying better. I couldn't
9 get into that job paying better, so I resigned for
10 reasons --

11 REVEREND HARRIS: Were you trying to
12 apply for a better job --

13 MR. ROBINSON: Yes.

14 REVEREND HARRIS: -- out there? Did
15 you make applications --

16 MR. ROBINSON: Yes.

17 REVEREND HARRIS: -- for better
18 jobs?

19 MR. ROBINSON: I made same
20 applications under another maintenance position, and
21 the application disappeared, all of them disappeared.

22 MS. RATTLEY: I believe he's saying
23 he's upset because the application disappeared.

24 MR. ROBINSON: Well, see, no, it's
25 not that. That even the KSA's, the notice that --

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1 they went by this program with the KSA's, grade,
2 skills, knowledge, and ability. Well, the KSA's were
3 not graded. The only thing that was put on the KSA
4 was, Address wasn't available. Well, on the
5 application, there was no address.

6 REVEREND HARRIS: Let me tell you
7 one of the mistakes you made. When you resigned,
8 that put you in a different category, and your
9 complaint will fall of its own weight because you
10 have no standing as an employee.

11 Now, as it relates to the
12 application that you put in, did you try to prove
13 that you didn't get the job because of
14 discrimination, then it comes back to haunt you.

15 Now, TRADOC is under investigation
16 now. Fort Monroe is the headquarters for TRADOC all
17 over the country. The four-star general there, and
18 we have a complaint against him, "we" meaning SCLC.
19 And we're trying to get a meeting with the Secretary
20 of the Army, Togo West.

21 Congressman Scott told me today that
22 they have agreed to allow me to meet with him at the
23 Pentagon about TRADOC. Therefore, if you will leave
24 your address with me, then I will keep you up-to-date
25 with what we are doing for TRADOC; and when you come

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1 back for your hearing with the EEOC, then the
2 Southern Christian Leadership Conference will
3 represent you in the administrative part of the
4 effort.

5 That's not this fact-finding group
6 from -- offering assistance from another angle,
7 because the fact-finding group that we've been
8 meeting with for two days, and you ask for help.
9 There is no automatic help that comes from the
10 fact-finding process. So several times people have
11 offered their assistance from another angle, and so
12 I'm offering my assistance from another angle. If
13 you think that that will be helpful to you, after
14 this meeting give me your name, address, telephone
15 number.

16 MR. ROBINSON: Okay.

17 MS. RATTLEY: Thank you.

18 MR. DARDEN: Madam Chair, we did
19 have Brian Harris, and I have a couple of -- just
20 names to read into the record. Is Brian Harris here?

21 MR. HARRIS: Yes.

22 MR. DARDEN: Very briefly, please.

23 MR. HARRIS: I would just like to
24 give you a brief, real quickly, of what's happened
25 with me. I have been charged with rape and sodomy of

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1 an 18-year-old. She was raped in Virginia Beach last
2 April the 2nd. I was arrested November the 2nd on a
3 composite sketch. They said I looked like the
4 sketch, and I was incarcerated for two months. They
5 told me when I was arrested that, of course, I
6 stated -- I emphatically stated I was innocent. They
7 told me that this lady identified me out of a photo
8 lineup. She doesn't live in the area. She lives in
9 Michigan. She was down here on spring break. She
10 was coming from a bar at the beach, which she was
11 under age.

12 MS. RATTLEY: Which beach was that?

13 MR. HARRIS: Virginia Beach. This
14 rape allegedly happened in Virginia Beach, and she --
15 they told me that they have been trying to get in
16 touch with me and that we could have cleared it up,
17 but I had heard word that the police were asking
18 questions about me, but nobody ever knew exactly what
19 for, and they never came forward.

20 This was two months, like August and
21 September, before I was arrested that they were
22 looking and questioning -- asking questions about me,
23 but nobody ever came forward. The detective told me
24 that it could have been cleared up if they had found
25 me, and so he said, Well, you can clear it up if you

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1 take a DNA test and everything. I did that the night
2 I was arrested.

3 They -- I found out -- after I had
4 been in jail for a couple months, I found out that
5 they never tested my DNA because they didn't find any
6 Negro hairs on her when they did the rape test, I
7 guess. They found a Caucasian's hair on her. And at
8 the preliminary hearing, they didn't allow for the
9 DNA to come out.

10 I have a lawyer. Dick Brydges is my
11 lawyer. They didn't allow for any of the physical
12 evidence to come out, and there -- they don't have
13 any evidence that -- at that time they had no
14 evidence to tie me to this female, and she came to
15 the preliminary hearing and said that I was the
16 person and she had inconsistent testimony. She said
17 she was this place, and it's -- so my case is
18 pending. It's going to trial now on April the 22nd.
19 There is -- I mean, I'm forgetting the words I'm
20 trying to say here.

21 The prosecutor asked if I wanted to
22 take a polygraph to, you know -- he said if I pass
23 the polygraph, but I'm not going to take the
24 polygraph. My lawyer advised me not to take the
25 polygraph, and I'm just wondering if -- do I have any

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1 recourse before this thing, or do I just have to
2 wait, or what?

3 MS. RATTLEY: Who is your lawyer?

4 MR. HARRIS: Dick Brydges.

5 MS. RATTLEY: They took your DNA?

6 MR. HARRIS: They took my DNA.

7 MS. RATTLEY: And --

8 MR. HARRIS: And they didn't test
9 me. They told me they would test it when they took
10 it, but they never tested it. Told my family they
11 tested it, and they kept me in jail over the
12 holidays, and the blood test came back, and it was --
13 of course, it was negative, and they say they
14 couldn't release me because of that. They said we
15 still have another test of hair sample.

16 Well, the prosecutor got the hair
17 sample back early January. I went -- I got bonded
18 out the day before.

19 MS. RATTLEY: Did they reveal that
20 the hair didn't match?

21 MR. HARRIS: He never revealed it.
22 My lawyer -- he didn't reveal it -- he said he didn't
23 have time to open it for three weeks. He said he
24 didn't have time to take a look at it. And my lawyer
25 finally got a letter from the lab stating that the

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1 hair sample was not even a Negro hair, and he said --

2 MS. RATTLEY: He got that in a

3 letter --

4 MR. HARRIS: He got that in a

5 letter.

6 MS. RATTLEY: -- written form?

7 MR. HARRIS: So I asked him, I said,

8 Well, are they going to drop the charges now? And he

9 said, No. He said the prosecutor said no, he wasn't

10 going to drop the charges because she is coming here

11 for the preliminary hearing, and she made an ID off

12 of a photo. And when she gave the description of the

13 composite, the guy in the composite had long hair,

14 but the photo that they sent to her -- they sent six

15 photos to her with me on one of them, and my picture

16 was bald. It's my DMV picture for 1992. So I told

17 them, I said, I've been bald for years, and they said

18 they had a picture of me with hair. I said, Well,

19 that's how she identified me.

20 MS. RATTLEY: How does your lawyer

21 feel about this case?

22 MR. HARRIS: He says it's a very

23 weak case.

24 MS. RATTLEY: That you have, or that

25 they have?

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1 MR. HARRIS: They have a very weak
2 case, but I have lost -- I was self-employed. I had
3 my own business here, and I lost my business behind
4 this. And my credibility.

5 MS. RATTLEY: From publicity?

6 MR. HARRIS: From the publicity and
7 being arrested down in Virginia Beach.

8 MS. RATTLEY: Where do you live?

9 MR. HARRIS: I live in Chesapeake
10 now.

11 MS. RATTLEY: In Chesapeake?

12 MR. HARRIS: Deep Creek.

13 MS. RATTLEY: What about the time of
14 the rape, where were you? Can you prove that?

15 MR. HARRIS: Yes. We haven't even
16 got to that point. I can prove where I was, but we
17 haven't even gotten to that point as far as in court.
18 You know, I haven't had --

19 MS. RATTLEY: Well, see, what you
20 need to do is get your own evidence and see if you
21 can get witnesses, because this can -- you know, this
22 goes way back in our history. It's still happening.
23 You know it now.

24 MR. HARRIS: I know now.

25 MS. RATTLEY: It's like the woman

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1 who killed her children. All she had to do was
2 holler there was a black man. Do you remember?

3 MR. HARRIS: Yes, I remember.

4 MS. RATTLEY: Okay. So what you got
5 to do is to work this one vigorously, I would think,
6 because it's always that possibility.

7 MR. HARRIS: Right.

8 MS. RATTLEY: You don't have the
9 hair. You don't know the results of your blood test.

10 MR. HARRIS: I got the results back
11 from all of the tests. They never even tested my
12 DNA, period.

13 MS. RATTLEY: But they have to match
14 it against whatever they got from her, don't they?

15 MR. HARRIS: Well, they say the
16 reason -- my lawyer had the letter saying that the
17 reason that my DNA wasn't tested -- and I asked, Why
18 wasn't mine tested? They told me that was the reason
19 I was incarcerated, because they were testing it.
20 And he said the reason they didn't test is because
21 they knew beforehand that they had Caucasian hair
22 only on her.

23 MS. RATTLEY: And about the
24 polygraph, your attorney doesn't advise you --

25 MR. HARRIS: He said no.

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1 MS. RATTLEY: Because they're not
2 always accurate.

3 MR. HARRIS: Right.

4 MS. MCCLOUD: With them not being
5 willing to drop the case based on the hair, is your
6 lawyer planning to go ahead and ask for them to do
7 the DNA testing anyway?

8 MR. HARRIS: They're not -- the DNA
9 isn't even a factor anymore. The reason they're
10 going forward with the case is because of her
11 testimony at the preliminary hearing, her saying --
12 which is all that they have -- to certify a case, all
13 she has to do is say, That's the person that did it.

14 MS. MCCLOUD: Well --

15 MR. HARRIS: The DNA was not allowed
16 at the preliminary.

17 MS. MCCLOUD: I think I would
18 question my lawyer, if I were you, more about that,
19 because if they had the hair as evidence, and they're
20 not -- that's still not causing them to drop the case
21 against you, then I agree with Mrs. Rattley that your
22 case needs to be built up; and one way of building it
23 up might be to have the DNA test done, so I don't see
24 why your lawyer is not pushing for that.

25 MS. RATTLEY: Anyone else? Any

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1 questions?

2 MR. DARDEN: Thank you.

3 Just for the record, we have a
4 written statement from Rosemary Randle entitled,
5 **Racism In the Virginia Legal System**, and I'm entering
6 that with the others.

7 That concludes the speakers' list
8 for the community forum.

9 MS. RATTLEY: Did you enter into the
10 record the testimony of the person who couldn't come
11 and he mailed you the statement? Do we have to do
12 that?

13 MR. DARDEN: We don't have to, but I
14 can do that. If you hold on just a minute.

15 MS. HOWARD: Should I enter my name
16 for the record?

17 MR. DARDEN: Who are you?

18 MS. HOWARD: Catherine Howard.

19 MR. DARDEN: Did you give us a
20 written statement?

21 MS. HOWARD: I gave you a note. I
22 will send it to you.

23 MR. DARDEN: That's sufficient.

24 MS. HOWARD: Okay. Thank you.

25 MR. DARDEN: And also the record

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1 shall reflect that we have a written statement from
2 our panelist, Robert Baldwin. And in addition to
3 that, the record should reflect that committee member
4 Azizah al-Hibri, in an interview with Commonwealth
5 Attorney Gwynn, requested follow-up data and
6 follow-up to his statement, which he agreed to
7 provide.

8 MS. MCCLOUD: What kind of data,
9 please?

10 MR. DARDEN: We'll take care of that
11 in the office. I just wanted to make mention of it.
12 And then finally, that the panelist, Tracey Watkins,
13 and the others with her on that panel, requested a
14 retraction of their reference to unnamed professors.
15 Those are the only corrections to the record, and I'm
16 concluding now.

17 Are you ready to close?

18 MS. RATTLEY: First of all, may I
19 express to Reverend Harris --

20 MR. DARDEN: Excuse me. For the
21 court reporter, we're concluding now.

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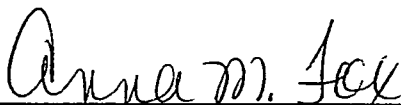
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CERTIFICATE

I, Anna M. Fox, Notary Public, certify the foregoing pages 1 through 332, constitute a true and correct copy of the original proceedings of the Virginia Advisory Committee on U. S. Civil Rights, commencing on March 7, 1997.

I declare under the penalty of perjury under the laws of the State of Virginia that the foregoing is true and correct.

Dated this 19th day of March, 1997.



Anna M. Fox, Court Reporter

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\$	165 2/18 16th 147/25 17 115/23, 117/5, 213/2 178 2/19 17th 303/4 18 97/13, 252/13, 263/5, 281/3, 281/6, 323/1 187 2/20 19 303/4 1901 179/17 191 2/21 1931 202/23 1947 272/20 1975 5/3, 5/4 1983 110/4, 203/2 1987 35/5 1988 15/6 1989 226/24 1990 58/16, 212/24 1991 149/12, 237/18, 271/6 1992 326/16 1993 15/6, 15/15, 236/1 1994 47, 15/5, 15/22, 16/15, 106/11, 238/1, 257/25, 310/11 1995 163/11, 228/20, 274/15 1996 88/10, 244/3, 247/24, 298/5, 318/7 1997 1/10, 103/25, 197/11, 333/11 103 4/7 1st 141/16	4 4 21/19, 115/23 400 22/9, 26/3 419 4/7, 4/20 43 249/7 4348 4/7 44 272/22, 275/13 45 56/19, 252/2, 301/16 48 110/14 48th 272/19 49 237/17 4th 115/14
&		5 5 2/2, 2/5, 56/22, 142/1, 244/12 50 11/14, 28/14, 28/16, 32/17, 64/15, 195/10 500 10/23, 19/8, 26/3, 28/2, 28/5, 244/15, 270/14, 278/6, 278/7 57 2/6 5th 244/3, 247/24
& 180/25, 181/11	2 2 141/24, 142/1, 308/6 20 168/6, 246/12, 277/25, 289/7, 289/11 200 21/2, 242/10, 272/25, 278/15, 279/20 201 2/22 202 5/16 20425 226/20 20th 287/19, 311/2 211 2/23 217 2/24 22 15/21, 289/14 226 2/25 22nd 324/18 23 74/13 236 3/5 23607 1/12 23rd 84/16, 85/9, 85/19 24 205/16 2400 1/11 242 3/6 245 22/16 24th 150/22 25 14/5, 158/11, 171/7 250 3/7 256 3/8 25th 177/5 26 233/11 268 3/9 27 289/24 271 3/10 279 3/11 28 263/4 29 15/14 291 3/12 2nd 5/4, 323/2	6 6 2/9, 142/1, 294/20, 298/5 600 19/6, 26/1 61 2/7 620 5/16 624 5/15, 226/18, 226/19
'		7 7 1/10, 2/4 70 40/5, 142/6, 142/16, 143/5 71 182/18, 185/18 72 214/1 73 272/3 75 15/9, 15/11, 28/19, 143/5, 169/19 76 143/21 78 260/23 7th 301/11
'65 280/12 '69 '77 24/1 '79 47/10 '80 '81 '83 204/9, 205/16, 206/22, 211/15, 211/18 '84 202/25, 204/8, 204/10, 205/2, 205/18, 207/6, 211/19 '86 35/12 '89 272/25 '91 238/24 '92 237/24 '94 238/24, 242/4, 261/10, 261/11 '95 303/3, 303/4 '96 137/9, 281/5, 281/6, 281/7, 287/10 '97 289/6	8 8 123/1 80 11/21, 38/17, 169/19 800 141/24, 272/19 8351 5/17 84 143/17 85 21/18, 320/7	
0 00 123/1, 273/8 000 10/24, 19/10, 22/12, 22/16, 22/18, 26/1, 26/2, 26/3, 26/4, 28/6, 30/14, 30/25, 74/1, 141/24, 142/6, 142/16, 149/9, 153/4, 167/16, 190/20, 195/10, 213/17, 230/15, 232/25, 240/4, 240/14, 240/16, 248/10, 271/21, 272/6, 272/25, 295/7 004 5/9 061 205/16	9 9 333/11 90 169/19, 297/19, 298/5 91 150/22 911 227/22 95 11/14, 27/8, 28/11, 30/5, 34/10, 35/23, 177/17 97 19/5, 252/17, 253/7 98 27/8	
1 1 19/8, 61/20, 123/6, 124/12, 137/22, 141/18, 141/19, 141/23, 141/24, 142/1, 144/5, 144/14, 254/3, 307/13, 307/23, 308/3, 333/8 10 56/19, 273/8 100 52/4, 110/14 103 4/20 105 2/11 108 4/7 11 252/9, 273/8 112 2/12 113 291/4 114 261/1 117 19/5 12 93/8, 123/5, 202/1, 208/19 13 93/8, 202/1, 287/10 130 260/25 14 91/8, 96/3, 96/12, 100/9, 100/12, 150/2, 289/5, 311/20, 318/7 145 22/12, 22/18, 26/2, 26/4, 74/1 147 2/16 15 21/19, 58/14, 102/7, 112/22, 123/1, 144/19, 150/2, 163/11, 168/5, 247/4, 259/14, 263/5, 263/7, 265/15, 277/12, 279/21 150 22/10 153 2/17 16 102/8, 112/22, 117/5, 150/2, 201/25, 233/18, 233/22, 287/13, 287/22	A abandoned 246/16 abiding 109/24 ability 8/5, 160/7, 321/2 abnormal 300/15 abolish 106/10 abolished 17/4 abolishing 18/24, 20/4 abolition 16/24 abuse 55/22, 109/19, 111/16, 248/8 abused 173/14, 295/24 abusing 13/5, 295/21 accept 181/7, 200/18, 240/3, 241/24 acceptable 131/15 accepted 16/15 accepting 128/25 access 95/19, 121/18, 121/20, 248/13 accident 228/16, 228/17, 230/2, 230/4, 232/19, 232/22, 239/12, 239/13 accidents 228/11, 232/21 accommodation 16/19 accomplish 30/20, 116/20 accosted 54/7 account 34/22, 66/22, 181/15, 204/4, 204/5, 204/7, 204/16, 204/23, 205/14, 205/18, 205/22, 207/4, 207/5, 210/4, 210/9, 211/1, 211/7, 211/23, 212/2, 212/3 accounts 85/24, 211/22	
2	3 3 19/10, 234/13, 267/18 30 123/5, 123/6, 137/22, 144/5, 144/14, 170/17, 171/7, 233/10, 267/18 300 22/10, 52/4 308 3/13 309 233/7 30th 141/23, 310/10 316 3/14 321 3/15 327 333/8 34 21/19 35 198/11 36 19/4 37 15/12 376 5/17 38 249/7 385 141/19 39 249/7 3E 4/20 3rd 5/3	

accurate 329/2
accuse 208/4, 209/19
accused 108/1, 202/24, 207/13, 208/3, 209/19,
248/1, 281/8, 282/2, 285/5
accusing 164/13
achieve 13/10
achieved 13/12
achievements 6/6
acquire 219/10, 219/15
acquired 222/13
acquiring 222/17
acres 219/20, 222/14
Act 4/7, 5/2, 5/14, 10/11, 15/13, 15/17, 16/12,
16/23, 21/2, 39/10, 40/15, 40/18, 51/12, 51/14,
51/15, 67/23, 106/14, 106/15, 107/19, 110/2, 221/5,
244/1
act's 107/22
acted 29/1, 41/24
action 8/10, 51/3, 124/1, 124/2, 126/2, 162/12,
168/7, 175/10
actions 53/3
active 113/9, 123/21
activism 119/4, 119/5, 119/8, 119/11, 120/2,
121/8, 121/16, 121/21
activities 54/3, 67/11, 76/17, 94/22, 115/8
activity 64/22, 65/10, 66/6, 77/9, 77/11, 77/12,
79/18, 80/8, 81/5, 83/14, 111/10, 138/19, 177/23,
227/3
acts 106/12, 106/16
add 9/8, 30/10, 41/11, 41/13, 41/18, 57/8, 73/23,
90/24, 91/1, 122/9, 163/14, 240/25, 285/16
added 254/3
addict 178/1, 178/2, 212/24, 213/5
addiction 215/20
addictiveness 71/18
addicts 74/8, 74/14
address 2/2, 7/13, 7/22, 8/9, 18/12, 70/1, 80/1,
82/7, 82/14, 82/20, 82/24, 83/2, 87/25, 89/16, 90/20,
99/20, 107/13, 108/21, 113/23, 120/4, 120/14,
133/23, 154/21, 218/19, 227/14, 230/5, 230/6,
243/18, 257/12, 267/1, 267/2, 267/5, 293/16, 321/4,
321/5, 321/24, 322/14
addressed 82/7, 90/17, 90/18, 318/3
addressing 88/1, 91/25, 94/2
adjacent 220/5
adjourned 144/14
adjust 287/5
adjusted 282/14
administered 71/25, 95/4
administering 200/16
administration 4/13, 83/5, 202/17
administrative 322/3
admission 6/12, 296/3
admit 119/9
admits 189/22, 213/12
admitted 206/19
adopt 52/8
adult 38/15, 38/16, 39/6, 96/13, 100/7, 100/10,
100/14, 101/1, 102/5, 263/12
adults 26/2, 38/20, 38/21, 39/12, 95/11, 95/14,
97/4, 100/11, 102/7
advantage 269/16, 269/19, 270/6
adverse 154/18
advice 186/5, 289/18, 289/19, 317/10
advise 138/10, 138/25, 144/5, 155/15, 328/24
advised 162/7, 163/5, 236/6, 324/24
ADVISORY 1/3, 7/20, 7/22, 145/3, 154/23,
333/10
advocacy 122/5
advocate
affairs 124/10, 124/11, 124/21, 124/23, 125/4,
125/9, 126/1, 127/19
affect 154/19
affected 27/7, 53/5, 106/6, 127/4, 225/4
affecting 7/15
affects 163/18
affirmative 8/10
afford 20/20, 159/17, 196/3
afforded 219/9
Afghan 173/20, 174/18
Afghanistan 173/21
afraid 36/7, 73/19, 279/17, 293/12, 311/17
African 7/15, 11/10, 15/14, 15/17, 18/8, 19/7,
47/24, 63/25, 64/3, 64/8, 66/15, 66/17, 82/17, 85/12,
87/5, 87/11, 87/13, 87/17, 87/20, 87/21, 88/8, 88/16,
88/18, 90/21, 91/3, 91/15, 93/6, 101/14, 102/16,
102/23, 102/24, 102/25, 103/1, 103/3, 103/4, 103/8,
103/19, 104/3, 114/5, 115/3, 115/24, 118/6, 118/7,
143/3, 143/6, 143/16, 163/18, 176/7, 292/6, 307/21,
307/24, 307/25
afternoon 57/11, 146/8, 153/10, 186/12, 186/14,
186/15, 186/18, 192/12, 192/13, 212/17, 218/1,
218/3, 227/7, 227/9

age 4/12, 9/25, 10/4, 96/21, 99/13, 259/14, 263/2,
323/11
aged 202/10
agencies 5/12
agency 4/4, 54/11, 105/23, 124/6, 155/21
agenda 50/25, 51/10, 56/18, 120/6, 120/7, 120/21,
121/8, 121/17, 121/21
agendas 56/16
agents 65/6
aggravated 96/5, 99/5
aggressively 95/8
agree 16/8, 33/11, 46/8, 130/8, 132/20, 153/20,
329/21
agreeable 268/24
agreed 80/4, 191/10, 191/11, 321/22, 331/6
Agriculture 8/19
aid 157/1, 242/21, 301/14, 301/18
AIDS 245/25
air 64/10, 65/25, 66/1, 66/13, 66/15, 66/23, 68/17,
84/15, 85/1, 113/9, 150/9
airplanes 69/15, 82/17
al 1/14, 331/4
Alabama 196/16, 196/24
Alamine 232/25
Alan 115/10
alarm 114/2, 117/23, 118/4
alarmed 117/15
alarming 132/5
alert 120/15
Alexandria 1/16, 1/22, 184/22
alive 262/16
allegation 130/25
allegations 130/24, 289/8
alleged 127/25, 248/12
allegedly 157/5, 323/14
Allen 2/2, 5/21, 148/25
alleviate 162/11
alleviating 123/24, 161/20
allow 16/10, 40/3, 47/12, 62/22, 136/16, 136/25,
162/3, 221/8, 248/9, 248/13, 321/22, 324/8, 324/11
allowed 186/25, 187/3, 215/15, 238/6, 246/25,
329/15
allows 46/11
alongside 196/4, 196/7
altercation 244/9, 257/24
altered 220/3, 223/5, 244/5
alternative 110/7, 161/19
alternatives 162/17
ambassador 208/23
ambulance 228/20, 229/9, 229/10
Amendment 4/6, 47/12, 47/17
America 18/25, 113/19, 115/22, 152/14, 221/7,
221/12
American 19/8, 63/25, 64/3, 64/8, 66/16, 66/18,
82/17, 85/12, 87/11, 87/17, 87/20, 88/8, 90/21, 91/3,
91/15, 93/6, 103/1, 103/3, 103/8, 103/19, 103/20,
115/24, 118/6, 118/7, 143/6, 176/7, 208/25, 219/2,
219/7, 219/10, 292/6, 307/21, 307/25
American's 104/3
Americans 7/15, 11/10, 15/15, 15/17, 18/9, 47/24,
70/9, 87/5, 87/13, 87/21, 88/17, 88/19, 101/15,
102/16, 102/23, 102/24, 102/25, 103/4, 114/5, 114/6,
115/3, 143/3, 143/16, 163/18
amount 84/10, 86/17, 103/17, 108/6, 134/8,
134/14, 137/4, 166/7, 167/11, 167/24, 168/3, 174/12,
238/22, 271/23
amounts 83/12
analogy 128/16
analysis 143/13
analyzed 116/12
analyzing 71/23
anecdotal 141/1, 141/13
Angeles 33/9, 69/18
angle 322/6, 322/11, 322/12
Anna 333/7
annually 167/10, 167/11
answer 25/6, 31/7, 64/21, 89/4, 123/14, 140/11,
159/22, 160/1, 172/3, 172/8, 173/1, 173/5, 174/22,
174/23, 175/12, 176/25, 225/16, 230/1, 308/14
answered 35/7, 50/8, 122/17, 159/23, 172/19
answering 61/9, 172/2
answers 148/6
anticipate 141/22
Antwan 115/13, 115/19, 120/8
apartment 312/11
apologize 63/2, 144/19, 201/22, 307/16
apologized 296/1
apology 200/18
appeal 9/16, 14/10, 14/12, 46/21, 159/4, 159/11,
162/9, 189/25, 190/1, 250/12, 266/2, 266/3, 266/4,
311/3, 311/9, 316/15
appealed 200/1, 235/1, 242/4, 242/6, 278/1
appeals 14/9, 192/17, 241/11, 261/15, 261/21

appearance 108/19, 109/4
appellate 242/16
Applause 185/11, 200/24
applicants 103/8
application 13/23, 16/14, 17/1, 35/22, 58/11,
318/7, 318/8, 318/10, 318/12, 318/15, 318/17,
318/18, 319/10, 319/12, 319/13, 320/21, 320/23,
321/5, 321/12
applications 23/15, 320/15, 320/20
applied 16/8, 26/8, 58/1, 220/6, 223/11, 312/12
applies 38/19
apply 17/2, 58/9, 320/12
appoint 238/7
appointed 168/17, 312/1, 315/12
appointment 123/17, 125/11, 217/17, 247/13
appoints 166/3
appreciate 7/21, 50/4, 98/13, 105/17, 105/18,
123/2, 165/3, 184/20, 185/17, 201/11, 300/8
approach 62/20, 133/19, 300/14
approached 164/5, 193/13
approaching 198/7
appropriate 44/21, 126/22, 131/22, 155/20
April 323/2, 324/18
arbitrarily 10/12, 118/15
arbitrariness 16/4
Area 5/16, 18/8, 25/3, 25/16, 65/16, 67/15, 70/21,
76/20, 77/18, 90/1, 112/11, 127/16, 127/17, 130/19,
136/9, 177/6, 196/17, 199/2, 219/3, 220/19, 257/25,
258/22, 268/19, 291/5, 323/8
areas 31/8, 34/21, 34/23, 64/23, 69/18, 70/19,
75/19, 76/6, 76/7, 76/9, 76/10, 76/24, 78/12, 78/23,
78/24, 79/3, 79/9, 80/2, 80/23, 81/2, 81/7, 81/13,
81/15, 96/1, 136/7, 136/12, 223/23, 258/23
arena 221/15
argue 20/8
argument 52/18, 240/17
arise 124/14
arm 275/17, 275/23
Armageddon 113/23
armed 100/13, 186/23, 186/24, 252/7
Army 199/11, 321/20
arrest 17/10, 32/19, 43/11, 59/25, 60/2, 60/15,
62/11, 63/23, 63/24, 68/3, 68/6, 75/8, 79/11, 85/11,
85/19, 85/22, 135/24, 136/14, 136/16, 136/21,
156/12, 178/11, 178/12, 178/13, 260/10
arrested 11/15, 32/20, 59/18, 60/11, 61/3, 61/4,
64/1, 68/25, 84/6, 87/6, 108/5, 108/23, 131/9,
132/19, 171/6, 171/7, 176/1, 176/13, 189/4, 207/6,
228/12, 230/2, 240/12, 244/3, 247/10, 247/14, 323/2,
323/5, 323/21, 324/2, 327/7
arresting 59/11, 83/24
arrests 34/22, 35/4, 62/16, 64/16, 66/12, 66/19,
67/7, 67/8, 80/13, 85/8, 86/8, 143/2, 177/16
arrival 281/12
arrived 193/19, 228/25, 233/17
arriving 201/23
arrogant 287/18
article 102/20
articulable 10/9, 34/3
articulate 34/5, 75/7, 75/20, 76/19, 130/5
artifacts 203/14
artist 111/4
ascertain 249/16
asleep 115/21
aspect 52/8, 131/17
aspects 52/9
asphalt 158/12
assassination 245/16, 245/22
assault 228/12, 248/2, 248/12, 250/2, 276/20,
276/21, 276/24, 279/9, 313/3, 313/25
assaulted 117/4, 231/7, 244/9
assaulting 117/7, 121/6, 248/1
Assembly 24/3, 25/8, 25/9, 47/14, 95/22, 106/9,
168/5
assessment 138/18, 271/20
assigned 63/9
assist 158/20
assistance 109/18, 109/23, 112/17, 299/19,
299/20, 322/6, 322/11, 322/12
assisting 245/25
associated 13/7, 29/4, 29/5, 29/22
association 29/3, 29/5, 166/13, 209/1, 214/17,
215/5
assure 108/19
attached 24/18, 24/19
Attaching 9/24
attack 119/21
attacked 156/15, 157/4, 251/11
attempt 64/20, 244/18, 245/23, 246/1
attempted 82/7
attention 7/2, 10/17, 10/20, 117/1, 117/16, 119/8,
119/16, 120/3, 120/16, 120/22, 120/25, 121/22,
133/16, 221/10

attire 118/16
attitudinal 48/3
Attorney 2/6, 6/9, 32/3, 45/2, 45/9, 46/4, 55/5,
57/3, 57/9, 57/19, 58/16, 58/19, 59/1, 60/17, 71/17,
94/18, 95/9, 98/19, 103/2, 120/24, 123/23, 124/3,
148/8, 163/6, 166/3, 166/7, 166/9, 167/3, 168/17,
176/4, 184/18, 220/18, 222/21, 230/24, 230/25,
232/14, 232/24, 234/22, 236/22, 237/20, 238/4,
240/12, 240/23, 241/15, 241/23, 242/10, 242/11,
247/4, 259/23, 260/2, 260/5, 260/7, 261/20, 290/8,
299/10, 299/11, 299/15, 302/15, 302/25, 311/15,
311/25, 312/1, 315/11, 315/13, 315/21, 328/24, 331/5
Attorney's 43/9, 58/14, 59/13, 59/14, 59/16,
104/5, 125/2, 129/19, 236/6, 241/15, 293/10
Attorneys 44/6, 45/6, 45/19, 59/22, 107/7,
166/17, 232/1, 238/6, 241/22, 271/7, 293/13
attributed 50/14, 50/21, 51/7
audience 82/2, 94/14, 218/8
audiences 55/4
August 180/2, 298/5, 323/20
authorities 270/23, 270/25, 296/5
authority 4/14, 49/17, 54/13, 54/15, 119/1, 220/9
authorized 4/5, 4/18
automatic 98/24, 322/9
automatically 22/21, 43/1, 96/6, 231/21, 231/22,
231/25
automobiles 219/13
automotive 188/12
available 64/25, 67/12, 74/16, 99/20, 113/2,
123/17, 141/1, 225/10, 269/24, 321/4
availed 99/24
Avenue 1/11, 179/18, 194/20, 233/8, 235/22
avenues 119/2, 289/22
average 29/16, 31/23, 37/19, 37/20, 38/6, 95/17
averaging 142/6, 143/4, 202/1
avoid 248/6
awarding 6/25
Azizah 331/4

B

baby 215/12, 260/25
babysitter 216/16, 216/18
babysitters 216/20
backed 220/9
background 84/3, 96/24, 101/19, 106/5, 109/10
backpack 195/19, 228/4
backyard 116/8
bad 46/5, 150/19, 150/20, 158/10, 161/17, 185/25,
217/8, 240/21, 256/7, 283/4, 299/13, 299/15
badgering 198/12
Baez 35/15
bag 220/20
baggy 33/21, 34/15, 195/16
bail 108/4, 244/15, 246/3
balance 211/2
balancing 68/9, 68/10
bald 326/16, 326/17
Baldwin 331/2
bandaged 251/15
bank 147/22, 181/14, 183/24, 184/2, 184/4, 184/6,
188/16, 204/6, 204/14, 204/22, 205/3, 205/7, 205/12,
205/17, 207/3, 209/12, 209/13, 211/5, 212/3
bankruptcy 298/7
Baptist 2/12, 105/13
bar 25/2, 166/13, 166/18, 166/19, 166/22, 323/10
barber 237/17, 237/18, 243/12, 243/13
bargaining 31/5
base 55/23, 99/12, 101/18
based 31/14, 58/18, 58/20, 58/21, 58/22, 59/18,
60/7, 60/17, 60/18, 61/5, 63/22, 68/3, 71/2, 71/4,
101/17, 106/19, 107/23, 109/11, 109/12, 140/22,
143/11, 175/24, 177/17, 191/15, 191/17, 236/5,
286/8, 289/18, 329/5
bases 125/18
basing 10/1
basis 4/17, 41/3, 81/2, 138/9, 154/14
basketball 150/2
Bateman 318/3
bathroom 196/20, 233/14
batteries 152/12
battery 228/12, 248/2, 248/13, 250/2, 313/3,
313/25
Baugh 71/17, 166/25
Bay 179/17
Beach 272/18, 273/4, 273/6, 323/1, 323/10,
323/12, 323/13, 323/14, 327/7
bear 91/21, 162/10, 169/3
beat 310/12, 310/25, 312/8, 314/15
beaten 12/10
beautiful 149/22, 150/8
bed 224/9
bedroom 233/13

beds 223/14
begged 300/25
begging 312/4
begs 116/17
behaving 132/15
behavior 281/2
Behavioral 138/17
belabor 52/5
bellef 83/9, 83/11
believer 112/10
bellefille 148/19
belligerent 283/5
belongings 244/14
bench 88/9, 191/11, 191/21, 191/22, 238/8, 265/9
beneficial 7/7
benefit 133/15
benefiting 72/11
benefits 219/11, 299/5
benignly 118/8
berserk 73/16
bet 228/12
bias 40/15, 40/17, 40/20, 42/11, 42/12, 42/15,
50/11, 161/24
bicycle 152/6
big 59/8, 161/3, 203/22, 247/3, 251/13, 275/14,
283/22, 299/22
biggest 136/12, 150/10, 157/15, 161/21, 162/4,
194/7, 307/10, 308/10
bigotry 161/1
Bill 16/15, 167/10, 179/19, 179/23, 182/3, 183/8,
205/6, 268/10
billon 20/10, 20/11, 195/8
billy 282/15
bipartisan 12/4
Birdneck 275/12, 275/13
birth 246/15
bit 33/15, 66/2, 75/3, 76/4, 81/22, 86/4, 97/25,
106/4, 106/7, 107/18, 113/6, 142/4, 169/4, 169/6,
282/16, 286/6, 287/21, 317/11, 318/18
bitches 296/25
bite 21/16, 40/17, 53/13, 295/11, 295/14
biters 19/23, 20/2, 36/24, 37/1, 40/1, 40/11, 41/24
bizarre 312/23, 312/24
black 11/15, 22/18, 26/1, 26/10, 28/12, 28/16,
30/6, 31/9, 32/18, 33/19, 33/20, 34/9, 34/15, 35/24,
48/12, 53/5, 64/17, 66/15, 67/8, 67/17, 67/21, 68/12,
69/6, 69/11, 69/18, 69/24, 70/9, 71/6, 72/18, 73/4,
73/5, 79/3, 84/1, 87/17, 101/7, 103/23, 118/9,
119/13, 119/15, 130/23, 131/9, 147/17, 147/19,
150/18, 169/10, 169/20, 170/7, 171/9, 171/17,
175/14, 177/8, 177/9, 177/18, 177/19, 178/10,
178/12, 186/21, 186/22, 187/12, 188/14, 190/9,
228/2, 228/10, 228/24, 229/3, 231/5, 232/18, 247/8,
247/18, 265/3, 276/18, 276/19, 278/17, 279/24,
280/7, 280/10, 314/16, 315/8, 328/2
Blackman 15/20
blacks 22/11, 27/16, 31/14, 32/20, 70/11, 73/6,
73/21, 113/21, 118/11
Blacksburg 1/19, 249/25
blanche 10/11
blank 23/11, 24/17, 24/20, 24/22
blanket 136/21, 245/4
blanks 24/16
blatant 246/1
blatantly 84/22
Blayton 247/3
blind 51/16, 162/3
block 193/5, 193/24
blocked 147/24, 148/6
blocking 244/18
blocks 151/10
blood 181/1, 182/21, 184/15, 184/16, 277/18,
325/12, 328/9
blouse 285/9
Blow 194/12
Blowe 3/5, 237/15, 237/16
Blows 195/10
blue 70/18
Board 2/11, 6/11, 7/3, 63/14, 68/16, 105/11,
106/3, 106/25, 107/1, 107/2, 107/5, 107/8, 107/10,
107/15, 113/21, 121/20, 149/16, 151/19, 257/20,
261/15, 261/21
boards 6/14, 21/7
boat 89/20, 195/9
boats 69/15
Bobby 167/12
bodily 313/7
body 44/24, 51/16, 59/13, 59/15, 59/17, 89/15,
116/11, 124/20, 154/22, 189/15, 213/10, 217/16,
249/3
Bolivia 82/23
bombing 114/2
bombs 114/4

bond 60/24, 108/4, 108/8, 108/13, 108/23, 121/25,
213/17, 311/7, 311/10, 311/11, 311/12
bonded 244/22, 325/17
bondsmen 108/13, 108/14, 245/7, 246/3
book 252/20, 274/16, 288/8
books 57/25, 87/2, 270/25
boop 275/9
borders 116/5, 116/17
bore 296/11
born 73/22, 196/16, 196/19, 197/24, 202/23,
203/25, 272/19, 272/21
borrow 197/1
boss 176/4, 304/2, 318/9
bother 190/18, 311/22
bothered 208/21
bothers 73/3, 158/15, 194/1
bottom 140/16, 276/10
bought 156/12, 164/17, 183/14, 183/16, 243/11,
272/24, 275/3, 307/22
Boulevard 193/1, 281/23, 283/12
bound 10/2
box 149/13
boy 256/18, 259/15, 260/23, 260/25, 263/18
boy's 116/15, 119/10
boys 170/4, 170/7, 170/8, 260/14, 260/17, 263/17,
264/2
boys' 8/17, 20/15, 20/18
bra 286/7, 287/5
Branch 4/5, 294/17
brand 272/24
breach 197/20
break 37/3, 42/25, 123/5, 144/16, 295/8, 312/7,
315/23, 323/9
breaking 72/15
brethren 103/6
Brian 3/15, 322/19, 322/20
Bridge 147/25
brief 179/16, 188/10, 202/4, 210/17, 272/15,
295/1, 322/24
briefcase 34/1
Briggs 3/13, 310/9
bright 272/23
brightest 140/2
bring 6/3, 43/6, 44/14, 86/14, 107/11, 114/11,
116/25, 119/23, 120/22, 120/25, 121/20, 123/19,
158/8, 160/14, 166/15, 202/7, 270/7, 271/14, 272/8,
283/20, 307/17
bringing 41/12, 69/23, 90/6
brings 43/7, 147/11
Brisco 268/9
broad 48/20, 48/22, 63/9, 99/12, 204/15
broadened 140/12
broke 206/22, 206/23, 264/15, 275/4, 279/2
broken 213/10, 218/13
brought 50/10, 65/16, 70/2, 89/19, 93/16, 111/17,
119/21, 121/21, 150/7, 167/10, 170/9, 170/10,
170/11, 175/8, 194/9, 213/19, 220/8, 239/16, 239/17,
244/23, 249/24, 265/22, 265/24, 297/23
Brown 311/9, 316/22
Browne 2/22, 146/18, 146/20, 146/24, 153/23,
201/23, 202/5, 202/9, 202/22
bruise 277/3, 277/18
brutality 8/10, 282/23
Bryant 3/7, 251/24, 251/25, 252/2
Brydges 324/10, 325/4
buck 262/12
budget 20/13, 54/25, 55/1, 55/4, 55/8, 55/14,
55/17, 92/11, 112/24
build 151/13, 153/3
building 8/2, 21/14, 151/14, 182/9, 188/15,
237/21, 243/7, 245/11, 246/18, 247/1, 254/2, 329/22
buildings 114/3, 253/25
built 117/20, 188/11, 212/21, 329/22
Bullock 2/17, 154/2, 154/8, 158/23
Bullock's 154/4
bunch 147/14, 258/5, 258/6, 258/12
burden 18/2, 117/20
burdens 117/21
bureaucracy 231/3
burglarized 203/4, 209/22
burglary 203/4, 204/9, 210/19, 211/14, 211/17
burial 174/13
buried 262/16
burn 311/18
burner 76/25
burning 8/11
burnings 8/14
burns 264/1
burnt 234/9
bus 73/13
Bush's 9/11
business 22/3, 33/25, 52/20, 54/4, 84/12, 90/5,
90/19, 90/22, 91/25, 93/23, 130/22, 161/8, 161/11,

161/13, 174/20, 183/8, 188/11, 188/12, 188/16, 189/5, 220/2, 222/11, 222/12, 229/24, 240/5, 240/6, 274/7, 279/15, 327/3
businesses 62/3, 80/1
bust 176/14
busted 28/12, 29/15, 41/13, 170/3, 176/7, 177/6, 314/16
busy 73/18
buy 31/18, 72/19, 171/2, 182/4, 183/13, 307/14
buyer 174/5, 180/1
buying 72/20, 72/21, 73/7, 73/14, 182/5
bypass 60/20, 100/18

C

cab 193/4
cabinet 206/23
Cadillac 227/25
calculation 52/23, 53/9, 84/12, 84/13
calculator 142/17
calibrate 200/5
California 273/3, 278/4
call 5/16, 5/22, 37/15, 49/21, 64/23, 65/13, 77/10, 78/7, 80/24, 123/7, 145/18, 155/4, 175/15, 175/18, 178/19, 178/24, 186/8, 199/12, 205/12, 221/6, 233/15, 249/23, 253/20, 256/23, 257/13, 281/20, 287/14, 287/22, 287/24, 288/5, 288/10, 291/25, 294/3, 308/16, 309/3, 312/20
calls 77/10, 81/12, 278/5, 278/10, 291/20
calm 197/21
camaraderie 121/25
came 70/4, 71/13, 75/13, 84/25, 106/8, 111/5, 120/14, 123/10, 123/19, 130/24, 135/7, 142/25, 152/1, 155/7, 155/9, 164/10, 165/24, 176/15, 189/8, 195/20, 195/23, 195/24, 196/16, 197/16, 200/3, 202/9, 204/20, 206/5, 207/15, 210/7, 210/20, 211/7, 213/18, 218/23, 224/17, 231/23, 234/15, 238/15, 239/5, 240/15, 252/14, 259/16, 261/14, 262/21, 263/25, 273/2, 282/4, 282/11, 283/2, 284/2, 284/5, 285/25, 286/20, 297/17, 310/12, 312/15, 312/16, 323/19, 323/23, 324/14, 325/12
campaign 9/11, 119/13
campus 171/24, 176/2, 176/5, 176/10, 176/11
campuses 41/6
Canada 19/5
cancel 123/17
canceled 205/9
Cane 235/9
capacity 106/1, 201/10
capias 247/11, 247/14
capital 166/8
caprice 16/4
capriciously 118/15
captioned 118/4
car 10/10, 34/9, 66/5, 73/8, 89/20, 150/7, 183/13, 183/14, 183/16, 189/11, 193/3, 193/4, 193/8, 193/13, 196/6, 196/21, 196/25, 197/1, 207/18, 228/2, 229/7, 265/22, 273/16, 276/3, 276/5, 276/15, 298/8, 300/21
card 226/14, 293/10, 306/22, 306/23, 308/15, 319/21
cardiac 227/11
cards 226/15, 267/2
care 19/17, 103/22, 103/23, 156/8, 162/14, 215/8, 216/23, 236/15, 239/25, 240/1, 244/10, 251/2, 254/14, 264/12, 285/4, 291/10, 311/22, 331/10
careers 288/18
careful 204/4
carefully 76/10, 175/2, 204/21
Carolina 196/23
carried 263/21, 266/13
carry 197/9, 259/21, 263/23
carrying 34/1, 253/15
cars 150/15, 178/7, 195/24, 196/3, 274/13, 275/17, 281/19, 281/23
cart 10/11, 151/19
Carter 2/18, 165/13
cartilage 251/5
case 13/7, 17/3, 34/13, 53/22, 54/18, 58/23, 88/25, 90/10, 96/5, 96/8, 97/16, 97/17, 103/16, 103/22, 107/3, 115/10, 115/13, 115/19, 116/16, 116/25, 117/2, 119/7, 119/9, 119/12, 120/1, 120/8, 120/17, 126/9, 131/20, 132/2, 132/8, 132/18, 142/24, 158/2, 163/2, 164/25, 165/2, 168/11, 168/21, 170/2, 170/12, 170/17, 171/16, 171/23, 173/17, 175/22, 176/5, 176/16, 190/1, 191/1, 191/2, 191/6, 191/12, 193/23, 194/8, 202/7, 207/25, 208/9, 219/23, 230/19, 230/21, 232/9, 232/11, 232/17, 233/4, 234/23, 234/25, 235/7, 236/7, 236/13, 236/21, 236/22, 236/23, 236/24, 238/5, 240/22, 241/24, 242/12, 249/17, 261/23, 262/5, 263/13, 264/17, 264/21, 265/6, 266/17, 271/5, 278/21, 278/22, 297/19, 297/20, 298/7, 298/20, 305/7, 308/24, 309/9, 309/22, 310/1, 310/9, 311/15, 312/24, 324/17, 326/21, 326/23, 327/2, 329/5,

329/10, 329/12, 329/20, 329/22
cases 12/15, 14/18, 15/18, 16/17, 34/11, 45/11, 49/7, 49/8, 65/3, 65/12, 95/13, 99/4, 117/5, 118/11, 121/10, 125/13, 134/22, 136/16, 136/21, 140/7, 192/17, 194/2, 230/13, 238/7, 288/19, 301/23
Casey 182/3, 272/24
cash 108/9, 108/11, 244/15
cassette 300/12
cast 10/2
casualties 9/18
catch 54/22, 80/21, 119/22, 123/12, 268/19, 269/7
catching 32/4
catchy 19/22
categories 125/17
category 321/8
Catherine 330/18
Cathy 146/15, 146/16, 153/21, 153/22, 178/19, 178/20
Caucasian 193/8, 328/21
Caucasian's 324/7
caught 8/17, 28/5, 30/14, 35/23, 42/21, 150/14, 217/9, 219/6, 221/14, 245/25, 254/20, 261/4
caused 35/12, 298/9
causes 66/6
causing 65/24, 313/7, 329/20
celebrating 232/1
cell 207/20, 207/21, 245/4, 246/17, 246/24, 254/17, 254/18, 254/23
cells 246/22
center 20/16, 110/25, 111/1, 188/13, 237/19, 237/23, 252/5, 255/17, 275/13
centers 20/19, 20/24, 67/18
Central 181/16
cents? 272/17
century 14/6, 14/7
certainty 188/9
certificate 246/15, 333/3
certificates 215/3
certified 83/1, 202/16, 216/19, 216/22
certify 329/12, 333/7
chain 228/22
Chair 1/13, 9/6, 105/2, 113/14, 159/23, 197/14, 227/8, 322/18
Chairman 12/13, 14/23, 16/6, 17/5, 20/3, 25/16, 57/1, 72/4, 98/11, 105/16, 218/2, 257/20, 306/2
Chairperson 57/16, 104/9
challenge 16/3
chamber 56/17
Chambers 1/11
chance 98/6, 101/2, 116/10, 116/15, 139/16, 180/11, 256/19, 277/9
chances 46/21, 76/9
Chaney 194/10
change 36/5, 47/4, 47/6, 54/11, 74/20, 87/3, 87/23, 88/2, 95/25, 104/2, 160/15, 168/6, 222/2, 310/24
changed 25/1, 95/22, 96/17, 97/5, 168/5, 190/7, 220/3, 313/19, 314/8, 314/13
changes 13/25, 47/1, 154/17
changing 89/2, 223/6, 319/7
chaplain 214/19
Chaplain's 214/17, 215/4
character 245/16, 245/21, 276/12
characterize 306/14, 306/16
charge 42/25, 43/5, 43/6, 43/7, 43/8, 43/11, 43/14, 43/18, 46/20, 59/23, 60/6, 60/23, 61/19, 69/16, 135/3, 249/23, 250/2, 255/21, 308/18, 313/1, 313/15, 314/10, 314/12
charged 7/17, 11/7, 95/13, 95/14, 96/4, 108/1, 109/18, 110/8, 166/1, 166/8, 166/10, 191/21, 191/22, 207/7, 209/15, 238/9, 260/21, 276/20, 313/22, 313/24, 322/25
charges 13/15, 43/3, 59/10, 59/15, 60/14, 61/3, 129/22, 175/9, 186/23, 186/24, 248/1, 248/4, 255/19, 255/21, 257/6, 296/10, 297/4, 305/6, 305/9, 308/21, 308/22, 326/8, 326/10
charging 59/12, 59/19, 59/23, 59/24, 60/14, 229/25, 238/22, 313/18
Charles 2/2, 5/21, 37/12, 37/20
charts 35/3, 43/19
cheap 13/5, 13/7, 29/5, 29/7, 197/1
cheaper 31/17
check 5/2, 195/19, 196/5, 196/9, 200/6, 204/10, 204/18, 205/8, 205/13, 205/15, 205/16, 205/17, 208/14, 208/16, 208/17, 211/19, 211/23, 228/25, 229/1, 246/22, 254/25, 255/5, 258/16
checked 255/2
checking 204/3, 204/7, 204/16, 210/9, 211/7, 222/12
checks 204/6, 204/11, 204/17, 204/19, 204/21, 205/14, 205/22, 205/23, 206/12, 208/5, 208/6, 208/7, 209/23, 209/25, 210/1, 210/6, 210/7, 210/13, 210/14, 211/8, 211/16, 211/21, 211/22, 255/6

chemical 27/20
chemically 71/23
Chesapeake 179/24, 310/10, 314/18, 314/19, 314/21, 314/22, 327/9, 327/11
chest 286/22, 286/24
Chestnut 84/16, 85/9, 85/20
Chevrolet 179/19, 179/22, 179/23, 182/3, 182/23, 272/24
Chevron 273/4
Chicago 92/25
Chief 57/3, 57/5, 61/15, 107/6, 126/14, 126/15, 139/8, 139/11, 150/12, 198/20, 235/8, 235/18, 295/9, 300/24
chief's 126/24
child 20/20, 38/24, 92/14, 93/16, 93/25, 96/14, 96/21, 96/24, 96/25, 99/13, 99/17, 99/19, 100/14, 100/15, 100/17, 100/25, 101/3, 102/1, 102/3, 102/9, 112/16
child's 99/15, 99/20
children 12/24, 17/23, 19/14, 29/13, 29/24, 38/20, 53/19, 54/8, 92/24, 93/21, 99/22, 119/12, 121/6, 121/7, 213/1, 213/2, 214/4, 215/15, 215/18, 216/14, 216/23, 233/7, 233/9, 233/19, 234/1, 234/2, 234/3, 234/9, 236/18, 248/19, 305/23, 328/1
children's 235/15
chime 272/17
china 203/15, 203/17, 208/24
choice 31/13, 101/10, 144/8
choices 71/15, 127/5
choose 177/8, 177/9
chose 157/13, 157/17
Christian 201/6, 322/2
Christmas 254/16
Chuck 148/25
Church 1/24, 2/12, 8/11, 8/14, 105/13, 272/18, 273/6, 274/5, 298/19, 311/17, 311/18
cigarettes 72/16, 72/20
circle 37/4
Circuit 88/9, 96/6, 96/15, 100/13, 149/12, 239/21, 241/11, 298/21
circulation 167/21
circumstance 61/1, 192/18, 194/13
circumstances 24/23, 58/22, 60/13, 60/22, 97/17, 169/5
circumstantial 258/19
citation 193/24
cite 55/8, 55/12, 62/15
cited 55/3
cities 17/8, 19/9, 73/1, 105/25, 141/21, 142/18, 160/9, 305/18
citizen 13/3, 43/7, 60/4, 60/8, 75/4, 95/18, 123/24, 125/9, 127/18, 154/8, 202/10, 202/23, 289/2
citizens 6/4, 61/6, 107/7, 155/6, 288/14, 288/19
City 1/11, 2/6, 5/20, 6/4, 6/6, 6/10, 6/12, 6/24, 21/5, 36/15, 45/13, 45/25, 57/10, 57/19, 61/23, 62/7, 63/16, 65/8, 69/24, 70/13, 70/18, 71/10, 73/1, 78/9, 88/9, 113/12, 117/3, 120/13, 120/23, 121/19, 124/18, 129/19, 129/23, 130/24, 138/13, 139/8, 148/6, 148/8, 148/15, 151/1, 152/5, 154/9, 155/10, 180/3, 181/3, 182/25, 183/4, 190/17, 190/23, 190/24, 192/19, 197/19, 198/25, 200/18, 212/19, 213/13, 213/17, 214/13, 214/18, 215/3, 216/5, 223/23, 227/11, 227/17, 227/20, 230/19, 231/18, 231/24, 232/4, 232/7, 232/11, 232/18, 234/15, 235/6, 235/14, 236/6, 236/24, 237/23, 239/2, 239/5, 239/13, 244/2, 250/15, 269/16, 269/18, 269/22, 269/23, 270/8, 270/9, 270/23, 270/25, 271/6, 271/7, 271/17, 272/8, 273/17, 295/2, 296/7, 297/3, 297/7, 297/23, 297/25, 298/14, 299/10, 299/12, 299/22, 299/23, 300/4, 300/6, 300/22, 301/17, 301/20, 302/11, 302/18, 302/24, 305/13, 305/17, 309/22
City's 232/8, 271/13, 271/21
civic 62/2
CIVIL 1/5, 4/3, 4/6, 4/17, 5/8, 7/23, 8/23, 22/1, 23/12, 47/23, 48/7, 48/14, 144/8, 144/25, 155/1, 155/9, 155/14, 155/16, 157/14, 197/15, 201/4, 201/5, 226/9, 226/13, 226/19, 243/2, 266/25, 279/16, 294/13, 294/16, 311/13, 317/7, 333/10
civilian 199/14, 219/2
claim 231/19
claims 249/14
Clarence 3/8, 257/18
clarification 172/16
clarified 134/25
clarify 74/6
Clark 149/21
class 15/1, 141/25, 142/1
classes 88/5
clean 77/1, 183/25, 209/2, 214/1, 256/18
clear 35/16, 51/11, 72/7, 80/20, 184/5, 200/19, 202/10, 202/11, 202/12, 202/13, 208/20, 260/9, 323/25
cleared 209/3, 323/16, 323/24

clearly 44/20, 52/12, 52/13, 63/24, 101/10
clerk 24/19, 245/9, 298/18, 298/19
clients 168/22
clinic 184/10
clinical 202/15
clipboard 283/6, 283/7
clippings 145/13, 152/17, 153/2
close 8/2, 51/25, 52/2, 52/25, 132/9, 197/8, 202/8,
204/23, 212/25, 283/22, 284/9, 331/17
closed 198/23, 204/23, 205/8, 205/22, 207/4,
212/2, 212/3, 297/19
closer 48/8, 58/5
closing 121/16
clothe 167/22
clothes 116/15, 164/6, 195/16, 207/18
clothing 283/16
cloud 169/13
club 20/15
clubs 6/12, 20/18, 284/23
Clyde 2/10
CNN 170/4
coast 273/3
Cobb 2/21, 192/11
cocaine 10/18, 10/22, 10/23, 11/6, 13/3, 27/12,
27/15, 27/17, 28/12, 29/1, 31/9, 35/13, 52/21, 64/11,
64/15, 69/3, 69/6, 71/5, 71/6, 71/9, 91/6, 141/10,
195/6
Code 5/16, 21/12, 227/21, 227/23, 239/13
coded 97/19
codes 136/15, 150/16, 239/7, 239/8
codified 39/9
codify 20/1
codifying 21/23
cognac 13/6, 29/6
cognitively 51/16
cognizant 102/11, 102/14
coincide 220/4
coke 31/8, 71/24
cold 36/14, 245/4, 253/13, 254/1, 254/18, 254/20,
254/23
Cole 280/2
Coliseum 115/25
collapsed 238/1
collar 229/11
collateral 182/6
colleagues 50/14, 51/8, 202/8
collect 4/8
collected 4/24
collection 4/15
college 19/20, 20/19, 20/21, 41/6, 91/21, 204/13,
213/3
colleges 134/20
collision 228/23
Colonel 199/10, 280/23
color 4/11, 84/3, 97/19, 157/23, 158/16, 281/18,
291/10
colored 149/21
Columbia 82/23
column 113/8
combined 65/5, 65/10
comfortable 35/8, 285/21, 307/2
command 199/20
Commander 61/21, 126/22, 192/11, 199/8,
199/13, 199/17, 199/18
commenced 281/12, 281/16
commencing 333/11
commendable 185/8
comment 75/15, 134/18, 163/15, 241/3
commentaries 5/11
commentator 93/9, 93/10
comments 63/14, 94/14, 140/2, 187/22, 306/3
Commerce 184/6, 222/12
commercial 12/9, 36/11, 39/5, 184/2
commercials 38/11
COMMISSION 1/5, 1/13, 4/3, 4/6, 4/17, 4/23,
4/24, 5/9, 7/23, 8/3, 8/23, 11/9, 12/5, 12/19, 17/14,
22/1, 29/9, 29/22, 35/21, 36/1, 36/3, 49/23, 105/16,
144/1, 154/13, 155/1, 155/9, 155/11, 155/14, 155/16,
158/18, 197/15, 201/2, 201/4, 201/9, 226/8, 226/13,
226/18, 266/25, 268/25, 270/7, 294/16
Commission's 5/7, 8/25, 9/2, 10/20, 12/7, 47/19,
50/17
commissioned 7/2
commissioners 4/18, 4/22, 113/15
commissions 6/14
commits 87/17, 87/18, 100/17, 101/20
committed 17/13, 39/1, 99/14, 110/12, 110/19,
134/23, 136/14, 218/17, 221/11, 224/16, 289/3
COMMITTEE 1/3, 7/17, 7/20, 7/23, 8/1, 33/1,
63/5, 115/16, 137/6, 144/21, 145/4, 154/7, 154/23,
155/11, 155/23, 185/9, 201/24, 237/3, 294/14,
306/20, 331/3, 333/10
Commonwealth 2/6, 6/9, 20/17, 32/3, 43/8, 44/6,

45/2, 45/6, 45/9, 46/3, 57/2, 57/9, 57/19, 58/14,
58/16, 59/22, 59/24, 60/13, 61/2, 88/15, 92/14,
94/18, 95/9, 98/19, 101/14, 103/1, 103/2, 104/5,
112/25, 123/23, 124/3, 176/4, 331/4
Commonwealth's 45/19, 58/19, 58/25, 60/16,
60/17
communicate 132/15
communities 66/16, 175/14, 175/15, 175/17,
177/24
COMMUNITY 1/6, 2/9, 2/10, 2/14, 3/2, 6/21,
7/4, 19/8, 21/6, 33/18, 40/6, 40/19, 61/25, 62/12,
62/14, 63/16, 63/20, 64/17, 67/17, 68/5, 68/12,
68/13, 68/15, 69/7, 69/24, 73/4, 73/5, 74/11, 78/4,
79/16, 79/21, 79/25, 82/17, 84/1, 84/2, 84/11, 84/13,
90/21, 91/15, 91/24, 92/19, 93/17, 95/1, 95/3, 101/8,
103/12, 103/16, 105/10, 105/24, 106/2, 106/14,
106/19, 106/24, 107/1, 107/8, 109/4, 109/12, 110/2,
110/4, 110/5, 110/9, 110/11, 110/15, 110/16, 110/19,
110/20, 110/21, 111/14, 111/25, 112/19, 113/10,
114/9, 114/10, 117/15, 117/25, 118/2, 118/3, 118/7,
120/4, 123/7, 128/20, 128/24, 129/5, 132/10, 132/17,
132/23, 133/1, 133/13, 133/19, 133/23, 134/9,
135/21, 139/11, 140/8, 140/19, 140/22, 141/20,
142/7, 142/9, 142/16, 143/11, 143/14, 143/19, 144/6,
154/14, 154/17, 160/8, 160/13, 175/7, 177/16,
177/19, 177/21, 221/4, 237/10, 242/22, 269/18,
269/21, 270/16, 330/8
commute 14/18
companies 183/23
Company 119/18, 159/9, 239/4, 239/9, 239/17
compare 140/18, 142/19, 194/23
compared 18/22, 127/9
comparing 71/24
compelled 196/15
compensated 168/9
compensation 167/6, 301/10, 304/21, 304/24
compete 219/2
competent 25/2
competitive 218/23
complain 85/20, 178/5
complainant 132/18
complainants 77/17
complained 288/19
complaining 77/11, 94/24, 95/2, 177/22
complaint 60/19, 94/25, 124/25, 125/5, 125/8,
125/9, 125/11, 125/21, 126/1, 127/1, 127/18, 127/23,
132/22, 136/23, 136/24, 137/7, 179/16, 179/18,
198/18, 198/19, 267/10, 282/8, 287/11, 287/17,
288/16, 288/20, 289/2, 289/9, 289/13, 321/9, 321/18
complaints 61/5, 64/5, 65/21, 66/7, 78/3, 78/16,
79/7, 81/1, 81/3, 124/16, 124/20, 124/22, 125/10,
125/16, 125/18, 127/8, 127/14, 127/21, 128/4, 129/9,
129/15, 129/25, 132/6, 133/5, 133/6, 134/12, 134/14,
135/7, 135/10, 145/23, 155/6, 155/12, 267/11, 306/8
complete 139/17, 243/18, 289/12
completed 23/5, 24/17, 126/12, 143/18, 143/19
complex 312/11
complexion 196/1
Compliance 150/16
compliant 168/22
complicated 223/4, 224/11
comply 25/4, 49/3
composite 323/3, 326/13
compounded 76/14
Comprehensive 106/14
compromise 106/8
computer 248/10
concentration 37/5
concept 34/3, 61/25
concern 27/25, 82/9, 123/20, 132/9, 138/6, 139/4,
144/8, 154/22
concerned 44/2, 71/1, 78/17, 80/22, 95/10,
100/19, 121/11, 154/19, 175/12, 259/3, 285/6
concerns 9/17, 9/21, 100/20, 128/20, 156/5,
225/2, 226/2, 269/13
conclude 104/10, 267/18
concluded 11/10, 12/5, 173/9
concludes 248/22, 330/7
concluding 331/16, 331/21
conclusion 114/16, 114/17, 114/19, 114/22,
114/24, 173/8, 208/15
concrete 261/2
concur 126/16
condemned 149/4
condition 182/19, 237/21
conditioned 62/19, 154/18, 194/22, 225/2
conduct 144/6
conducted 126/6, 165/8
conducting 225/3
Conference 201/6, 225/3, 322/2
conferences 5/10
conferred 246/21
confident 132/14

confidential 304/13, 304/15
confidentiality 134/2
configuration 220/6, 223/6, 223/8, 223/11, 223/14
configurations 220/13
conflicting 261/3
confront 121/14
confrontation 77/7
confronted 118/24
confused 71/19, 72/5, 72/13
Congress 7/13, 8/8, 8/24, 12/6, 21/20, 35/18,
40/12, 40/20, 41/23, 50/12, 53/7
Congressional 7/16, 21/3, 49/1, 51/3
Congressman 2/4, 6/17, 46/24, 47/22, 49/20,
50/7, 59/7, 75/14, 86/4, 86/6, 89/11, 90/23, 92/10,
106/5, 167/13, 318/2, 321/21
conjunction 292/4
connected 122/2
connection 169/6
cons 52/21
conscientious 246/20
conscious 33/16, 51/12, 102/17
consciously 88/19, 88/23
consensus 8/5, 80/16, 126/18
consent 172/4
consented 7/13
consequence 51/14, 100/5, 100/7, 100/8, 100/12,
100/19, 115/2
consequences 102/5
consideration 13/1, 242/19
consistency 15/25
consistent 22/19, 39/4
consistently 204/7
conspiracy 41/15, 69/17, 245/15, 245/21, 261/6
conspirators 221/4
constituency 53/6
constitute 333/8
constituting 4/9
Constitution 4/11, 4/23, 8/1, 8/9, 47/17, 49/3
Constitutional 15/5, 23/2, 47/11, 47/16, 166/4,
166/15, 246/2, 248/3
constrained 44/4
constraint 102/13
constraints 47/9
construction 20/11, 161/7
consumer 184/24
contact 5/14, 184/23, 185/5, 226/1, 244/13,
257/13, 289/14, 306/20, 309/1
contacted 186/2, 221/2, 248/16, 249/11, 293/24
contacting 306/19
contacts 175/4, 175/7, 175/17
contained 289/9
contemplated 17/13
contempt 191/20
contemptuous 246/5
contend 8/6
contending 119/22
continent 157/16
continue 8/22, 22/2, 112/12, 116/19, 121/4, 121/7,
121/10, 121/13, 124/14, 146/9, 171/2, 238/7, 288/15
Continued 3/2
continues 114/2
continuing 45/8, 105/20
continuum 19/13
contract 182/6, 182/7, 183/9
contractor 164/7
contracts 6/25
contrary 79/5
contribute 215/18
contributing 163/19
contribution 160/20, 162/4
contributions 160/16
control 42/23, 270/1, 276/5, 288/21
convenience 312/10
Convention 275/13
conversation 35/8, 193/16, 234/21
conversing 286/19
converts 30/15
convicted 8/12, 17/21, 53/19, 100/5, 100/6,
100/10, 100/13, 110/9, 111/3, 111/22, 141/25,
171/11, 217/21, 279/8
conviction 262/1, 27/8, 38/24, 67/4
convictions 27/7, 27/9
convinced 72/24
convolute 114/18
cookies 48/13, 48/15
cooperating 80/25
coordinated 129/18
coordination 76/17
coordinator 122/10
cop 273/9, 274/3, 274/13, 275/17
copies 115/17, 145/11, 146/5, 153/6, 186/20,
187/9, 187/16, 203/1, 209/25, 314/4
copious 146/3

cops 170/10, 279/13
copy 49/24, 144/2, 145/13, 153/1, 158/17, 158/22,
187/17, 205/15, 215/25, 240/11, 241/5, 288/2, 290/6,
290/7, 333/9
cordon 70/17
corner 33/21, 48/5, 48/6, 66/3, 66/5, 72/19,
73/13, 85/9, 312/11
corners 84/22
Corona 207/7
Corps 280/12
corpus 14/1, 266/7
correct 12/7, 72/9, 124/7, 128/6, 129/7, 130/14,
132/11, 160/3, 180/18, 199/5, 200/1, 251/5, 292/7,
319/13, 319/14, 333/9
correction 140/22
Correctional 252/5, 255/17
corrections 55/5, 105/24, 106/14, 106/20, 110/2,
110/6, 110/10, 111/14, 140/20, 141/20, 143/14,
179/20, 180/15, 331/15
corrective 124/1, 124/2
correctly 210/5, 223/17
correlation 129/4, 138/19
correspond 40/9
Correspondence 215/5
corrupt 240/1
corruption 219/22, 224/13, 224/14
cosigning 179/25
cost 11/21, 11/22, 18/21, 19/21, 20/10, 55/12,
142/19, 162/9, 162/11, 190/20, 231/24
costs 12/1, 20/12, 23/6, 27/19, 110/16
cottage 233/15, 233/16
coughing 254/25
Council 1/11, 6/4, 120/13, 120/23, 121/19,
148/16, 190/23, 190/24, 280/22
councilmen 6/8
councilwomen
Counsel 5/15, 110/1, 141/4, 166/4, 166/16, 168/8,
249/19, 250/9, 265/5, 265/9, 265/11
counseling 44/17, 109/17, 111/15, 111/18, 112/1,
143/20
counselor 265/8
counselors 111/17
count 268/15, 281/20
countries 19/2, 82/25, 83/6
country 67/15, 72/25, 83/1, 83/9, 83/20, 86/22,
91/3, 93/20, 93/25, 219/19, 273/5, 321/17
country's 22/3
County 14/25, 98/12
couple 8/13, 23/7, 24/8, 25/25, 31/19, 32/14,
41/17, 41/19, 46/19, 74/7, 95/24, 104/21, 111/5,
136/17, 163/13, 180/24, 310/11, 312/7, 315/23,
322/19, 324/4
coupled 10/12
course 6/16, 49/22, 65/8, 68/23, 69/2, 69/16,
94/23, 135/17, 155/4, 167/10, 170/13, 170/19,
177/21, 178/8, 189/6, 189/16, 189/18, 189/25, 190/4,
190/5, 190/11, 190/12, 192/7, 197/18, 214/9, 221/24,
251/1, 281/10, 284/13, 285/20, 286/11, 286/14,
286/22, 289/17, 290/13, 323/5, 325/13
courses 214/17
Court 10/7, 13/16, 15/16, 15/24, 24/20, 27/10,
34/11, 43/7, 43/15, 88/9, 96/6, 96/15, 100/6, 100/13,
108/2, 108/19, 109/2, 109/14, 111/19, 145/22,
149/12, 156/9, 156/18, 157/18, 168/11, 168/17,
169/12, 169/25, 171/19, 180/3, 181/13, 189/7, 190/2,
190/25, 191/7, 191/20, 191/23, 191/24, 192/1, 192/2,
192/8, 193/19, 193/22, 200/2, 208/1, 208/2, 209/20,
216/3, 223/9, 227/13, 230/9, 230/10, 230/13, 230/16,
231/17, 232/5, 232/10, 232/11, 233/2, 234/25,
236/18, 236/20, 238/2, 238/3, 238/12, 239/1, 239/18,
239/20, 239/21, 239/24, 239/25, 240/7, 240/15,
240/21, 240/25, 241/11, 242/7, 242/8, 242/15,
242/16, 246/7, 250/10, 255/20, 260/12, 261/24,
271/3, 271/4, 271/6, 271/10, 271/12, 271/17, 271/18,
271/19, 277/6, 277/9, 277/10, 277/12, 277/13, 278/7,
278/8, 279/21, 298/14, 298/21, 298/25, 302/10,
302/13, 303/5, 310/16, 311/1, 311/2, 311/4, 311/9,
312/1, 313/20, 314/8, 315/12, 316/8, 327/17, 331/21
courthouse 246/17, 247/1, 264/5
courtroom 200/3, 240/18, 247/11, 299/2, 299/9,
302/20, 302/24
courts 16/1, 16/16, 48/24, 162/13, 230/6, 230/7,
271/4
Cousin 268/10
cover 27/24, 192/15, 214/5, 231/14, 264/8, 297/7,
300/23
coverup 69/25, 72/24, 221/6, 227/2
covet 185/24
crack 10/18, 10/22, 11/1, 11/5, 11/9, 11/14,
11/15, 12/1, 12/19, 12/20, 13/3, 27/12, 27/16, 28/9,
28/11, 28/12, 28/21, 28/25, 29/3, 29/16, 29/21,
29/22, 29/23, 30/1, 30/5, 30/12, 30/16, 31/14, 31/15,
31/17, 31/20, 32/16, 32/20, 32/23, 35/7, 35/13,

35/16, 35/24, 41/11, 41/13, 41/14, 52/21, 64/11,
64/15, 69/3, 69/7, 69/17, 71/4, 71/5, 71/24, 72/3,
72/21, 91/6, 177/5, 177/15, 177/16, 178/2, 195/5
Crackheads 12/16
crane 295/6
crawl 148/14
crazy 28/16, 28/25, 264/2
create 80/5, 114/17
created 9/15, 111/11, 119/8, 270/19
creating 138/16
creation 106/24
credentials 129/14
credibility 128/17, 129/13, 132/10, 134/5, 327/4
credible 128/19, 167/24
credit 42/1, 42/18, 180/6, 182/8, 182/10, 183/10,
183/23, 202/11
creditors 183/24
credits 93/5, 93/9
creed 84/3
creek 147/22, 327/12
creeks 223/14
cried 297/14
crime 9/7, 9/8, 12/2, 12/9, 13/8, 16/15, 17/12,
17/14, 18/5, 18/6, 18/10, 18/12, 18/14, 18/15, 18/21,
18/22, 19/12, 19/15, 19/21, 19/24, 20/2, 20/7, 21/17,
21/23, 21/24, 36/8, 38/16, 39/1, 39/6, 39/14, 42/8,
42/9, 46/20, 48/21, 50/19, 52/14, 52/15, 53/12,
53/14, 53/15, 55/21, 62/6, 62/9, 62/18, 63/18, 64/3,
66/25, 72/9, 72/10, 73/23, 77/13, 77/14, 77/15,
77/21, 78/23, 79/17, 81/10, 90/23, 94/4, 96/22,
96/23, 99/13, 99/14, 101/20, 108/1, 116/7, 175/16,
175/19, 175/20, 187/8, 213/12, 218/17, 285/3, 289/3
crimes 18/18, 35/5, 39/1, 42/8, 64/24, 76/19,
83/25, 95/16, 96/10, 109/18, 110/8, 110/9, 134/22,
136/17, 224/16
Criminal 2/11, 7/14, 9/14, 9/19, 9/24, 13/21,
34/17, 44/16, 46/14, 55/13, 60/1, 60/6, 61/4, 86/1,
86/24, 100/11, 101/21, 102/10, 105/10, 105/23,
106/3, 106/24, 107/1, 107/3, 107/14, 112/8, 112/14,
113/4, 138/19, 165/23, 202/12, 227/3, 249/21, 250/7
criminally 202/12
criminals 80/22, 169/24
crippled 250/23
crisis 62/22, 80/7, 80/14, 117/12, 118/4
Cristman 2/10, 105/5, 105/10
critical 7/3, 46/9, 56/2
criticized 176/1
crowd 39/6
cruiser 276/3
crux 218/10
crying 299/13
crystal 203/15, 203/18
culprit 119/22, 121/5
cultural 101/19
curb 151/21
curious 140/3
currently 201/25, 202/23
Curtis 1/17, 57/9, 105/4, 226/25
custody 109/7, 109/22
customer 158/10
customers 85/14, 283/10
cut 14/10, 31/23, 104/8, 151/21, 210/2, 210/3
Cuttery 205/25
cycle 211/11
cylinder 275/10, 277/16
Cynthia 247/24, 248/5, 248/18

D

dad 253/5, 253/6, 256/3, 256/9, 256/10
daddy 252/24, 252/25
Daily 150/21, 228/19
Dalton 24/2
damage 111/10, 111/12, 240/4, 251/5
damages 288/17
damper 275/21
danger 38/3
dangerous 38/7, 73/15
Danville 275/5
Darden 1/25, 153/7, 257/17
dark 169/13, 186/1
Darryl 265/20
Daryl 259/19, 263/5, 263/17
data 331/5, 331/8
DATE 1/10, 12/1, 231/21, 321/24
dated 205/16
daughter 166/12, 174/5, 212/24, 213/3, 249/24,
252/10
daunting 16/3
David 3/6, 166/25, 243/22, 243/23
Davis 244/13
day 35/9, 70/14, 71/7, 72/10, 89/4, 104/1, 104/2,
112/7, 115/14, 119/14, 123/13, 178/3, 181/3, 181/25,

205/2, 224/9, 239/12, 245/5, 253/22, 262/1, 262/2,
280/8, 282/7, 293/7, 295/8, 295/21, 299/2, 305/24,
325/18
day's 41/13
days 8/6, 17/20, 51/19, 73/17, 111/5, 153/16,
162/1, 181/10, 181/17, 182/17, 185/18, 191/19,
244/20, 247/5, 247/11, 252/8, 256/8, 277/24, 297/19,
298/5, 322/8
daze 207/21
DC 179/19
deacon 215/21
dead 248/5, 248/19, 251/20
deadline 289/13
deal 27/24, 48/16, 54/5, 69/20, 83/6, 90/1, 112/7,
138/6, 161/17, 180/9, 180/20, 183/11, 184/3, 184/19,
219/1, 219/16, 221/16, 237/1, 243/1, 247/19, 291/15,
298/10
dealer 30/17, 30/23, 90/11, 176/9, 179/22
dealers 48/5, 74/8, 84/8
dealership 182/23
dealing 26/24, 38/13, 48/2, 55/21, 62/22, 69/1,
95/23, 117/10, 161/25, 221/16, 229/3, 231/2, 305/11,
305/12
dealings 65/4
deals 194/2
dealt 26/23, 120/7, 176/10, 184/24
death 13/21, 13/23, 14/3, 14/6, 14/8, 14/24, 15/2,
15/6, 15/8, 15/13, 15/16, 15/21, 15/22, 15/24, 16/3,
16/7, 16/14, 16/24, 17/1, 17/3, 116/12, 234/10, 249/2
deaths 235/15
debate 83/3
Debbie 178/25, 179/4, 179/9
debt 110/15, 110/20
decad 273/17
deceit 246/6
December 213/16, 287/10, 287/13, 287/19,
287/22, 289/7, 289/11
decent 116/6, 196/2
decide 80/17, 127/1, 128/9, 128/10
decided 62/20, 176/5, 197/9, 265/24, 272/16,
289/19
deciding 16/11, 16/17
decision 44/10, 47/8, 58/20, 90/12, 90/14, 96/11,
97/16, 101/18, 175/24, 262/8
decisions 48/1, 49/15, 49/17, 58/17, 58/21, 58/25,
59/2, 87/4, 87/8, 87/9, 87/13, 88/4, 88/13, 88/22,
89/3, 89/6, 90/14, 101/16
declare 333/12
declared 15/24
decrease 39/14
deed 224/10
deep 74/4, 176/21, 288/23, 327/12
defaced 110/25
defeated 47/16
defend 279/18, 313/13
defendant 15/1, 87/18, 103/19
defendants 14/15, 14/19, 30/5, 169/20, 171/9,
171/18, 177/9, 177/11
defended 279/22
defense 53/13, 107/6, 109/25, 110/1, 166/18,
166/19, 166/22, 167/15, 167/24, 168/9, 170/14,
170/18
defenseless 242/12
defraud 180/20
degrade 230/19, 230/20
degree 75/21, 196/1
delayed 38/22, 180/3
deliberately 180/19, 244/5
delicate 203/20
delighted 46/16
Delinquency 39/10
deliveries 85/6
delivery 85/17, 85/23
demand 8/5, 284/3
demonstration 32/17
Democracy 49/14
Democrat 7/25
demolish 246/1
Denbigh 194/23, 195/18, 281/22, 291/4
denials 4/9
denied 240/15, 244/10, 244/16, 266/4, 266/7, 266/9
deny 88/25
Deon 3/14, 268/12, 317/20
depart 225/6
Department 2/7, 6/10, 8/19, 60/11, 61/18, 61/19,
63/12, 74/13, 78/2, 81/6, 95/6, 99/2, 110/24, 119/21,
120/23, 124/5, 124/25, 125/1, 128/17, 128/19,
128/23, 129/6, 131/12, 131/15, 132/10, 132/12,
134/6, 134/8, 134/10, 142/12, 152/4, 155/20, 155/21,
157/1, 175/2, 175/6, 175/9, 179/20, 180/15, 184/12,
231/6, 236/7, 245/9, 258/9, 260/8, 266/16, 281/3,
287/9, 287/14, 291/15, 296/16, 301/1, 303/18, 310/10
departments 135/2, 183/23

departure 244/19
dependable 9/16
depends 22/4, 42/25
deployed 81/17
deposited 205/13, 211/23
depositing 211/22
deposition 235/9, 235/20
depositions 159/10
deputies 246/17
Deputy 61/21, 126/13, 131/23, 246/20
describe 11/13, 106/25, 163/25
described 51/2, 128/21, 175/5, 259/8
description 53/17, 326/12
descriptive 140/4
deserve 10/16
deserves 10/19
design 250/18
designated 65/11
designed 106/21, 108/20
desires 125/9
despair 116/23
destroyed 210/3, 235/18, 300/1
detail 115/16, 117/1, 298/13, 317/12
detailed 155/25
details 53/22, 54/18, 132/8, 163/25, 249/2, 305/5
detainment 246/5
detected 66/21
detection 66/24
detective 77/24, 207/7, 248/15, 323/23
detector 253/14
deter 21/20
determinate 76/3
determinates 76/2
determinations 116/13
determine 23/19, 33/23, 60/22, 60/23, 76/2, 108/7, 223/19, 270/8, 288/4, 288/12
determined 80/14, 111/24
determines 43/1, 46/10, 59/15, 75/24
deterrent 12/16
detriment 59/1, 88/24
develop 9/19, 78/24, 79/10, 79/11, 106/19, 107/21, 107/23, 111/15, 121/17
developed 81/3, 108/21, 120/8, 192/17
developing 11/8, 188/15
development 9/13
developments 4/9, 17/10
devise 16/2
dialogue 139/11
Dick 324/10, 325/4
dictatorship 150/13
die 16/12, 248/24
died 235/22, 249/3, 250/3, 250/8
difference 11/4, 11/13, 13/3, 21/17, 69/4, 85/25, 100/6, 143/23, 147/3, 154/16
difficult 8/20, 9/23, 23/14, 23/16, 25/3, 134/23, 134/25, 140/11, 140/16, 140/17, 140/23, 188/22
difficulties 84/5, 87/24
difficulty 83/7, 88/2
dig 114/23
dignified 178/13
dignity 165/8
dilapidated 79/18
dinner 137/25
directed 77/9
direction 38/9
Director 2/10, 105/10, 105/22, 174/14, 280/9
directs 76/14
disabled 147/21, 147/22
disadvantaged 101/11, 168/15, 169/8, 169/10
disappeared 318/19, 320/21, 320/23
disarrayed 116/22
discarded 259/1
disciplinary 126/2
discipline 126/23, 127/2, 127/5, 129/18, 132/22, 135/10
disclose 95/7
discourage 245/25
discover 180/1, 222/16
discovered 212/1
discovering 40/14, 93/23
discredits 232/12
discrepancy 204/4
discretion 13/13, 13/16, 13/17, 43/17, 43/24, 44/11, 44/12, 44/14, 44/17, 59/7, 86/4, 86/7, 86/8, 86/9, 86/10, 86/11, 86/14, 86/17, 86/21, 89/5, 89/6, 89/7, 89/8, 89/9, 89/13, 95/25, 96/2, 96/9, 96/20, 97/8, 97/11, 97/12, 99/4, 99/12, 128/2, 135/16, 135/25, 136/5, 136/8, 136/10, 137/3, 137/4, 139/9, 171/22, 171/23, 173/13
discretionary 37/21, 98/22, 99/1, 101/9, 127/16, 127/17, 135/16, 135/20, 135/23, 136/12
discriminates 40/18
discriminating 17/2

discrimination 4/9, 8/7, 9/24, 13/23, 13/24, 16/4, 16/13, 16/17, 16/18, 33/2, 147/18, 147/21, 155/19, 161/24, 163/17, 212/21, 269/11, 269/14, 269/21, 321/14
discriminatory 8/18, 10/13, 16/9, 35/18, 35/22, 36/9, 47/20, 50/24, 51/10, 53/11, 191/8
discuss 9/8, 13/20, 107/16, 132/21, 132/23, 142/24, 221/23, 236/4, 236/7, 236/13
discussed 42/17, 107/17, 115/12, 206/18, 211/20
discussing 13/21
discussion 9/9, 18/4, 47/1, 49/10, 59/6, 165/23
disenchantment 113/18
Disenfranchised 22/13, 25/23, 47/2, 74/3
disgruntlement 113/19
disgusted 206/14
dismissed 127/9, 156/14, 263/13, 263/15, 264/17, 298/16, 310/20, 314/15
dismisses 230/21
disparities 218/8, 270/12
disparity 10/19, 10/21, 11/10, 11/17, 12/3, 12/5, 12/12, 12/14, 26/12, 35/14, 50/19, 53/15, 107/25, 108/21, 169/7
dispatch 77/21, 288/12
dispensed 53/7, 53/8, 250/7
disposable 53/7
disposes 126/1
disposition 126/19, 128/5, 137/7
dispositions 133/6, 135/8
disproportionate 11/12, 18/13, 34/22, 88/5, 88/17, 168/14
disproportionately 11/11, 18/10
disregard 116/5, 232/7
disrupt 244/18
disrupted 191/23, 192/2, 300/1
dissatisfied 120/19
distant 8/7
distinction 59/8, 59/22
distinguish 175/3
Distinguished 218/4
distributed 31/17, 89/21
distributes 30/16
distributing 12/24, 29/11, 30/13
distribution 29/13
distributors 30/24
District 15/18, 21/4, 49/1, 147/17, 149/20, 238/3
districts 70/15
ditch 90/2
Diversion 110/5
divided 177/15
division 245/23
divulge 95/6
DMV 326/16
DNA 324/1, 324/5, 324/9, 325/5, 325/6, 328/12, 328/17, 329/7, 329/8, 329/15, 329/23
Dock 119/17
doctor 181/21, 303/11, 303/14, 304/8, 304/16, 304/23, 304/25, 305/1
doctor's 247/13
document 59/12, 59/19, 59/25, 259/25
documentation 163/24, 247/12, 317/1
documented 116/14, 132/19, 233/22, 291/21, 319/6
documents 60/2, 237/12, 238/11, 240/11
doesn't 30/23, 40/9, 44/24, 55/12, 70/22, 75/24, 75/25, 76/1, 85/2, 92/16, 103/23, 127/19, 128/19, 139/5, 162/3, 167/15, 169/11, 177/11, 177/13, 185/9, 190/18, 231/10, 255/13, 270/20, 270/21, 290/22, 323/8, 328/24
dollar 20/15, 149/15, 151/5, 260/24, 283/14, 283/16
dollars 20/10, 31/22, 32/5, 108/8, 108/9, 108/11, 108/12, 112/22, 119/19, 166/9, 168/19, 168/23, 195/5, 219/11, 231/25, 232/3, 241/14, 272/3, 278/6, 279/10
dollars' 31/19, 31/20, 41/19, 195/8
domestic 136/9, 136/16, 136/22, 136/23, 246/6
donation 149/1
door 65/23, 148/5, 150/24, 229/7, 229/8, 244/4, 310/12
doors 164/5
double 6/22, 20/21, 21/1, 21/6, 37/20, 238/22, 248/4
doubt 33/13, 203/16
doubts 14/15, 14/17
downhill 44/3
downs 273/5
downtown 194/12, 207/19, 296/6, 296/15
dozens 8/14
DR. AL 22/12, 32/8, 32/12, 33/4, 33/11, 33/14, 34/19, 34/25, 36/18, 36/21, 75/12, 76/1, 76/13, 77/16, 77/25, 78/17, 80/20, 159/4, 162/5, 174/25, 210/24, 211/10, 211/14, 211/25, 216/9, 242/13, 242/21, 267/14, 267/17, 269/1
Dr. Azizah 1/14
DR. BROWNE 146/19, 146/23, 147/7, 153/24,

154/3, 201/23, 202/3, 208/11, 209/11, 209/24, 210/20, 210/23, 211/4, 211/12, 211/17, 212/4, 212/8
Dr. Curtis 122/11
Dr. Iles 147/2
Dr. Kern 51/2
Dr. Warthell 2/22, 153/23, 201/22
Draconian 40/25, 52/19, 52/22
draft 254/19
drafty 246/24
dragged 38/23
drastic 64/2
draw 29/3, 114/16, 245/5
drawing 114/3, 114/17, 137/1
drawn 49/1, 114/19, 193/20, 205/14
dream 93/17, 93/18, 219/8
dreams 93/21, 93/22
dressed 161/5, 207/16, 274/14
drew 223/9
drink 48/13
drinking 48/15
drive 66/4, 181/6, 197/1, 258/2
driver's 206/3, 206/7, 206/13, 206/14, 206/16, 206/20, 207/2, 210/16, 246/15, 273/15
driveway 151/22, 151/24
driving 29/7, 29/8, 34/9, 67/20, 150/14, 193/8, 195/18, 196/21, 196/25, 197/15, 197/10, 227/24, 228/2, 229/3, 276/21, 276/22, 279/9, 293/19
drop 19/19, 144/3, 326/8, 326/10, 329/5, 329/20
drought 16/4
Drove 273/5
drug 11/19, 11/20, 12/22, 15/7, 15/10, 21/8, 29/12, 48/4, 55/22, 64/7, 64/10, 64/22, 64/24, 65/1, 65/4, 65/10, 65/14, 65/25, 66/1, 66/13, 66/15, 68/11, 68/17, 70/20, 73/24, 74/8, 79/18, 80/8, 83/25, 84/2, 84/8, 84/15, 85/1, 90/1, 90/11, 94/21, 94/22, 111/14, 111/17, 111/18, 143/19, 170/25, 171/4, 174/19, 174/20, 176/9, 177/22, 177/23, 194/2, 212/23, 213/23, 215/20
drugs 11/4, 28/1, 31/13, 33/8, 33/10, 34/4, 34/6, 40/10, 64/22, 65/15, 65/24, 66/4, 66/5, 67/16, 67/17, 68/4, 68/18, 69/1, 69/21, 69/22, 69/23, 70/25, 71/2, 71/9, 71/19, 72/9, 73/7, 73/10, 73/14, 73/15, 76/8, 77/9, 78/9, 79/1, 80/10, 83/8, 84/22, 85/2, 85/8, 89/19, 90/7, 91/17, 92/16, 150/17, 170/9, 170/10, 171/2, 171/3, 174/12, 176/6, 176/8, 176/10, 176/12, 177/25, 194/18, 194/25, 195/8, 212/25, 213/5, 214/15
drunk 29/7, 29/8, 150/14, 296/12, 296/18
Dry 119/17
ducked 113/24
dues 23/19
dumb 39/17, 180/10, 182/11, 182/14, 182/16, 184/14, 185/21
duplicate 206/24, 207/1
duration 137/24
during 6/14, 10/10, 24/6, 59/5, 141/22, 142/14, 142/20, 194/6, 214/9, 245/2, 289/11, 296/10
duties 303/16, 304/17
duty 245/9, 299/18

E

ear 254/24, 284/10
earn 91/5, 167/20
earned 219/21, 230/16
Earth 19/1
easier 40/25, 66/25
easiest 33/8
easily 33/10, 173/14
East 272/5
Eastern 15/18, 226/12
easy 63/22, 66/21, 85/10, 85/19
eat 48/13, 196/20
eating 48/15, 295/8
echelon 90/6
echo 63/14
economic 7/4, 84/3, 91/1
economics 69/14
educated 70/25
education 19/18, 19/20, 20/19, 45/8, 55/22, 71/11, 91/10, 92/13, 92/21, 107/9, 117/22, 195/13
educational 91/18, 134/20, 135/1
EEO 318/1, 318/20, 318/24
EEOC 231/9, 231/10, 231/13, 232/23, 296/9, 297/4, 297/17, 297/21, 297/24, 301/2, 301/3, 303/22, 305/6, 305/7, 305/16, 308/19, 309/15, 322/1
effect 13/14, 17/19, 20/2, 20/5, 21/22, 68/9, 68/10, 115/2
effective 18/21, 124/12
effort 16/1, 83/2, 322/4
ehh 275/23
eight 15/17, 62/10, 213/1, 281/21, 284/18, 285/23, 292/10, 311/1
elaborate 66/3

elderly 193/8
elected 6/16, 24/1, 46/16, 149/1, 176/3
election 45/3, 49/11
electoral 151/18
electrician 273/2
electronics 67/11, 248/11
eleven 15/15, 152/2, 170/4, 170/7, 170/8, 245/10
eligible 74/18, 187/14
eliminate 21/12, 21/13, 96/20
eliminated 13/17, 26/6, 95/25
elimination 27/25
embodied 96/19
emotional 74/4, 202/20
emphasis 67/22, 78/25
emphasize 28/20
emphatically 245/10, 323/6
employ 58/19, 78/8
employed 119/5, 245/16, 245/22, 327/2
employee 45/25, 296/4, 296/11, 296/14, 299/19, 321/10
employees 6/23
employment 16/18, 109/13, 109/20, 112/3, 112/10, 112/12
Emporia 275/4
empowerment 25/19, 25/24
enact 21/22
enacted 35/14, 80/18
enactment 16/23
encourage 163/23
encouraging 79/18
end 16/10, 23/22, 42/7, 44/19, 85/25, 94/25, 110/14, 112/8, 141/19, 143/10, 158/11, 213/13, 225/5, 258/17, 272/5, 282/24, 285/17, 285/19
endanger 42/14
ended 234/7, 234/11, 246/17, 286/16
ending 25/20, 246/5
ends 27/4, 196/12
endure 17/10
enforce 270/22
enforced 271/4
enforcement 8/16, 32/21, 32/24, 41/6, 62/11, 62/21, 68/22, 124/19, 271/2
engaged 54/3, 61/24, 90/21
engineering 196/2
enhance 18/16, 29/25
enhanced 12/21, 12/25
enhancement 29/11
enlighten 71/8, 135/18
enrolled 213/24
ensure 16/9
enter 330/9, 330/15
entered 106/9
entering 330/5
entertain 122/11
entertaining 165/19
entitles 207/14
entitled 5/8, 166/4, 269/25, 330/4
entrapment 170/14, 170/15, 170/18
envelopes 267/9
environment 99/15
Epstein 245/7
Equal 2/5, 4/10, 12/20, 13/10, 29/11, 56/22, 57/21
equality 218/17
Equalization 149/16
equipment 200/5, 248/11
equipped 284/25
equity 40/13
equivalent 174/12
erased 305/5
erratic 227/24
error 216/25
escalating 131/22
escape 233/24, 233/25
escorted 207/18
essence 219/11, 223/7
establish 77/14, 182/18
established 4/4, 60/6, 62/10, 176/15, 251/17
estate 79/19
eternity 93/14
Eustis 318/1, 318/14, 320/1
evaluate 155/13
evaluations 6/23
evening 145/21, 257/19, 262/2, 281/1, 310/8
event 154/9
events 287/8
evidence 16/20, 44/10, 52/18, 100/23, 100/24, 103/17, 141/1, 141/13, 189/9, 190/4, 190/5, 190/11, 194/6, 198/22, 239/18, 241/16, 241/25, 258/19, 261/2, 271/15, 302/14, 302/16, 302/17, 324/12, 324/13, 324/14, 327/20, 329/19
evidenced 269/22
evil 219/16
evils 221/10

evolved 116/24
exacerbates 115/2
exaggeration 20/8
excavate 114/23
exceeds 19/9
exception 60/15
excessive 125/24, 130/5, 132/20
Excuse 36/12, 52/25, 58/3, 113/15, 183/22, 225/9, 276/11, 331/20
Executive 4/5, 294/16
exercise 13/16, 86/21, 97/8, 97/11
exercised 13/13, 13/14, 44/12
exercises 44/11
exist 10/16, 77/15, 87/1, 105/21, 270/12
existed 224/7
existence 13/24, 62/19
exists 8/21, 107/25
exit 164/4
expand 38/20
expect 9/3
expediency 12/8, 53/4, 53/9
expedient 18/6
expedite 119/10, 245/14
expenditure 19/22
expenditures 55/14
expensive 13/6, 20/1, 39/13, 52/12, 159/8, 196/25, 228/2, 271/14
experience 6/8, 74/13, 74/21, 143/4, 217/4, 312/19
experienced 218/9, 278/18
experts 239/10, 241/25
explanation 40/16, 41/23, 71/22
exploitation 9/10
exposed 8/19, 40/21, 40/22, 40/23, 66/24, 67/1
exposing 50/10
exposure 66/23
express 331/19
expressing 134/10
extorting 272/8
eye 162/3, 314/15
eyes 128/17
eyewitness 237/11

F

face 50/20, 58/1, 87/24, 284/10
faces 47/25, 88/3, 89/3, 247/8
facially 25/16, 25/21, 87/2
facilitate 64/25
facilities 68/19
facility 38/25, 74/23, 244/14
facing 94/3, 107/14
fact 4/4, 8/5, 11/5, 11/12, 11/18, 14/2, 14/7, 15/9, 17/13, 26/7, 31/8, 33/7, 34/16, 39/25, 47/11, 51/14, 52/7, 52/13, 54/21, 68/3, 88/25, 95/10, 105/18, 108/17, 118/13, 136/13, 144/22, 147/8, 155/4, 163/16, 167/5, 171/16, 175/25, 176/16, 193/17, 218/18, 219/6, 225/3, 264/10, 264/17, 265/15, 286/12, 292/4, 292/6, 292/24, 297/23, 304/9, 304/12, 322/5, 322/7, 322/10
FACTFINDING 1/6
factor 16/11, 17/15, 117/19, 329/9
factors 15/2, 96/18, 97/1, 99/11, 101/9, 109/13, 114/18
facts 48/10, 58/22, 97/17, 114/18, 114/21, 114/24, 158/2, 163/20, 167/25, 262/22, 263/14, 266/20
fall 19/25, 97/13
falls 37/9
fair 97/8, 187/11, 187/15, 308/11
fall 131/4, 321/9
Falls 1/24
false 63/22, 202/25, 207/11, 207/12, 208/3, 208/4, 208/15, 317/13
families 91/17
family 20/16, 20/18, 91/6, 116/18, 116/22, 120/18, 170/2, 202/15, 215/7, 219/24, 220/5, 244/21, 245/12, 246/4, 262/15, 266/15, 298/9, 300/20, 325/10
family's 300/2
Farm 212/20, 213/14, 214/13, 214/18, 215/3, 216/5, 219/23, 219/24, 219/25
fast 198/9
father 93/19, 214/3, 215/21, 252/7, 252/12, 252/18, 256/2, 256/4
favor 158/14, 271/13, 308/20, 309/4, 309/5, 309/16, 309/22, 310/6
favorable 53/2
FBI 119/24, 138/18, 152/7, 249/11
fear 12/8, 36/10, 221/15
feature 8/7
February 15/21, 141/18, 204/22, 205/2, 303/4, 318/7
fed 200/8
Federal 5/1, 5/3, 8/16, 11/8, 15/6, 15/8, 15/16, 26/15, 26/19, 26/20, 26/21, 26/22, 27/5, 27/7, 27/10,

48/24, 59/9, 59/10, 59/13, 65/5, 82/23, 83/4, 85/4, 107/21, 156/9, 156/17, 156/21, 157/18, 157/24, 159/7, 161/23, 164/25, 168/7, 171/5, 171/15, 171/19, 227/13, 230/6, 230/7, 230/10, 230/13, 231/19, 232/3
fee 168/2
feed 167/22
fees 241/15
feet 115/25
fellow 187/8
fellows 227
felon 74/4
felonies 99/9, 142/1
felony 27/9, 60/9, 166/2, 236/15
female 88/8, 146/24, 146/25, 203/11, 203/21, 231/5, 292/12, 292/16, 292/17, 292/18, 324/14
Ferguson 245/12
fiancee 213/20
Fidelity 181/16
Field 152/1
fifty 21/4, 28/16, 28/17
fight 104/6, 265/6
fighting 159/8, 183/8, 226/24, 301/20, 305/12, 305/13
figure 142/17, 277/23
file 198/17, 206/23, 222/3, 287/17, 302/15, 305/10
filed 128/4, 198/19, 207/1, 234/23, 235/16, 240/12, 248/1, 266/3, 291/9, 296/10, 297/4, 298/7, 302/10, 304/20, 305/9
files 231/17
filing 248/4, 266/6, 288/16, 288/20
fill 23/11, 24/16, 24/17, 24/20, 27/1, 318/10, 319/9, 319/11
filled 319/14
filter 221/3
financed 184/2
financial 108/18
financially 202/11
find 14/22, 25/1, 25/22, 32/19, 33/8, 48/9, 66/12, 67/2, 68/4, 68/7, 74/8, 78/9, 79/10, 84/11, 88/4, 90/2, 97/2, 103/8, 112/4, 127/7, 132/20, 134/23, 134/25, 143/24, 155/15, 155/18, 163/20, 176/6, 177/5, 199/16, 204/15, 208/4, 208/14, 214/4, 216/25, 217/10, 220/17, 225/4, 228/9, 244/24, 249/13, 253/25, 286/13, 293/14, 299/14, 311/14, 317/11, 324/5
finding 4/4, 8/5, 14/4, 76/15, 86/10, 103/9, 155/4, 163/16, 201/2, 216/15, 225/3, 292/4, 297/23, 307/23, 322/5, 322/7, 322/10
finds 43/17, 96/7, 96/14
fine 63/3, 63/4, 71/3, 184/18, 260/24, 278/2, 279/23
fined 199/24, 199/25, 200/1, 279/9
fines 23/6
fingerprinted 207/21
fingerprints 203/7, 203/10, 203/24, 210/21, 246/11
finish 97/23, 112/19, 173/4, 185/13
finished 63/6, 141/18, 176/24, 213/3, 309/9
fire 148/4, 151/12, 233/7, 233/9, 233/10, 233/11, 234/6, 234/12, 234/14, 235/8, 235/10, 235/18, 235/22, 235/23, 297/10, 300/17
fired 150/18, 231/8, 231/9, 232/22, 297/9, 297/11, 298/19
firefighter 232/18, 234/19, 234/22
firefighters 233/11, 233/17, 234/4, 234/8, 234/17, 235/11, 235/14, 235/15, 236/3, 236/12
firm 112/10
fiscal 141/22, 142/15
fit 177/3, 286/7
fitness 299/18
fits 75/18, 75/19
Fittler 203/6
five 10/24, 11/1, 11/2, 11/22, 11/24, 12/2, 12/15, 12/18, 24/9, 24/10, 24/11, 26/10, 28/4, 28/6, 28/8, 28/9, 30/20, 31/4, 31/20, 31/21, 32/5, 37/20, 37/23, 41/4, 41/10, 41/15, 41/16, 41/20, 42/7, 52/11, 73/17, 120/12, 134/13, 137/13, 137/14, 142/9, 144/7, 144/20, 145/2, 148/17, 149/15, 172/17, 172/22, 172/23, 173/1, 173/8, 173/9, 188/5, 188/7, 188/9, 195/5, 213/1, 214/10, 216/8, 231/24, 232/2, 252/6, 268/15, 270/10, 271/18, 281/19
fix 73/18, 189/12, 239/4, 239/14
fixed 238/15
fixing 111/11
flagging 178/7
Fleming 3/9, 267/24
flexibility 44/23, 136/25
floating 33/18
floods 147/23, 148/3
floor 174/7
Florida 34/9
flowers 296/21
flying 82/18
focus 76/20, 78/1, 79/9, 110/11, 111/13, 112/2, 120/16, 120/21

focused 9/7, 48/20, 112/15, 117/16
 focuses 175/13
 focusing 18/16
 folk 103/15
 folks 31/9, 70/20, 92/2, 94/24, 94/25, 95/2,
 107/11, 109/21, 112/7, 114/2, 114/3, 114/4, 114/16,
 119/14, 119/24, 120/6, 120/13, 120/17, 121/3,
 121/18, 141/1, 141/3, 142/20
 follow 36/19, 94/3, 232/15, 308/13, 317/7, 331/5,
 331/6
 followed 132/3, 151/15, 193/6
 food 194/21, 283/11, 283/23
 foods 254/10
 foolish 57/24
 foot 17/15, 276/5, 276/10, 276/11
 football 203/23
 footstep 215/22
 force 33/6, 44/4, 45/14, 65/5, 66/10, 91/23,
 119/21, 120/1, 125/24, 130/5, 131/23, 132/20, 138/4,
 138/16, 138/23, 288/9, 303/12
 forced 166/9, 167/5, 168/20, 169/20, 300/6, 303/8
 forces 65/11
 foreclose 183/19
 foremost 101/24
 forensics 263/21
 forevermore 100/14
 forge 208/5, 208/17
 forged 204/5, 204/21, 210/1
 forgery 202/24, 207/7, 207/9, 207/11
 forgot 242/10
 forgotten 207/2
 form 50/2, 144/24, 244/7, 247/13, 326/6
 formal 287/10, 319/3, 319/4
 format 63/2
 formed 62/13
 forms 23/10, 23/11
 formula 38/1
 formulas 16/2
 formulates 59/14
 Fort 318/1, 318/14, 318/25, 320/1, 321/16
 forty 142/9, 213/1, 282/17, 312/18, 315/6
 FORUM 1/6, 2/14, 3/2, 107/12, 107/15, 113/9,
 123/7, 144/6, 160/24, 192/16, 197/19, 330/8
 fought 265/7
 foul 184/3
 fouled 181/14, 182/6, 184/5
 fouls 182/10
 found 4/20, 14/8, 14/25, 32/15, 33/10, 33/24,
 35/22, 68/17, 68/18, 70/9, 70/10, 109/3, 111/23,
 115/24, 189/18, 200/20, 204/21, 206/25, 211/3,
 214/16, 215/10, 216/19, 235/14, 238/21, 249/2,
 250/1, 254/2, 276/18, 282/6, 323/24, 324/3, 324/4,
 324/7
 foundation 82/9, 82/12, 182/9, 183/10
 four 15/14, 23/23, 25/8, 45/3, 45/7, 46/1, 69/13,
 88/14, 115/10, 117/3, 117/5, 125/21, 134/13, 150/16,
 193/9, 195/8, 229/13, 252/22, 274/13, 275/10,
 277/16, 280/12, 295/3, 321/17
 Fox 333/7
 frame 24/6, 139/5, 247/22
 Frank 6/3
 Frederick 2/18, 165/13, 243/21, 243/22
 freebasing 35/16
 freed 14/3
 freedom 48/8
 freezing 245/3, 247/16
 frequent 66/14
 frequently 36/6, 140/10
 friend 84/7, 197/8, 207/15, 207/24, 257/23, 260/25
 friends 17/20, 18/3, 202/8
 frightened 284/13
 front 108/5, 109/10, 164/5, 178/7, 181/24, 193/3,
 234/14, 244/4, 261/17, 285/12
 frustrated 69/19, 183/24
 frustration 114/1
 fuel 205/6
 function 59/23, 60/14
 functional 126/17
 functions 61/23, 62/7, 62/23, 124/19, 126/17
 fund 19/25, 21/15
 funding 21/6, 106/17, 107/21, 112/20, 113/2
 funds 168/18, 204/8
 funeral 116/11, 174/14, 280/9, 280/10, 296/21
 funny 34/13
 future 7/2, 19/21, 22/3, 73/22, 195/14

G

gag 235/12, 236/9, 236/11
 gain 154/10, 245/22, 245/23
 gait 276/8
 Galvin 1/16
 gang 150/24

gangrene 251/20
 gangs 150/1, 150/25
 gap 24/22
 garbage 150/5
 gas 150/6, 150/9, 298/8
 gathered 235/17
 gathering 67/6
 gear 275/9
 geared 282/5
 gender 292/19, 292/23
 Gene 2/24, 217/24
 General's 120/24
 generate 66/11
 generated 55/13, 55/16, 65/21, 79/14, 79/15, 79/16
 generates 66/7
 generations 87/3
 generic 223/2
 generically 81/16, 121/24
 generous 50/21, 135/10
 gentleman 53/18, 85/3, 92/10, 164/6, 193/8,
 219/25, 307/19
 gentlemen 57/13, 61/10, 63/6, 147/13, 152/9,
 153/9, 186/13, 220/22, 224/12
 geographical 81/13
 George 9/11, 194/10
 Georgia 196/24
 gestures 287/3
 giption 288/23
 girl 93/8, 231/14, 231/17, 231/22, 232/1, 232/10
 girls 117/4, 117/6, 117/17, 138/7
 girls' 20/15, 20/18
 glad 174/22, 174/23, 201/9
 glass 285/11
 Glen 35/14
 goal 13/10, 30/19, 182/19
 goals 48/9
 God 170/20, 171/12, 176/20, 185/19, 217/9
 gold 199/7
 goods 185/24
 government 9/2, 82/24, 83/4, 85/4, 142/11,
 148/10, 174/19, 221/8, 246/12, 294/17
 governor 23/3, 23/17, 24/2, 24/21, 26/19, 121/19,
 209/4, 209/6
 governor's 55/6
 Governors 14/17
 grabbed 229/15, 275/17, 295/10
 grabbing 117/8
 grade 321/1
 graded 321/3
 graduate 91/19
 graffiti 110/25, 111/4, 111/7
 grams 10/23, 11/1, 28/3, 28/4, 28/5, 28/8, 41/15
 grand 59/18, 60/22, 310/22
 grandchild 248/20
 grandiose 279/5
 granted 75/11
 grass 118/25
 grave 12/12, 14/12, 116/5
 gravity 100/1
 gray 75/19
 grease 272/25, 274/22
 greater 8/5
 Greenville 102/8
 Greg 154/7
 Gregory 2/17, 235/9
 grievance 127/6, 232/23
 grieved 130/7
 groceries 152/1
 gross 12/2, 20/8, 53/11, 55/17
 ground 116/1, 229/17, 230/1, 264/18
 grounds 115/25
 group 25/18, 25/22, 25/23, 44/24, 66/2, 194/3,
 194/4, 322/5, 322/7
 groups 62/2, 114/4
 grouse 295/10
 grow 93/2, 93/12, 93/15, 305/24
 growing 113/18
 grown 82/22, 204/1, 259/14
 guarantee 251/6
 guaranteed 19/19
 guard 156/15
 guess 33/17, 63/13, 67/15, 77/2, 89/22, 113/13,
 114/12, 128/3, 128/15, 129/3, 134/24, 165/12,
 168/18, 174/9, 231/8, 238/9, 257/6, 312/21, 312/24,
 324/7
 guests 218/4
 Guide 113/8, 122/7
 guidelines 11/8, 44/6, 135/19, 136/1
 guilt 14/16, 296/3
 guilty 10/25, 43/18, 86/10, 86/11, 189/19, 189/24,
 190/12, 192/6, 250/1, 270/2, 270/3, 279/5, 286/12
 gum 157/9, 198/8, 213/10, 263/22, 265/25, 282/15
 guy 30/15, 84/20, 85/19, 85/22, 90/9, 103/18,

178/14, 182/24, 195/4, 224/8, 224/16, 228/3, 228/7,
 228/24, 229/14, 229/20, 229/25, 278/17, 280/9,
 326/13
 guy's 276/18
 guys 232/20, 257/2
 Gwynn 2/6, 57/2, 57/18, 63/15, 94/18, 95/9, 331/5

H

habeas 14/1, 266/7
 Hagens 277/11, 277/21, 278/5, 278/9, 279/17
 Hair 205/25, 324/7, 325/15, 325/16, 325/20,
 326/1, 326/13, 326/18, 328/9, 328/21, 329/5, 329/19
 hairs 324/6
 half 37/12, 37/19, 38/7, 112/23, 176/8, 193/7,
 248/11, 255/12
 halftruth 37/15
 hall 296/21
 hallowed 247/9
 halls
 Hampton 2/7, 57/10, 61/18, 61/23, 63/16, 64/10,
 64/23, 65/2, 65/16, 68/2, 84/8, 105/11, 105/22,
 105/25, 106/2, 107/4, 107/20, 108/22, 110/10,
 110/23, 115/10, 115/13, 115/25, 123/20, 124/18,
 136/20, 141/16, 141/21, 142/10, 154/9, 155/5, 155/8,
 156/11, 179/18, 180/2, 182/25, 183/4, 186/23, 188/2,
 188/11, 188/14, 188/22, 189/17, 192/19, 193/1,
 198/24, 199/1, 202/24, 203/5, 205/4, 205/7, 206/1,
 207/6, 209/20, 210/7, 227/12, 227/17, 227/20,
 228/10, 228/18, 229/13, 231/18, 231/24, 232/5,
 232/19, 233/8, 234/15, 235/6, 236/25, 247/20,
 272/19, 296/2, 296/7, 297/7, 297/25, 298/15, 299/13,
 300/4, 300/6, 300/23, 301/17, 302/1, 302/12, 305/13,
 305/17, 307/18
 hand 40/2, 40/4, 68/23, 71/21, 76/23, 82/1, 160/5,
 203/7, 286/23, 287/4, 308/5
 handcuffs 136/24, 229/15, 276/2
 handed 247/11
 handicap 4/12
 handicapped 151/23, 153/11, 153/12
 handle 203/19
 handled 68/11, 120/20, 124/23, 319/5
 handout 192/20
 handouts 193/20
 hands 44/19, 82/2, 112/9, 176/20, 203/9
 happy 61/7, 61/8, 143/7, 143/8, 232/2
 harassed 123/25
 harassing 287/13
 harassment 17/10, 134/22, 288/20, 290/13,
 290/23, 300/10, 306/8, 306/9, 306/10, 306/16, 308/18
 hard 22/2, 22/4, 25/13, 39/4, 40/9, 104/1, 104/2,
 104/6, 182/18, 188/13, 219/21, 230/16, 253/12,
 290/15, 293/13
 Hardee's 193/6
 hardly 207/22
 harm 96/23, 99/14
 harmed 213/10
 Harris 1/17, 2/12, 3/15, 47/21, 47/22, 48/19,
 94/16, 95/21, 98/4, 99/10, 105/3, 105/4, 105/6,
 105/12, 105/16, 113/6, 122/11, 122/22, 122/23,
 138/14, 145/19, 198/17, 199/3, 199/16, 200/21,
 200/25, 201/15, 201/16, 224/25, 225/13, 225/19,
 225/24, 226/6, 226/25, 263/9, 264/22, 287/11,
 287/15, 287/22, 288/11, 290/7, 297/22, 302/3, 303/1,
 303/7, 303/23, 304/1, 304/4, 314/9, 316/7, 320/2,
 320/4, 320/11, 320/14, 320/17, 321/6, 322/19,
 322/20, 331/19
 Harry 15/20
 harsh 91/24, 284/9
 hassle 84/10
 hate 46/18
 haunt 321/14
 haystack 307/24
 head 19/18, 20/21, 34/24, 43/25, 89/23, 272/17,
 290/12, 300/24, 303/19, 303/20, 307/12, 307/13,
 309/15, 315/16
 headlines 231/23
 headquarters 321/16
 heads 6/10
 healed 279/3
 health 21/7, 74/19, 109/20, 202/17, 209/1
 hearings 4/18, 5/10, 7/6, 9/6, 298/24, 301/15
 heart 184/25, 185/24, 215/19
 hearts 58/10, 87/3, 87/8, 87/23, 88/3, 89/2
 heat 36/14, 205/6
 heats 245/15, 245/21
 heightened 10/20
 heinous 46/20
 held 37/22, 109/7, 204/10
 Helen 2/23, 212/15
 Hello 280/22
 help 62/5, 63/20, 74/15, 74/22, 75/16, 76/22, 79/7,
 79/23, 80/9, 102/1, 108/21, 109/14, 109/23, 109/24,

110/20, 113/3, 116/18, 140/5, 162/10, 162/22, 162/24, 174/20, 185/2, 188/16, 199/18, 215/13, 215/14, 215/17, 216/13, 216/14, 216/23, 217/5, 220/19, 220/20, 221/13, 221/14, 221/18, 221/25, 233/6, 233/7, 237/9, 237/10, 242/22, 248/17, 255/23, 256/15, 257/14, 285/2, 297/15, 299/14, 299/15, 299/21, 299/24, 300/7, 301/19, 311/16, 312/2, 312/3, 312/4, 322/8, 322/9
helped 26/25, 119/10, 140/7, 148/25, 180/23, 185/19, 217/3
helpful 292/3, 322/13
helping 31/2, 78/2, 102/3, 217/3, 298/18, 305/14
helpless 272/10
helps 75/17, 76/2
hemorrhage 115/22
Henrietta 280/24
Henry 3/11, 268/4, 280/20, 280/23
Heroin 30/4
heroin 173/21, 173/25, 174/4, 174/7, 174/13, 174/23
Hi 272/14
Hibrid 1/14, 22/12, 32/8, 32/12, 33/4, 33/11, 33/14, 34/19, 34/25, 36/18, 36/21, 75/12, 76/1, 76/13, 77/16, 77/25, 78/17, 80/20, 159/4, 162/5, 174/25, 210/24, 211/10, 211/14, 211/25, 216/9, 242/13, 242/21, 267/14, 267/17, 269/1, 331/4
hiding 82/10, 248/6, 248/8, 248/9, 248/18
hierarchy 89/18
high 40/5, 55/4, 55/7, 65/4, 91/19, 115/7, 133/16, 194/9, 194/14, 213/7, 234/14, 239/20, 239/21
higher 190/1, 300/19
highest 200/2, 200/11
highlight 216/6
highway 196/18
Hilton 151/5
Hines 268/10
hip 263/19
hire 21/2, 90/10, 167/25, 232/14, 265/4, 293/12
hired 90/10, 180/14, 232/24, 277/10, 297/4, 311/8, 312/12, 312/13, 314/24, 315/8
hires 89/21
Hispanic 11/16, 15/14, 28/13, 35/25, 169/20
historically 86/24, 103/14
history 109/13, 170/16, 327/22
hit 35/7, 261/25, 284/20, 284/23
hitting 69/8, 283/6
hold 4/18, 37/17, 173/7, 330/14
holding 155/3, 204/17, 246/17
holidays 325/12
holistic 62/20, 80/1
holler 273/11, 328/2
hollered 273/10, 273/11, 273/13, 299/12
home 85/5, 125/12, 153/12, 153/13, 170/20, 173/16, 196/18, 234/3, 248/10, 248/11, 265/16, 268/20, 297/12
homes 64/6, 67/6
honestly 279/11
honor 54/21, 208/24, 218/6, 218/22
Honorable 2/3, 7/12, 57/2, 57/9
honored 5/19, 7/11
hoods 258/14
hook 234/6
hooked 212/25
hoops 149/24
Hope 7/6, 14/19, 21/21, 70/14, 73/24, 89/14, 90/17, 153/18, 156/3, 160/11, 162/19, 194/18, 220/11, 220/12, 238/15, 308/3
hoped 155/16
hopes 317/14
Hopewell 1/18
hoping 196/7
horrific 243/24
Horton 9/12, 36/9
Hospital 181/4, 229/2, 229/21, 248/17, 251/13, 251/15, 277/20, 299/25, 310/14
hospitals 68/8, 71/12, 74/9
host 244/21
hot 150/23
hotel 67/4, 275/14
hotels 67/5
hour 287/23, 320/7
hours 110/14, 142/7, 142/16, 143/19, 150/16, 214/1, 312/18, 312/20, 312/22, 315/5, 315/6
house 7/25, 21/19, 48/13, 51/18, 111/16, 111/18, 129/17, 148/5, 149/5, 177/5, 203/3, 204/1, 206/22, 207/5, 209/22, 210/19, 233/12, 233/13, 233/16, 233/19, 235/10, 235/23, 259/16, 272/4, 272/5, 272/20, 294/12, 294/17, 294/20, 294/21, 297/16, 297/17, 297/18, 298/4, 300/21, 305/15, 308/25, 310/12, 310/25, 312/8, 312/15, 313/9, 313/10, 313/14, 315/23
houses 149/4, 149/18, 153/19
housing 16/19, 17/9, 17/11, 17/16, 17/18, 17/21,

18/1, 21/10, 21/12, 53/19, 54/12, 54/14, 64/5, 79/17, 92/25, 112/17
Howard 2/6, 57/2, 57/18, 63/15, 330/18
Huang 1/19
huge 160/19
human 48/14
hundred 10/21, 11/17, 12/1, 19/3, 19/4, 19/7, 26/1, 28/4, 31/19, 41/19, 42/6, 88/15, 108/12, 120/13, 166/8, 168/19, 168/23, 237/22, 279/10
hundreds 222/13, 232/20
hung 115/24
hunting 8/12
hurt 156/22, 161/15, 161/17, 229/20, 239/15, 255/24, 255/25, 275/20
hurting 275/22
husband 292/18, 310/11, 311/21
hydrants 234/6
hyenas 185/25, 186/1
hyped 282/5, 282/10
hyper 73/6
hypocrites 221/9

I

ID 180/7, 182/7, 183/9, 184/3, 246/8, 246/10, 246/14, 326/11
idea 54/6, 68/10
ideas 107/13, 107/16
identification 72/17, 206/3, 206/6, 244/23, 281/15, 291/7
identified 78/15, 118/3, 289/11, 292/20, 292/23, 323/7, 326/19
identify 34/8, 62/5, 79/24, 80/10, 125/13, 223/23, 246/11, 258/13, 289/10
identifying 63/18
ignoring 113/15
Iles 2/22, 146/19, 146/20, 146/23, 146/24, 147/7, 153/23, 153/24, 154/3, 202/3, 202/9, 202/22, 208/11, 209/11, 209/24, 210/20, 210/23, 211/4, 211/12, 211/17, 212/4, 212/8
ill 28/2
illegal 242/1
illegally 49/1, 72/20, 241/17
illegitimate 94/7
illiterate 295/3
illuminating 53/15
image 67/24
images 27/15
imagine 206/12
imbalance 101/6
imbued 86/23, 86/24
immediate 199/21, 244/10
impact 25/17, 25/19, 26/13, 27/10, 35/23, 38/2, 47/20, 93/4, 115/3, 140/7, 140/13
implement 9/23, 106/19
implications 40/2, 51/24, 53/11, 58/12
imply 74/7, 74/10
impolite 225/10
importance 87/12
imported 203/15
impose 40/25, 48/9
imposed 15/24
imposition 14/24
impossible 23/17
impressed 36/22
impression 56/5, 63/11, 71/18
improper 160/3
improved 214/25
improvement 46/12
improving 55/22
inaccurately 8/6
inadvertently 108/16
inappropriate 281/2
incapable 273/11
incarcerate 167/19
incarcerated 47/3, 213/14, 244/5, 323/4, 328/19
incarceration 18/24, 19/12, 143/2, 245/5, 247/5
incident 131/11, 132/2, 138/13, 212/20, 235/21, 236/2, 236/4, 243/25, 280/25, 281/1, 285/15
incidents 19/15, 228/15
inconsistencies 260/13, 262/7
inconsistent 324/16
incorrect 210/7
incorrectly 210/2
increase 21/24, 35/4, 39/14, 64/2, 106/18, 167/11
increases 53/12
increasing 18/23, 19/12, 39/11, 52/14
incur 125/20
independence 8/4
independent 116/19, 121/3, 265/5
indicated 30/3, 33/7, 33/9, 50/20, 75/10, 77/6, 292/5
indicating 34/11

indicted 60/16
indictment 43/12, 59/11, 59/14, 60/21
indictments 59/17, 60/1
indignities 10/4, 34/17
invisible 12/11
induct 69/17
industrial 273/2
industry 6/24
ineligible 187/6
inextricably 78/19
infection 166/14, 254/24
influence 95/19, 280/3, 280/5
influenced 129/12
influencing 256/12
inform 124/15, 201/23, 259/17, 259/22, 265/23
informal 319/3
informant 78/15, 170/9, 170/11, 170/12, 171/1, 171/24, 173/14, 177/5, 259/3, 259/4
informants 77/17, 77/20, 77/22, 78/9, 80/9, 80/21, 80/23, 80/24, 81/8, 81/9, 81/15, 81/17, 81/19, 169/23, 171/8, 171/17, 171/20, 175/3, 175/4, 176/17, 176/18, 176/19, 176/23, 177/3, 177/8, 177/10, 177/17, 177/18
information 4/8, 4/15, 4/16, 4/21, 5/5, 5/13, 27/13, 27/14, 27/22, 30/23, 35/1, 45/10, 56/1, 63/19, 69/13, 70/23, 81/10, 98/1, 107/12, 109/9, 125/14, 133/12, 143/1, 148/12, 156/25, 164/23, 167/8, 180/22, 184/10, 201/17, 203/1, 208/8, 225/6, 225/8, 225/21, 225/25, 226/11, 249/4, 266/24, 269/13, 299/21, 304/13, 304/16, 306/25, 317/11
informed 57/5, 78/20, 203/6, 238/12, 243/12, 245/8, 248/15
ingrained 16/25
initial 60/24
initiate 81/1, 124/2
initiated 59/16, 119/5
initiating 124/5
initiative 18/16
initiatives 19/25, 112/18
injured 229/2
injuries 229/1
injury 156/9, 244/8, 251/9, 313/7
injustice 167/17, 167/18, 267/11
injustices 160/2, 218/8, 220/11
inmate 212/19
inner 19/9
innocence 14/4
innocent 10/3, 14/2, 14/8, 14/19, 34/15, 34/16, 46/19, 167/14, 180/4, 184/16, 323/6
insensitivity 18/13, 116/6
insert 206/16
insight 35/3, 35/11, 51/4, 64/13
inspections 197/6
inspector 239/3, 239/5
inspectors 237/24
inspiration 217/6
installations 319/23
installed 176/3
instant 171/23, 175/22, 193/2
institute 70/10
institution 183/11
institutions 64/25, 86/23, 135/1
instruction 170/15
instructor 294/9
instruments 229/11
insufficient 36/10
insurance 74/19, 148/4, 214/5, 239/4, 239/8, 239/9, 239/16
intake 44/15, 44/16, 244/7
intellectual 37/9
intelligence 282/18
intense 245/3, 247/6
intent 17/17, 35/19
intentional 51/14
intentionally 118/8, 180/20
intentions 158/9
intercede 116/18
interdiction 95/4
interest 42/22, 160/17, 289/20
internal 124/10, 124/11, 124/21, 124/23, 125/3, 125/8, 125/25, 127/18, 127/19, 129/3
international 37/2
internationally 19/2
interpret 58/9, 63/21
interpretation 35/10, 39/22, 53/2, 163/4
interpreted 58/1
interrogate 281/16
interrogated 116/22, 287/24
interrogation 136/6
intersection 193/6
intersections 84/24
intertwined 78/19
intervention 18/20, 95/4

interview 5/6, 109/1, 168/20, 287/20, 288/1, 289/12, 289/15, 331/4
intimidating 236/14
intimidation 281/13, 284/1
intoxicated 296/12, 300/18
intrigued 54/25
introduce 32/6
introduction 64/11
inundated 118/24
invaluable 9/1
inversely 38/2
investigate 78/16, 124/6, 132/5, 155/22, 239/11, 260/9, 285/3, 297/5
investigated 126/9, 127/23, 203/5, 235/13, 297/22, 298/7, 319/3, 319/4
investigating 134/12
investigation 60/18, 60/20, 61/22, 77/20, 81/18, 116/19, 121/3, 124/4, 126/4, 126/6, 126/11, 126/16, 126/22, 127/20, 127/25, 128/8, 128/11, 129/4, 129/12, 129/17, 130/8, 131/2, 131/18, 138/6, 166/11, 198/21, 204/7, 210/18, 231/11, 249/13, 281/14, 319/2, 319/5, 319/7, 321/15
investigations 134/3
investigative 77/24
investigator 109/1, 167/25, 235/13, 260/8, 297/5, 309/10
investigators 65/19, 239/17
investors 64/5
invite 194/6
invited 208/23
involvement 63/17
irrelevant 17/14
isolation 256/23
issue 4/19, 9/7, 10/19, 48/22, 48/25, 53/24, 72/8, 75/10, 77/6, 82/21, 83/23, 92/11, 116/3, 116/4, 117/14, 120/14, 129/13, 130/5, 133/8, 142/24, 161/23, 165/17, 224/4, 318/3
issued 15/4, 60/2, 61/5, 247/14
issues 7/14, 8/9, 14/10, 27/24, 48/22, 60/8, 70/1, 77/5, 82/6, 82/14, 89/15, 94/3, 98/22, 107/14, 113/23, 120/3, 121/13, 124/14, 130/12, 131/21, 133/3, 133/21, 133/24, 184/19
Isuzu 229/4, 229/5
item 72/18
items 99/1, 203/12, 203/14, 203/24, 203/25, 205/23
Iverson 115/10, 119/7, 155/8, 194/8

J

Jag 195/18
Jaguar 192/21
jail 11/21, 17/19, 17/22, 23/20, 28/22, 41/20, 53/18, 70/11, 70/12, 85/11, 100/16, 106/18, 106/22, 107/24, 109/7, 110/17, 111/23, 140/19, 140/21, 141/8, 141/10, 142/20, 167/15, 170/4, 170/7, 170/11, 170/13, 171/11, 171/13, 190/13, 190/14, 190/16, 194/5, 197/9, 209/17, 213/17, 240/3, 240/20, 244/22, 245/1, 247/15, 249/12, 252/17, 274/2, 274/3, 277/25, 278/3, 279/11, 311/12, 324/4, 325/11
jailed 54/7, 118/19
jails 143/4, 143/6
James 84/25, 85/5, 85/14, 85/22, 92/18, 92/20, 268/9
January 141/17, 141/19, 204/8, 204/10, 205/16, 205/18, 213/15, 289/5, 289/14, 289/24, 325/17, 333/11
Japan 19/4
jeopardized 49/16
jeopardizing 132/24
jeopardy 248/4
Jerome 3/10, 268/2, 272/13, 280/17
job 19/20, 20/22, 21/1, 46/10, 76/11, 112/3, 112/4, 112/5, 141/8, 141/9, 141/11, 150/3, 169/1, 169/11, 177/3, 196/2, 213/6, 213/8, 215/10, 219/3, 219/10, 228/25, 238/14, 240/10, 260/10, 295/5, 300/20, 303/17, 304/21, 305/17, 312/12, 318/22, 318/23, 320/8, 320/9, 320/12, 321/13
jobs 6/21, 19/19, 20/23, 21/1, 55/23, 91/23, 103/9, 150/25, 195/14, 320/18
Joe 2/20, 6/3, 186/10, 186/11, 187/25, 188/1, 194/12, 195/10
John 2/25, 227/5, 227/10, 311/8, 316/22
join 61/17, 61/25
joke 148/20
joking 234/4
Jones 247/25, 248/5, 248/19
Jop 2/25, 227/6, 227/11
Jordan 188/18
Journal 113/8, 122/7
judge 13/13, 43/16, 44/8, 46/18, 46/20, 96/7, 96/14, 96/18, 96/20, 109/5, 111/24, 135/17, 143/18, 150/21, 156/21, 171/5, 171/15, 176/5, 181/24, 189/7, 189/8, 189/18, 191/3, 191/6, 191/14, 191/16, 192/7,

193/22, 200/4, 213/18, 217/15, 217/17, 217/19, 217/20, 230/20, 232/6, 232/7, 232/14, 232/15, 238/5, 238/7, 238/12, 240/9, 240/18, 241/1, 243/12, 246/7, 260/16, 260/18, 261/16, 261/18, 261/19, 262/7, 264/16, 264/19, 271/15, 278/20, 279/2, 279/22, 299/1, 302/19, 302/25, 311/4, 315/2
Judge's 44/19, 262/8
judges 13/16, 13/18, 43/24, 45/15, 46/16, 86/9, 87/10, 89/7, 107/4, 109/9, 110/7, 111/21, 142/3, 142/4
judgment 52/19, 76/3, 76/22, 158/14, 159/12, 169/25, 230/14, 232/13, 233/2, 235/1, 235/2, 240/13, 240/14, 271/12
judicial 14/18, 14/21, 31/6, 68/22, 69/11, 89/19, 155/7, 163/17
Judiciary 8/1, 33/1
July 141/16, 141/18, 141/23
jump 249/14
June 141/23, 311/2
junkyard 275/2, 275/3, 275/7
juries 86/11
jurisdiction 65/7, 119/1
jury 59/18, 60/22, 157/25, 159/14, 170/19, 170/20, 176/15, 278/17, 279/1, 310/22
Justice 2/5, 2/11, 4/13, 7/14, 9/14, 9/19, 13/11, 13/21, 14/22, 15/20, 16/12, 16/23, 21/20, 34/17, 38/14, 39/9, 44/16, 46/14, 55/13, 56/22, 57/21, 60/1, 61/4, 63/10, 86/1, 86/24, 90/24, 100/11, 104/7, 105/11, 105/23, 106/3, 106/25, 107/1, 107/3, 107/14, 112/8, 112/14, 113/4, 120/23, 125/1, 155/21, 157/1, 157/19, 158/1, 165/24, 186/20, 187/10, 218/18, 232/24, 247/9, 249/24, 262/4, 266/15, 266/17, 269/12, 310/9
justification 13/2
justified 11/18
justify 171/16
juvenile 21/20, 38/14, 39/9, 96/3, 96/12, 99/18, 99/25, 100/2, 100/5, 100/6, 100/9, 100/18, 100/25, 102/1, 246/6, 263/10, 263/12, 263/13
juveniles 39/11, 44/13, 95/11, 95/23, 95/24, 97/3

K

Kashouty 189/8, 191/14
Kecoughtan 234/13
KED 229/11
key 92/2, 112/11
kick 277/1, 277/4
kicked 276/25, 277/1, 277/18, 278/23, 279/4, 310/12
kid 20/23, 73/12, 90/2, 90/3, 90/5, 152/5, 170/20, 176/7, 176/20
kidney 166/14
kids 69/15, 69/21, 72/16, 84/23, 93/1, 93/6, 93/7, 93/22, 94/5, 149/24, 150/2, 171/8, 171/9, 171/16, 171/17, 173/15, 176/12, 195/14, 235/22, 264/3, 267/12, 305/23, 305/24
kill 90/3, 90/5, 90/14
killed 118/20, 152/15, 328/1
killing 8/13, 103/18
kills 87/11
kinder 48/10
King 2/20, 186/10, 186/11, 187/25, 188/1, 189/23
kingpin 15/7, 15/11, 30/16, 30/24
kingpins 30/13
knee 244/8, 247/2, 250/23, 251/11, 251/13
knowledge 180/10, 321/2
known 24/21, 106/13, 106/15, 110/4, 110/5, 187/24, 291/9
knows 115/20, 149/4, 174/6
KSA 321/3
KSA's 320/25, 321/1, 321/2

L

lab 325/25
labeled 36/8
labeling 12/9
lack 74/11, 134/5, 134/11
ladies 61/10, 186/12, 220/22, 224/12
lady 150/22, 189/10, 189/23, 190/6, 206/1, 206/9, 206/10, 209/18, 218/1, 233/5, 236/17, 247/25, 257/19, 296/23, 298/22, 299/20, 302/13, 302/14, 309/8, 312/12, 312/17, 312/18, 315/4, 323/7
laid 113/24, 122/3
laminated 206/15
land 38/9, 219/21, 222/14, 222/17
Landing 84/25, 85/5, 85/14, 85/22, 92/20
landlord 240/14
landlord's 238/4, 240/12, 241/15, 241/23
lane 193/11
Langley 152/1, 295/6, 319/25

languish 23/15
laps 113/24
large 7/7, 9/13, 114/10, 121/7, 129/6, 132/17, 132/24, 136/3
largest 142/12
Larry 252/10, 252/13, 252/14, 252/22, 253/4, 253/7, 253/17, 253/18, 253/20, 254/1, 254/16, 255/1, 255/3, 255/7, 255/19, 256/6, 256/11, 256/12
Larry's 252/16, 257/12
later 61/17, 62/18, 111/5, 181/10, 193/15, 204/3, 205/11, 205/19, 207/3, 210/16, 225/22, 253/22, 276/17, 282/6, 295/18, 296/1, 296/14
Latinos 18/9
laughed 315/14
law 4/6, 4/7, 4/20, 8/16, 9/11, 15/5, 15/7, 15/12, 17/7, 32/12, 34/3, 35/14, 35/17, 36/4, 37/13, 45/18, 58/12, 68/22, 92/17, 97/5, 109/24, 124/18, 152/10, 170/21, 184/25, 186/5, 186/24, 231/20, 232/3, 232/8, 232/16, 236/18, 236/20, 238/9, 269/23, 270/24, 293/22, 294/9, 294/10
Lawrence 249/22
laws 4/10, 40/8, 57/25, 58/1, 58/9, 87/2, 88/1, 156/2, 270/24
lawsuit 158/18, 231/10, 231/17, 231/20, 231/22, 232/9, 234/23, 234/24
Lawyer 93/18, 147/15, 168/9, 168/11, 170/22, 184/8, 190/25, 191/5, 191/10, 192/5, 193/21, 201/3, 207/23, 241/19, 253/2, 277/21, 278/22, 279/25, 280/4, 290/9, 299/14, 301/13, 301/15, 301/22, 301/24, 306/6, 306/20, 307/2, 307/3, 307/4, 307/5, 307/14, 307/15, 307/16, 307/17, 311/8, 316/16, 317/16, 324/10, 324/11, 324/24, 325/3, 325/22, 325/24, 326/20, 328/16, 329/6, 329/18, 329/24
lawyers 97/14, 158/4, 168/20, 264/14, 279/24, 291/16
lay 95/18, 247/15
layman 95/15
LCDR 22/1
lead 114/21, 217/5, 312/3
leaders 62/2, 79/25
Leadership 201/6, 322/2
leading 214/19, 276/9
leads 19/5, 59/25
leaf 71/23
leaking 237/23
leaned 195/21
leaning 137/1
learned 184/13, 188/25, 189/1
learning 117/20
leased 237/18, 238/17
leave 49/20, 49/24, 123/11, 136/24, 144/1, 151/17, 158/17, 215/25, 216/2, 217/14, 250/20, 268/17, 269/7, 274/25, 286/25, 293/17, 295/20, 317/2, 319/18, 321/23
leaves 50/19, 98/19, 199/9
leaving 212/7, 248/19
led 239/19, 240/2
left 21/9, 139/19, 164/10, 172/6, 172/10, 191/18, 191/19, 193/11, 195/23, 203/7, 203/8, 246/18, 250/22, 262/2, 270/6, 276/5, 277/18, 277/19, 278/25, 280/24, 277/2, 277/4, 277/19, 278/25, 283/7
leg 4/8, 16/2, 154/19, 156/1, 158/4, 158/13, 161/16, 161/23, 162/6, 162/8, 162/12, 162/16, 195/1, 242/21, 242/22, 244/19, 249/18, 271/7, 289/18, 301/14, 301/18, 330/5
legislation 5/11, 95/22
legislature 47/11, 47/12, 270/20
legitimate 11/18, 94/5, 141/9
leniency 40/7
lesson 311/5
letter 5/6, 24/18, 127/3, 132/19, 148/7, 181/11, 184/1, 184/4, 192/15, 195/17, 205/12, 215/23, 216/1, 216/7, 217/7, 231/14, 231/15, 232/16, 249/15, 249/16, 261/16, 289/6, 289/25, 294/3, 296/15, 297/8, 297/10, 297/12, 297/16, 298/3, 298/5, 304/7, 304/10, 304/14, 304/15, 304/24, 305/1, 325/25, 326/3, 326/5, 328/16
letters 217/1, 318/2
level 37/9, 65/4, 65/10, 65/14, 65/19, 66/6, 76/16, 76/18, 78/20, 90/11, 130/13, 162/13, 162/14, 200/11, 239/23
levels 9/1, 65/14, 131/22, 162/12
levied 95/17
Lewis 179/19, 179/23, 182/3, 183/8
Lexington 1/21
liable 288/17
library 151/4
license 190/14, 190/21, 195/20, 196/5, 206/2, 206/3, 206/7, 206/13, 206/15, 206/16, 206/20, 206/21, 206/24, 206/25, 207/2, 210/16, 246/15, 273/15, 278/1
lie 194/6, 278/23
lies 244/21, 261/5

Lieutenant 192/10, 199/8, 199/12, 280/23
 life 16/20, 55/15, 92/25, 93/13, 93/15, 100/7,
 104/3, 106/6, 112/17, 121/9, 167/19, 182/19, 188/13,
 189/5, 189/6, 217/5, 219/12, 252/8, 252/16, 256/7,
 256/9, 260/23, 279/16
 ligament 247/2, 251/5, 251/12, 251/18
 light 10/7, 35/8, 154/11, 160/7, 160/14, 161/22,
 193/10, 218/16
 lights 193/10
 limit 26/2, 49/9, 197/6, 198/9, 198/10
 limited 14/9, 14/11, 27/10
 limiting 89/4
 limp 246/25
 Lincoln 197/10
 Linda 57/9
 line 44/2, 49/7, 50/9, 81/10, 140/16, 230/3,
 261/21, 307/9
 lined 237/8
 lineup 323/8
 link 130/11
 lion 185/25, 283/11, 283/23
 lip 314/16
 Lipka 249/22
 list 74/17, 145/18, 186/9, 212/14, 267/19, 268/24,
 330/7
 listen 44/9, 105/9, 232/8, 268/22
 listened 193/15, 230/21, 232/15, 279/7
 listening 188/3, 191/2, 194/1, 277/17
 listens 148/24
 literacy 25/20, 25/21, 26/6, 214/21, 295/4
 literally 115/14, 115/21, 116/1
 little 20/2, 20/5, 20/13, 24/15, 24/22, 25/8, 30/17,
 31/2, 33/15, 38/1, 43/16, 44/2, 66/2, 75/2, 76/4,
 81/22, 84/23, 85/18, 93/8, 97/25, 104/16, 106/4,
 107/18, 113/6, 152/11, 161/3, 169/4, 169/6, 197/16,
 224/10, 224/16, 237/22, 245/18, 264/3, 272/23,
 275/10, 282/16, 286/5, 287/21, 295/4, 317/11, 318/18
 live 16/12, 31/9, 71/2, 73/5, 73/20, 80/15, 92/24,
 147/17, 147/22, 179/17, 184/22, 202/24, 242/5,
 243/3, 258/12, 264/4, 264/8, 269/17, 269/20, 272/18,
 291/2, 302/1, 310/10, 311/20, 314/17, 323/8, 327/8,
 327/9
 lives 149/9, 233/19, 259/12, 300/2, 323/8
 living 91/5, 147/19, 258/4, 291/3
 Lo 194/20
 loan 183/11
 local 8/16, 21/7, 54/14, 65/6, 65/7, 76/15, 78/20,
 107/3, 113/8, 113/12, 124/19, 142/11, 143/4, 201/7,
 201/16, 221/1, 281/4, 281/7, 287/11
 locality 106/16
 locally 107/14, 113/7, 124/20
 locate 138/20
 located 258/23
 LOCATION 1/11, 243/10
 lock 18/25, 19/2, 190/18, 207/16
 locked 19/6, 19/9, 27/3, 260/11, 263/6, 311/6,
 311/7
 locking 92/1
 locks 19/4
 lockup 130/24, 131/2, 244/14, 247/1
 logs 288/12
 loitering 54/2
 longtime 15/21
 loop 132/9
 loose 176/9, 176/10
 Lord 214/16
 Los 33/9, 69/17
 lose 44/22, 118/19, 162/19, 195/2, 213/7, 213/8,
 296/6, 300/21, 305/21
 losses 231/19, 232/13, 233/3
 losing 219/19, 271/21, 271/25, 282/24
 loss 156/10, 240/5
 lost 25/23, 194/15, 212/24, 231/19, 236/17, 247/13,
 285/5, 297/12, 298/8, 300/21, 302/16, 327/2, 327/3
 Lot's 283/22
 loud 284/9, 317/23
 louder 245/18
 love 219/12, 256/5
 loved 150/6
 loves 214/3
 low 31/21, 38/3, 90/11, 195/4, 275/8
 lower 66/6, 90/6, 238/3, 238/12, 239/1, 239/19,
 239/25
 lowered 149/17
 LSD 30/5
 luck 98/16
 lucrative 90/4, 90/19, 91/5
 ludicrous 260/20
 Innch 98/8, 123/5, 144/3, 144/16, 144/21, 144/22,
 295/9
 lying 200/17
 Lyons 146/17, 153/22, 153/23, 178/22

M

Madam 9/6, 12/13, 14/23, 16/6, 17/5, 20/3,
 25/16, 57/1, 57/15, 72/3, 98/11, 113/14, 306/2,
 322/18
 magic 169/18
 magistrate 60/3, 60/4, 60/5, 60/7, 60/21, 75/9,
 107/6, 108/6, 108/23, 244/18, 245/17, 245/23, 246/9,
 276/17, 276/19, 276/24, 276/25, 277/6
 magistrates 61/5
 magnitude 82/10
 mailed 330/11
 mailing 114/4
 main 214/6
 maintain 17/25
 maintained 4/24, 269/23
 maintenance 318/13, 320/20
 Major 2/7, 57/7, 61/15, 61/18, 63/13, 64/19,
 64/23, 67/25, 74/6, 75/25, 76/12, 77/2, 77/19, 78/5,
 79/12, 81/8, 94/17, 94/19, 104/17, 112/10, 123/16,
 123/18, 124/8, 124/11, 124/17, 125/7, 125/19, 126/5,
 127/11, 127/21, 128/6, 128/10, 128/14, 129/2, 129/8,
 129/23, 130/2, 130/4, 130/10, 130/14, 130/17,
 130/20, 131/8, 131/16, 132/16, 133/17, 134/7, 135/5,
 136/3, 137/9, 137/13, 138/1, 138/12, 139/7, 179/25,
 199/12
 majority 49/6, 49/9, 101/13, 102/24, 103/3, 142/2,
 142/11
 majors 126/13, 126/14, 126/17, 126/18
 makers 9/1
 male 33/19, 33/20, 34/9, 67/21, 85/14, 115/24,
 161/1, 169/10, 229/3, 292/16, 296/11
 males 22/18, 26/1, 26/10, 26/11, 34/15, 53/6,
 63/25, 66/2, 67/2, 67/8, 68/17, 74/1, 74/22, 90/21,
 91/3, 91/15, 118/9, 178/10
 malicious 96/5, 99/5, 313/6, 313/25
 mall 205/25
 mama 297/1, 297/2
 man 17/21, 35/20, 35/21, 51/19, 85/6, 85/17, 91/7,
 98/5, 116/8, 147/9, 149/22, 150/18, 171/10, 180/11,
 182/3, 182/11, 182/14, 185/20, 186/21, 186/22,
 187/14, 188/14, 219/7, 227/14, 228/4, 236/23, 247/8,
 247/18, 256/4, 258/10, 277/5, 280/10, 295/22,
 297/10, 297/11, 297/12, 300/14, 300/18, 301/5,
 305/8, 306/21, 313/5, 328/2
 managed 233/24, 233/25
 Manager 6/4, 152/5, 164/11, 164/14, 295/16,
 296/9, 304/13, 312/16
 mandated 106/16
 mandatory 10/25, 11/3, 11/23, 11/24, 12/15,
 12/18, 13/9, 13/11, 28/7, 28/10, 28/22, 30/4, 30/7,
 30/11, 30/20, 31/4, 35/24, 39/11, 41/4, 41/10, 41/16,
 41/20, 42/24, 43/17, 44/20, 52/11
 Manhattan 273/4
 manifests 114/1
 manner 16/9, 63/7, 121/1, 125/24, 157/14,
 193/13, 249/3, 282/3, 286/1, 289/21, 298/17
 Manson 37/12, 37/21
 manufactured 239/19, 241/17
 map 220/4, 220/6, 223/8
 maps 220/14
 marathons 276/8
 Marc 1/25
 Marcellus 2/12, 94/16, 105/5, 105/12, 113/5
 March 1/10, 35/21, 51/19
 margin 47/16
 Marie 247/25, 248/5, 248/18
 marijuana 40/5, 40/8, 41/5, 65/18, 66/21
 Marine 280/11
 Mark 144/11, 146/11
 marked 161/10, 161/11, 161/12, 161/14
 market 65/1, 65/25, 66/1, 66/13, 72/18, 84/15,
 272/8
 markets 64/10, 66/15, 66/24, 68/17, 85/1
 married 213/3
 Marshal 194/20
 Mart 156/11, 157/5, 157/15, 157/23, 159/9, 161/5
 Mary 170/21
 massive 62/11, 67/8
 master 237/17
 master's 196/1
 match 325/20, 328/13
 mathematical 38/1
 mathematically 27/19
 matter 48/18, 157/13, 186/3, 201/8, 246/8, 250/7,
 269/12, 289/21
 matters 243/2, 249/22, 269/11
 mattress 247/15
 maximum 84/9
 Mayor 2/2, 5/20, 6/3, 6/9, 148/8, 148/24, 185/17
 mayor's 198/21
 McCloud 1/20, 82/6
 MCI 215/11

MCV 205/4
 meals 150/23
 meaning 143/17, 321/18
 meaningless 166/16
 measured 174/10
 measures 21/22
 mechanic 218/14, 318/14
 mechanical 196/2
 mechanism 126/2
 mechanisms 89/12
 Mecklenburg 102/8
 media 157/12
 mediator 306/6, 306/7
 Medical 204/13, 251/2, 304/7
 medication 247/16
 medium 112/24, 112/25, 160/5
 meet 5/1, 16/2, 79/25, 126/12, 126/15, 214/22,
 214/23, 245/11, 267/13, 273/8, 275/14, 321/22
 MEETING 1/6, 7/14, 77/7, 98/12, 144/13, 155/4,
 155/11, 163/16, 234/12, 321/19, 322/8, 322/14
 meetings 39/18, 48/11, 133/13
 meets 177/6
 Melton 2/24, 217/24
 member 7/12, 33/1, 107/5, 161/1, 185/8, 269/6,
 331/3
 MEMBERS 1/13, 1/25, 4/16, 6/11, 7/20, 63/4,
 88/5, 98/2, 105/16, 106/9, 107/2, 139/19, 144/21,
 145/3, 236/3, 237/3, 257/20, 280/22, 293/24, 294/4,
 294/5
 memo 235/18
 memorandum 236/12
 men 69/11, 170/6, 190/9, 217/4, 258/14, 306/10
 mental 21/7, 109/20, 299/25, 304/22
 mention 66/9, 167/5, 168/1, 225/11, 291/22,
 331/11
 mentioned 29/2, 42/21, 59/5, 78/6, 133/25,
 138/14, 140/4, 164/1, 199/13, 207/8, 219/8, 223/17,
 223/18, 259/5, 278/3, 296/12
 mentor 141/4
 merchants 110/24, 205/21, 205/24, 206/5
 merits 109/12
 mess 206/23
 message 41/1
 messed 170/17, 256/8
 met 286/3
 methodologies 136/6
 Mexico 19/5, 82/25
 Miami 65/18
 Michael 188/18
 Michigan 323/9
 mid 65/14, 65/19
 middle 44/5, 149/24, 151/11, 151/12, 202/10
 Middlebrook 261/19, 261/25
 Midlothian 1/15
 mike 58/5, 192/24, 268/4, 280/18, 280/19
 mild 11/13
 mile 193/7
 miles 272/25
 military 114/4, 180/12, 180/13, 189/1, 193/17,
 199/4, 199/15, 203/13, 218/21, 224/17, 224/18,
 227/15, 246/13, 251/4
 mill 223/3
 million 20/15, 35/20, 35/21, 51/19, 112/22, 151/5,
 231/25, 232/2, 260/24, 272/3
 mind 39/16, 58/4, 72/7, 74/20, 81/22, 207/19,
 222/4, 284/11
 minded 39/13
 minding 279/15
 Minetti 57/4, 57/6, 61/16
 minimize 46/4
 minimum 10/25, 11/3, 11/23, 11/24, 12/16, 12/18,
 13/12, 28/7, 28/10, 28/22, 30/4, 30/7, 30/11, 30/21,
 31/4, 35/24, 41/4, 41/11, 41/16, 41/20, 43/23, 44/20,
 52/11, 92/5, 134/13, 137/15, 141/12, 142/8, 142/18
 minimums 13/10, 43/17
 minister 105/13, 113/7, 215/21
 ministers 214/20
 ministry 215/4
 minorities 49/6
 minority 18/14, 49/9, 130/19, 130/21, 131/6, 161/1
 minute 22/6, 36/13, 39/21, 56/14, 79/13, 93/4,
 169/4, 172/1, 172/5, 172/7, 172/9, 172/14, 172/20,
 173/8, 191/4, 196/10, 208/10, 248/21, 291/17, 298/1,
 301/24, 330/14
 minutes 72/6, 79/8, 98/6, 104/18, 105/7, 122/14,
 144/7, 144/19, 144/20, 145/2, 148/17, 172/18,
 172/22, 172/23, 173/1, 173/10, 188/5, 188/7, 188/9,
 202/1, 216/8, 233/18, 233/22, 247/4, 269/5, 277/12,
 279/21
 minutes' 301/16
 mirrors 143/9
 misconceptions 70/25
 misdemeanor 60/10, 136/13, 136/14, 142/2

misdemeanors 136/18, 142/1
misplaced 206/25
missing 317/15
mission 218/24, 292/4
mistake 201/22, 223/12, 231/24
mistaken 192/1
mistakes 16/5, 321/7
mistreated 259/11
misunderstood 43/5
Mitchell 31/2
Mitchell 268/7, 293/4
mixture 175/21
moderator 56/23
modicum 83/18
molested 152/6
molesting 121/6
Mom 254/7, 254/18, 256/20, 257/1
moment 265/19
Monday 215/11
monetary 108/6
money 12/1, 19/21, 20/14, 21/9, 21/10, 21/18, 37/11, 38/1, 38/8, 42/5, 42/6, 42/9, 42/14, 50/18, 52/15, 53/12, 53/14, 55/10, 72/12, 83/14, 90/4, 91/11, 92/12, 92/13, 108/24, 112/23, 161/8, 166/7, 166/11, 167/24, 168/10, 178/2, 178/6, 178/9, 180/4, 180/25, 181/1, 181/10, 181/20, 182/21, 183/11, 189/20, 204/12, 204/24, 204/25, 205/5, 205/8, 205/10, 209/9, 209/12, 209/14, 209/15, 209/18, 230/16, 230/24, 232/14, 242/23, 256/14, 264/13, 264/14, 265/4, 271/22, 271/24, 272/9, 277/11, 278/9, 278/14, 298/14, 310/3
monies 83/12
monkey 272/25, 274/22
Monroe 318/1, 318/25, 321/16
month 125/22, 133/20, 141/17, 191/12, 215/12, 238/16, 238/19, 238/24, 252/16, 301/12
months 17/20, 17/22, 53/18, 62/17, 62/18, 100/17, 119/15, 141/8, 189/11, 189/13, 204/3, 205/11, 207/3, 210/8, 210/16, 212/5, 213/2, 214/12, 240/6, 251/17, 252/9, 257/1, 278/2, 290/2, 296/14, 311/6, 311/12, 323/4, 323/20, 324/4
Moochie 259/12
Mookie 259/8, 259/10
moral 49/17
morning 5/25, 6/1, 57/15, 57/17, 70/4, 90/17, 113/14, 115/23, 148/25, 150/11, 151/25, 175/13, 194/2, 194/17, 200/5, 205/5, 218/16, 219/9, 244/7, 302/22
morning's 72/14
Morris 213/18
Morrison 2/12
motel 67/4
mother 103/21, 233/25, 234/2, 234/8, 234/21, 244/20, 259/15, 275/5, 296/19, 296/21, 297/6, 300/10, 316/10
mother's 17/24, 296/24
motion 52/7, 96/13
motivated 8/14
motive 189/10, 189/20, 258/20
motives 50/14, 51/7, 86/20
motor 228/9, 228/11, 228/16, 228/17, 230/2, 230/3, 232/19, 232/20, 232/21
mouth 148/18, 266/22
move 7/10, 18/5, 27/11, 48/6, 81/21, 104/10, 104/12, 121/9, 127/14, 127/19, 130/6, 198/13, 237/7, 240/16, 286/23, 297/13, 299/2, 299/9, 302/20
moved 149/19, 253/19, 254/17, 300/18
movement 48/7
moving 44/1, 116/17, 253/21
Mr. down 146/21
Mr. - let 178/17
Mr. Alexander 150/15
Mr. Allen 5/22, 5/25, 6/2
MR. BLOWE 237/16, 238/19, 238/21, 241/6, 241/8, 241/13, 241/20, 241/22, 242/4, 242/6, 242/9, 242/15, 242/20, 242/24, 243/5, 243/8, 243/11, 243/15, 243/20
MR. BULLOCK 154/1, 154/6, 154/24, 155/2, 156/7, 156/16, 156/19, 156/23, 157/3, 157/21, 158/24, 159/2, 159/6, 160/18, 160/25, 162/20, 162/23, 163/8, 163/10, 163/21, 164/4, 164/22, 165/3, 165/6, 165/10
Mr. Carter 165/14, 165/16, 166/22, 166/24, 167/1, 167/4, 167/9, 168/4, 168/16, 169/9, 169/17, 171/22, 172/2, 172/7, 172/17, 172/25, 173/11, 173/25, 174/3, 174/11, 175/22, 177/2, 177/14, 178/16
Mr. Clyde 105/5, 105/9
MR. COBB 192/12, 192/14, 192/25, 196/13, 197/2, 197/12, 198/6, 198/19, 198/25, 199/5, 199/8, 199/11, 199/20, 199/25, 200/23, 201/11, 201/18, 201/19
Mr. Cristman 98/3, 105/14, 105/15, 122/19, 122/20, 137/18, 137/19, 139/25, 140/1, 140/9, 144/2

Mr. Darden 49/21, 50/6, 50/7, 51/1, 51/25, 52/2, 52/5, 53/1, 53/16, 53/23, 54/10, 54/14, 54/19, 56/7, 56/10, 123/18, 124/9, 124/13, 125/3, 125/15, 125/25, 127/7, 128/3, 128/7, 128/12, 128/15, 129/7, 129/21, 129/24, 130/3, 130/9, 130/11, 130/15, 130/18, 131/3, 131/10, 132/7, 133/8, 134/4, 134/15, 137/11, 137/14, 137/20, 139/14, 139/22, 145/17, 145/24, 146/1, 146/8, 146/20, 147/2, 147/11, 152/20, 152/24, 153/21, 154/5, 159/19, 165/1, 165/12, 165/20, 172/1, 172/5, 172/15, 173/6, 178/17, 179/3, 179/6, 179/9, 179/21, 186/7, 187/20, 187/21, 187/25, 188/7, 191/4, 192/10, 196/10, 201/21, 208/10, 209/10, 212/10, 212/12, 212/13, 212/15, 216/8, 217/14, 217/24, 235/3, 237/2, 237/6, 243/21, 248/21, 251/24, 257/4, 257/18, 267/1, 267/6, 267/13, 267/23, 268/2, 268/4, 268/7, 268/9, 268/12, 268/14, 272/13, 280/15, 280/18, 293/3, 293/15, 293/23, 294/2, 294/15, 294/21, 294/23, 298/1, 317/4, 319/19, 322/18, 322/22, 330/2, 330/13, 330/17, 330/19, 330/23, 330/25, 331/10, 331/20
Mr. Ferguson 245/24
MR. FLEMING 268/1, 269/4, 269/8, 269/9
MR. GALVIN 22/13, 24/5, 24/9, 24/25, 25/12, 36/16, 39/20, 40/22, 41/9, 41/22, 42/2, 42/11, 42/16, 42/20, 43/20, 44/1, 44/22, 45/13, 45/17, 45/21, 45/24, 46/8, 50/21, 51/11, 59/5, 63/8, 64/12, 89/10, 98/18, 99/6, 100/3, 100/20, 101/5, 102/12, 104/21, 127/13, 127/24, 135/13, 138/3, 138/24, 159/22, 160/19, 160/25, 161/21, 163/15, 168/2, 168/13, 169/3, 169/15, 172/9, 172/13, 188/5, 212/6, 212/9, 212/13, 243/1
Mr. Galvin's 50/9
Mr. Green 316/9
Mr. Gwynn 6/10, 57/15, 57/18, 58/6, 58/8, 70/6, 72/3, 75/9, 81/24, 82/5, 84/19, 89/18, 89/23, 90/8, 91/10, 92/6, 92/9, 95/20, 97/20, 98/10, 98/16, 99/3, 99/8, 100/8, 101/4, 101/12, 102/19, 104/15, 107/5, 181/1
MR. HARRIS 94/16, 97/18, 97/21, 98/4, 113/5, 122/21, 133/25, 137/23, 138/22, 145/20, 146/6, 146/25, 263/2, 265/1, 322/21, 322/23, 323/13, 325/4, 325/6, 325/8, 325/12, 326/4, 326/7, 326/22, 327/1, 327/6, 327/9, 327/12, 327/15, 327/24, 328/3, 328/7, 328/10, 328/15, 328/25, 329/3, 329/8, 329/15
Mr. Hill 151/18
MR. HINES 248/11
MR. HUANG 54/24, 55/18, 55/24, 140/1
MR. JOP 227/7, 227/10, 235/3, 235/5, 237/2, 237/5, 237/9
MR. KING 188/1, 188/8, 191/5, 192/9
Mr. Lacy 207/24, 208/8
Mr. Langford 178/18, 178/19, 178/23, 178/24, 186/8, 186/9
Mr. Maroney 150/13, 150/14
MR. MELTON 218/1, 218/4, 221/22, 222/1, 222/7, 222/10, 222/21, 223/1, 223/21, 223/24, 224/3, 225/8, 225/14, 225/23, 226/4, 226/16, 226/21
MR. MITCHELL 268/8, 293/5, 293/8, 293/18, 293/21, 294/1, 294/6, 294/11, 294/19, 294/22, 294/25, 295/14, 298/2, 299/4, 299/8, 300/5, 300/16, 301/11, 301/14, 302/2, 302/6, 303/3, 303/8, 303/11, 303/14, 303/25, 304/3, 304/6, 306/12, 306/22, 307/6, 307/10, 308/9, 308/15, 308/19, 309/8, 309/13, 309/21, 310/1, 310/4
Mr. Mitchell's 296/24
MR. NEAL 268/3, 272/14, 274/1, 277/14, 279/19, 280/2, 280/17
MR. PALMER 145/12, 146/13, 147/4, 147/5, 147/11, 147/13, 148/3, 149/8, 152/18, 152/19, 152/22, 153/1, 153/8, 153/14, 153/17, 271/5, 271/8
Mr. Panther 304/11
Mr. Patrick 147/15, 184/17, 184/21, 185/5, 209/21
Mr. Pentino 146/2, 146/11, 146/13, 226/10, 226/18, 227/5, 237/14
Mr. Philip 1/19
MR. PIERCE 257/19, 257/23, 260/3, 260/6, 261/9, 261/12, 262/20, 263/4, 263/11, 264/25, 265/2, 266/3, 266/6, 266/11, 266/20, 267/8, 267/23
Mr. Preston 280/16
Mr. Richard 1/22
Mr. Rickman 184/1, 184/4
MR. ROBERT 183/7
MR. ROBERTS 179/2, 179/5, 179/8, 179/11, 179/12, 179/15, 179/23, 182/15, 182/17, 182/24, 183/5, 183/14, 183/18, 183/21, 184/9, 184/17, 184/20, 185/3, 185/6, 185/15, 185/22, 186/6, 186/7
MR. ROBINSON 268/13, 317/20, 317/22, 317/25, 318/13, 319/11, 319/17, 319/20, 319/24, 320/1, 320/3, 320/6, 320/13, 320/16, 320/19, 320/24, 322/16
Mr. Roger 1/16
MR. SCOTT 7/19, 22/6, 22/19, 22/25, 23/25, 24/7, 24/13, 25/6, 25/13, 26/20, 27/6, 28/4, 28/18,

29/2, 30/10, 31/11, 31/16, 31/25, 32/2, 32/25, 33/6, 33/12, 34/2, 34/24, 35/13, 37/6, 40/21, 40/24, 41/10, 41/25, 42/3, 42/12, 42/18, 43/10, 43/25, 44/8, 45/5, 45/15, 45/18, 45/23, 46/2, 46/13, 47/7, 48/19, 50/1, 50/13, 51/6, 51/17, 51/22, 52/1, 52/3, 52/7, 53/8, 53/21, 53/25, 54/12, 54/17, 54/21, 55/3, 55/20, 55/25, 56/4, 56/9
Mr. Terry 245/11
MR. UPTON 268/6, 280/21, 281/6, 283/16, 283/19, 283/22, 285/15, 290/16, 290/20, 290/24, 291/1, 291/3, 291/8, 291/19, 291/24, 292/8, 292/13, 292/22, 293/2
Mr. Whitlock 296/23, 296/24
Mr. Williams 178/25, 179/3, 243/23, 245/20, 247/23, 248/22, 249/1, 249/7, 249/10, 249/20, 250/6, 250/13, 250/16, 250/19, 250/22, 250/25, 251/3, 251/10, 251/22
Mr. Wyche 61/14, 67/13, 104/15, 104/22, 105/1, 122/15, 137/17
MRI 251/16
Mrs. Anece 1/20
Mrs. Chairman 154/7, 154/20
Mrs. Jessie 1/13
Mrs. Jones' 249/24
Mrs. McCloud 56/24
Mrs. Rattley 6/15, 7/19, 81/22, 82/5, 83/23, 84/17, 329/21
Mrs. Rattley's 82/9
Ms. Beth 249/12
MS. BRIGGS 310/8, 312/9, 313/2, 313/6, 313/10, 313/13, 313/17, 313/24, 314/3, 314/11, 314/14, 314/19, 314/22, 315/1, 315/9, 315/12, 315/16, 315/19, 315/24, 316/2, 316/5, 316/9, 316/15, 316/18, 316/21, 316/25, 317/3, 317/6, 317/17
MS. BRYANT 252/1, 252/4, 255/16, 257/5, 257/10
MS. HOWARD 330/15, 330/18, 330/21, 330/24
Ms. Iles 146/22
Ms. Jones 248/7, 248/18, 250/2, 250/8
Ms. McCloud 46/23, 46/24, 56/24, 56/25, 57/13, 58/3, 58/7, 61/12, 63/3, 81/21, 94/8, 97/22, 104/8, 104/19, 104/24, 131/4, 134/17, 135/12, 163/12, 163/13, 163/22, 164/20, 171/20, 172/11, 176/22, 177/13, 198/1, 198/3, 198/14, 210/17, 210/22, 223/16, 223/22, 224/2, 224/23, 291/21, 292/2, 292/9, 292/14, 292/19, 303/10, 303/12, 306/2, 306/5, 306/13, 306/24, 307/7, 307/19, 308/2, 314/23, 315/7, 315/22, 315/25, 316/3, 329/4, 329/14, 329/17, 331/8
Ms. Naomi 1/23
MS. RATTLEY 4/2, 6/1, 7/9, 22/5, 22/14, 22/23, 23/16, 26/14, 27/3, 27/11, 28/15, 28/24, 30/8, 31/5, 31/12, 31/21, 32/1, 32/6, 32/12, 36/20, 36/20, 46/23, 47/21, 49/19, 50/4, 51/20, 54/20, 55/25, 56/6, 56/8, 56/12, 56/21, 57/8, 57/17, 61/11, 61/14, 67/13, 68/20, 70/8, 72/5, 81/20, 84/18, 89/12, 89/24, 92/3, 92/7, 97/24, 98/14, 105/1, 122/13, 122/21, 122/25, 137/5, 137/16, 137/21, 139/13, 139/24, 143/25, 144/4, 144/18, 145/15, 145/24, 146/23, 147/24, 148/2, 148/15, 149/5, 149/7, 152/18, 153/5, 153/14, 153/17, 153/20, 154/21, 154/25, 155/3, 156/17, 156/20, 156/24, 157/20, 158/22, 158/25, 159/18, 162/21, 163/8, 163/12, 164/17, 165/5, 165/14, 166/21, 166/23, 166/25, 167/2, 167/7, 172/20, 173/4, 173/24, 174/2, 174/9, 178/15, 179/12, 182/13, 182/16, 182/22, 183/3, 183/6, 183/12, 183/16, 183/19, 184/7, 185/4, 185/7, 185/12, 185/20, 186/4, 186/14, 186/17, 187/2, 187/5, 187/17, 187/20, 188/6, 192/9, 192/13, 192/23, 196/11, 196/14, 197/3, 197/13, 198/2, 198/15, 198/24, 199/6, 199/10, 199/23, 201/19, 216/6, 217/13, 217/20, 217/25, 218/3, 221/19, 221/24, 222/5, 222/8, 222/19, 222/24, 224/22, 226/8, 226/14, 227/4, 227/9, 238/18, 238/20, 241/2, 241/7, 241/9, 241/18, 241/21, 242/2, 242/5, 242/8, 242/18, 243/3, 243/6, 243/9, 243/14, 243/16, 245/18, 247/21, 248/24, 249/6, 249/8, 249/18, 250/4, 250/11, 250/14, 250/17, 250/20, 250/24, 251/1, 251/8, 251/21, 252/3, 255/15, 257/8, 257/16, 257/22, 260/1, 260/4, 261/7, 261/11, 262/18, 262/25, 263/7, 266/1, 266/5, 266/10, 266/18, 266/23, 267/16, 267/21, 268/16, 269/2, 269/6, 271/9, 272/14, 279/17, 280/1, 280/22, 281/5, 283/14, 283/18, 283/21, 285/13, 290/9, 290/17, 290/21, 290/25, 291/2, 291/6, 291/12, 291/17, 292/25, 293/7, 293/15, 293/19, 293/22, 294/8, 295/13, 299/3, 299/6, 300/3, 300/13, 301/9, 301/13, 302/1, 306/4, 307/11, 308/5, 308/8, 308/12, 308/17, 309/6, 309/11, 309/19, 309/25, 310/7, 312/6, 312/23, 313/5, 313/8, 313/11, 313/15, 313/22, 314/1, 314/12, 314/17, 314/20, 315/10, 315/14, 315/17, 316/13, 316/16, 316/19, 316/23, 317/1, 317/4, 317/9, 317/18, 317/22, 319/25, 320/22, 322/17, 323/12, 325/3, 325/5, 325/7, 325/19, 326/2, 326/6, 326/20, 326/24, 327/5, 327/8, 327/11, 327/13,

327/19, 327/25, 328/4, 328/8, 328/13, 328/23, 329/1, 329/25, 330/9, 331/18
Ms. Shirley 244/13
MS. SMITH 186/12, 186/15, 186/19, 187/3, 187/6, 187/19, 187/23
MS. UPTON 291/14, 292/17, 292/21
MS. WILLIAMS 212/17, 216/10, 217/18, 217/22
MS. ZEAVIN 163/7, 310/3
multi 214/14
murder 90/2, 90/10, 96/4, 99/4, 166/10, 176/17
murdered 176/19
music 205/25

N

NAACP 162/22, 162/25, 247/3, 305/15, 311/16
naïf 140/17
naive 57/24, 86/3, 86/18
name 24/7, 24/23, 30/24, 57/18, 83/17, 89/20, 93/11, 105/4, 119/10, 147/16, 153/25, 154/1, 154/7, 178/21, 178/22, 179/6, 179/17, 179/21, 186/9, 188/1, 191/1, 192/7, 202/5, 202/9, 202/22, 206/3, 207/22, 210/2, 210/4, 210/7, 210/11, 227/10, 229/23, 235/8, 237/16, 243/18, 243/23, 244/5, 252/1, 257/11, 259/5, 259/7, 259/10, 259/11, 273/18, 276/18, 281/15, 283/19, 285/4, 291/10, 293/16, 296/22, 296/24, 310/8, 315/20, 317/20, 322/14, 330/15
named 149/21, 170/25, 259/8
names 24/8, 83/17, 291/13, 292/25, 293/2, 322/20
naming 31/2
narcotics 65/17
NASA 295/6
nation 72/8
national 4/12, 119/8
nationally 202/16
nationwide 11/11, 69/12
native 58/15, 113/12
nature 222/11
Navy 199/13
Nazi 8/12
NDC 227/23
Neal 3/10, 268/2, 272/13, 280/17
necessary 9/4, 165/1, 197/19
necessitated 196/17
neck 149/2, 229/9, 229/11, 229/20
need 17/24, 28/7, 32/9, 34/11, 34/12, 52/19, 66/9, 74/22, 75/22, 79/7, 88/10, 91/9, 93/23, 94/6, 97/7, 107/23, 112/11, 113/13, 114/8, 117/21, 120/4, 120/6, 121/16, 121/17, 128/25, 134/4, 134/24, 138/25, 159/15, 160/22, 166/1, 172/15, 180/24, 189/23, 192/4, 200/20, 204/25, 221/13, 221/17, 222/9, 224/21, 225/5, 229/21, 237/9, 241/10, 246/10, 255/22, 256/15, 283/20, 289/12, 290/18, 290/22, 293/11, 299/14, 299/15, 305/9, 307/16, 309/2, 317/11, 327/20
needed 18/8, 80/17, 169/16, 181/5, 181/20, 237/24, 253/23, 290/1
needle 307/24
needs 54/9, 95/3, 103/11, 195/6, 216/14, 237/10, 255/18, 262/6, 278/5, 329/22
negative 100/4, 157/8, 263/25, 284/22, 325/13
neglect 120/16
negligent 235/14, 250/16, 250/17
negotiations 43/13
Negro 324/6, 326/1
neighbor 65/23
neighborhood 62/23, 78/10, 78/11, 78/13, 78/14, 79/23, 80/4, 80/7, 80/15, 81/11, 112/21, 130/23, 138/9, 142/6, 147/19, 150/20, 153/11, 175/11, 175/19, 194/19
neighborhoods 62/1, 64/4, 64/8, 64/9, 66/17, 80/11, 80/13, 81/16, 83/25
neighbors 66/18, 79/25, 85/10, 234/1, 234/2, 234/9
neither 132/23, 175/23
Neo 8/12
nephew 259/14, 261/13, 265/15
nephews 257/21, 258/4, 258/18, 259/18, 263/3
nephews' 259/11
net 10/2, 10/23
network 29/13, 30/15
network 25/17, 57/25, 87/2, 200/16
new 21/4, 49/10, 65/17, 113/8, 122/7, 125/20, 150/12, 272/24, 290/2, 290/3, 290/5, 290/14, 316/12, 316/14
Newport 1/12, 1/13, 2/2, 2/6, 5/20, 6/2, 6/5, 6/7, 6/11, 6/19, 7/5, 21/5, 57/3, 57/19, 58/13, 58/15, 65/8, 70/13, 71/10, 88/9, 89/20, 90/12, 91/4, 104/5, 105/11, 105/13, 105/23, 106/1, 106/2, 107/4, 107/20, 108/22, 110/10, 113/7, 117/3, 119/17, 119/20, 138/13, 141/16, 141/21, 142/10, 153/6, 154/9, 173/22, 212/20, 213/13, 243/25, 244/4, 247/8, 250/10, 261/9, 262/4, 269/15, 269/24, 270/20, 271/6, 272/19, 281/2, 287/8, 288/9, 307/18

News 1/12, 1/13, 2/2, 2/6, 5/20, 6/2, 6/5, 6/7, 6/11, 6/20, 7/5, 21/5, 57/3, 57/20, 58/13, 58/15, 65/8, 70/13, 71/10, 72/15, 88/9, 89/20, 90/12, 91/4, 104/5, 105/11, 105/13, 105/23, 106/1, 106/2, 107/4, 107/20, 108/22, 110/10, 113/7, 117/3, 119/17, 119/20, 138/14, 141/16, 141/21, 142/10, 153/6, 154/10, 173/22, 201/13, 212/20, 213/13, 243/25, 244/4, 247/8, 250/10, 261/9, 262/4, 269/15, 269/24, 270/20, 271/6, 272/19, 281/2, 287/8, 288/9, 307/18
Newsome 257/25
newspaper 102/20, 145/13, 148/11, 152/17, 153/2, 171/12, 258/9, 262/1
newspapers 153/16, 170/3
newsworthy 157/11
nice 33/25, 215/14, 276/8
nickel 271/23
Nigger 227/24, 282/18, 285/7, 297/2
night 57/10, 69/14, 123/1, 137/25, 146/4, 188/2, 251/11, 251/12, 263/16, 277/25, 324/1
nine 252/21, 134/13, 241/20, 241/21, 241/22, 318/21
Ninth 5/15, 226/19
Nixon's 9/10
Nods 34/24, 43/25, 89/23
nolle 208/2, 264/17
nonviolent 106/22, 110/8
nonviolently 29/21
nonwhites 64/16
noon 98/12
Norfolk 54/22, 73/16, 125/2, 198/25, 199/1, 227/18, 237/18, 240/22, 242/5, 243/4, 243/19, 297/21
normal 60/12
normally 63/1, 172/17, 276/7
north 190/10, 196/23
Northern 307/20, 307/25
Northwest 5/16, 226/19
nose 314/16
Notary 333/7
notch 265/10
note 24/19, 82/6, 111/20, 179/18, 330/21
notes 145/22, 145/25, 146/3
Notice 5/8, 131/14, 133/10, 239/6, 320/25
Notices 4/25, 205/21
notified 116/9, 126/25, 203/3, 237/24, 239/3, 239/4, 239/7
notify 237/20, 242/11
notifying 239/10
notorious 84/15
November 281/3, 281/6, 323/2
number 17/7, 22/9, 22/17, 22/20, 27/6, 27/7, 27/25, 38/20, 48/22, 50/15, 63/25, 67/8, 69/10, 70/10, 88/17, 102/22, 148/19, 168/14, 180/7, 182/7, 183/9, 184/3, 186/2, 194/4, 210/9, 210/11, 230/11, 230/12, 231/12, 234/13, 243/19, 254/4, 257/11, 273/19, 273/20, 292/5, 322/15
numbers 18/13, 125/15, 134/21, 135/6, 141/15, 210/14, 210/15
nurse 202/14, 202/15

O

O'Bryan 249/12
oak 199/8
oath 4/19
obey 270/24
obligation 132/4, 185/9
observation 197/15, 204/5
observe 161/9
obstruction 249/23
obtain 244/15
obtained 5/5, 241/17, 249/22
occasions 163/1, 284/12
occurring 132/2
October 5/3, 115/14, 274/15, 310/10
offender 141/6
offenders 10/22, 106/22, 141/4, 141/20, 141/24, 141/25, 142/2, 142/15
offense 100/1, 100/17, 110/13, 110/22, 166/8
offenses 11/15, 17/6, 38/18, 177/22
offer 64/13, 99/25, 101/23, 185/10
offered 14/19, 39/22, 245/13, 288/2, 322/11
offering 296/20, 322/6, 322/12
Office 14/25, 24/2, 43/9, 45/3, 58/14, 59/13, 59/15, 59/16, 61/2, 96/16, 97/3, 97/15, 102/14, 102/15, 102/16, 102/25, 103/5, 103/11, 104/5, 120/24, 124/21, 124/23, 125/2, 126/7, 126/24, 127/15, 127/20, 129/19, 131/2, 178/4, 198/21, 221/1, 226/12, 236/6, 288/21, 289/14, 293/25, 294/4, 295/21, 302/7, 302/9, 331/11
officer 24/19, 44/13, 60/4, 60/8, 67/20, 76/11, 86/14, 125/23, 127/4, 130/6, 130/13, 130/16, 130/17, 131/1, 131/8, 132/1, 135/23, 136/13, 136/15, 176/11, 193/1, 193/5, 193/18, 193/21, 195/19, 198/7, 199/21,

200/4, 203/6, 227/15, 278/11, 278/22, 283/1, 283/2, 283/6, 285/18, 286/3, 286/17
officer's 277/8
officers 8/16, 10/8, 21/3, 21/5, 61/6, 66/10, 77/22, 87/15, 89/5, 89/8, 89/9, 124/6, 131/13, 133/16, 136/1, 170/2, 194/6, 215/2, 227/16, 228/6, 229/13, 229/20, 244/9, 259/17, 265/18, 284/2, 288/7, 288/8, 289/10
offices 88/18, 88/21, 101/14, 101/15, 102/18, 102/22, 102/23, 113/10
official 10/16
officials 6/16, 55/5, 55/7, 216/5, 234/14
Oil 273/4
Oklahoma 114/3
old 8/17, 91/8, 93/8, 96/4, 96/12, 100/12, 102/8, 115/24, 147/21, 147/22, 147/23, 150/3, 150/23, 151/2, 152/14, 185/18, 210/6, 211/24, 215/12, 237/17, 237/22, 249/6, 252/2, 252/9, 252/13, 265/15, 272/20, 311/20, 323/1
older 96/4, 96/12, 100/9
oldest 260/23, 261/12
omit 172/11, 172/13
onset 225/11
open 13/16, 48/22, 64/10, 65/25, 66/1, 66/13, 66/15, 66/23, 67/1, 68/17, 84/15, 85/1, 98/7, 148/1, 195/13, 229/7, 325/23
opened 174/8, 229/8, 312/10
openly 42/17, 132/23
opens 49/10
operate 75/1, 75/6, 114/12, 114/14, 118/21, 122/4, 239/13
operating 20/11, 121/17, 239/11, 295/6
operation 65/14
operational 112/24
Operations 61/21, 67/9, 295/9
operative 95/5
operator 296/11
opinion 47/23, 48/18, 94/5, 100/4, 264/23
opium 82/21
opportunities 6/18, 20/25, 94/6, 99/17, 99/24, 101/11, 112/13
opportunity 7/22, 91/2, 91/16, 91/20, 92/15, 92/18, 92/20, 94/1, 98/13, 100/25, 133/1, 155/12, 185/17, 208/22, 221/5, 258/20
opposed 9/16, 21/20
opposite 38/9, 242/11
oppress 103/14
Oprah 92/23
option 15/8, 111/24, 142/4
options 108/11, 110/7, 245/6
ordeal 245/2, 245/12
order 9/11, 14/22, 82/20, 89/18, 90/3, 145/1, 168/16, 221/5, 224/19, 224/20, 235/12, 236/9, 236/11, 240/23, 240/24, 268/20, 269/7
ordering 10/9
organization 11/7, 201/5
organizations 78/11
organized 64/24
origin 4/12
original 220/15, 284/3, 289/9, 333/9
originate 59/10, 78/3
Oscar 247/3
outcome 131/17, 199/23
outraged 234/21, 234/23
outstanding 204/11, 204/17, 236/21
ovation 39/7
Overby 243/21, 243/22
overcoat 274/15, 275/19
overcrowded 245/4
overdose 174/13, 248/25
overhead 295/6
overhear 286/5
overrule 264/16
overruled 171/19, 264/20
Overton's 192/8
overtone 17/6
overturn 12/6, 262/8
overturned 171/10
overwhelming 12/11, 47/15, 103/3
owe 184/5, 209/18
owed 209/15
owned 220/6, 223/10
owner 237/20, 238/13, 238/15, 281/7, 281/10, 283/10, 284/3, 284/15, 284/16, 286/4, 286/18, 286/22, 287/6

P

package 24/16, 164/23
packaging 31/17
pages 333/8
paid 23/6, 23/19, 55/9, 157/6, 159/14, 164/18, 166/16, 169/23, 175/3, 175/4, 175/7, 176/14, 181/9,

183/1, 213/7, 230/24, 232/24, 242/10, 259/3, 260/6, 260/7, 277/11, 278/6, 278/9
pain 156/10, 156/22, 229/9, 229/21, 245/3, 246/25, 247/6
paint 70/18, 70/19
painted 111/4, 111/6
Palmer 2/16, 147/12, 147/17, 152/21
Patricia 3/13, 268/9, 310/9
panacea 28/1
PANEL 2/5, 2/9, 48/25, 56/6, 56/22, 56/23, 82/4, 98/2, 104/25, 105/5, 105/6, 121/18, 130/7, 130/8, 139/19, 156/7, 175/1, 197/23, 227/7, 228/16, 239/22, 331/13
panelist 331/2, 331/12
panelists 105/6, 159/20
pants 33/22, 34/15, 279/1, 282/15
paper 70/16, 73/20, 257/10, 299/23, 305/4, 314/2
papers 27/1, 147/14, 212/6, 217/13, 241/4, 261/14, 261/16, 302/11
paperwork 180/8, 181/12, 244/25
para 114/4
parallel 116/4
parcel 223/11, 223/12, 223/13, 224/10
pardon 23/12, 25/11, 25/12, 26/25
parental 19/17
parenting 214/21
parents 19/17, 41/1, 116/9, 120/18, 251/14
Park 257/25
parked 193/5, 229/9
parking 151/24, 195/17
Parks 142/12
parole 18/24, 20/5, 23/6, 26/16, 26/17, 37/21, 86/13, 88/12, 89/8, 106/10, 186/25, 187/4, 187/5, 187/7, 187/14
part 5/6, 16/15, 21/8, 47/17, 50/5, 52/10, 64/21, 73/23, 81/5, 81/17, 102/16, 109/16, 111/11, 114/16, 120/5, 120/17, 121/16, 147/23, 159/22, 159/25, 176/17, 211/18, 211/19, 226/3, 266/19, 269/3, 290/15, 294/16, 294/18, 298/11, 301/18, 322/3
participating 8/17, 112/1
Partnership 21/2, 62/1
partnerships 62/13
parts 206/17
party 41/18, 200/16, 231/21
pass 37/13, 73/9, 87/25, 156/2, 262/12, 264/20, 266/1, 324/22
passage 107/22
passed 15/23, 20/4, 35/17, 47/13, 106/13, 296/19
passengers 10/10
passing 119/15, 193/9
pastor 122/8
patently 36/9
Patricia 186/10, 186/11
Patrick 1/22
patrol 61/22, 66/10, 66/11, 130/15, 130/17
patrols 152/7
pattern 75/17
Patterson 146/15, 146/16, 153/21, 153/22, 178/20
Paul 3/5, 237/14, 237/16
pawnshops 203/18
pay 36/15, 81/14, 110/15, 119/16, 150/9, 156/9, 164/12, 166/2, 167/20, 181/7, 200/14, 205/1, 205/6, 216/18, 240/14, 301/18, 309/11, 309/12
paying 181/8, 181/9, 238/16, 238/18, 238/23, 238/24, 240/7, 271/8, 271/9, 290/11, 316/23, 316/25, 320/8, 320/9
payment 81/10, 112/16
payroll 204/10, 204/18
PCB 30/4
peace 197/21
peaking 125/21
pedestrians 66/5
peers 157/25
penal 87/21
penalties 12/21, 13/4
penalty 12/25, 13/5, 13/22, 13/24, 14/8, 14/24, 15/2, 15/6, 15/8, 15/16, 15/21, 15/23, 15/24, 16/3, 16/7, 16/14, 16/24, 17/1, 17/3, 333/12
pending 108/17, 159/5, 175/9, 324/18
Peninsula 7/15
penis 295/15
penitentiary 26/16, 102/9, 260/21
Pennsylvania 233/8, 235/22
Pentagon 321/23
Pentino 1/25, 146/12
perceive 62/8, 79/24, 87/10, 114/8
perceived 80/7, 128/3
percentage 143/7, 143/8
perception 39/24, 63/22, 67/14, 67/24, 68/1, 68/3, 69/9, 71/16, 73/12, 75/5, 75/19, 75/22, 76/4, 76/6, 76/8, 76/14, 76/16, 76/19, 76/21, 78/22, 79/4, 103/15, 104/1, 128/22
perceptions 27/14, 76/25, 78/21, 161/25

perform 110/14, 142/15, 303/16, 304/17
performance 44/25, 45/1, 45/3
performed 251/4, 251/18
perfunctory 23/9, 23/13, 24/1, 24/4, 24/14, 24/24, 25/10, 25/15
period 23/20, 62/17, 109/17, 116/24, 117/3, 117/5, 125/22, 142/20, 143/21, 266/2, 328/12
periodical 134/21
periods 14/9
perjury 333/12
permeate 244/1
permission 10/11, 54/1
permitted 123/9, 172/21
persecute 195/9, 221/9
persecuted 194/3, 250/18
persecution 247/10
persistent 290/18
personal 74/21, 154/14, 155/25, 163/6, 183/6, 184/22, 304/7
personally 113/17, 267/10
Personnel 129/20, 164/8, 194/5
Perspective 2/9, 129/3, 184/22
perturbed 158/3
pervasive 71/9
pervasiveness 80/8
petition 213/19, 302/11
pharmacological 11/4
phases 217/2
PhD 202/16
phone 186/2, 226/17, 255/4, 257/11, 278/10, 287/22, 291/20, 291/25
phonetic 203/6, 232/25
phonetics 35/15
photo 323/7, 326/12, 326/14
photos 326/15
photostat 205/15
physical 324/11
physician 244/11, 247/17
pick 56/18, 118/15, 244/14, 288/9, 295/20, 305/1
picked 194/13
picks 135/25
pickup 272/23, 277/17
picture 206/19, 228/14, 228/17, 228/19, 228/20, 228/21, 229/5, 229/16, 229/18, 244/23, 326/15, 326/16, 326/18
pictured 229/14
piece 44/5, 220/4, 220/7, 223/11, 224/10, 246/10, 257/10, 305/4
Pierce 3/8, 257/18
Pilot 102/20, 103/7
pipeline's 174/8
pitiful 262/9
place 14/1, 47/4, 47/6, 48/2, 48/4, 62/24, 67/6, 77/13, 123/7, 131/19, 133/14, 134/25, 149/23, 150/3, 150/17, 151/20, 152/12, 154/4, 157/10, 159/9, 169/14, 178/7, 180/16, 195/22, 214/4, 227/18, 227/19, 242/3, 243/25, 251/9, 258/1, 258/3, 258/24, 259/13, 261/8, 288/1, 289/7, 318/11, 319/14, 324/17
placed 84/23, 140/19, 214/9
places 55/1, 82/23, 84/9, 161/2, 262/5
plan 70/17, 78/12, 78/18, 78/24, 79/6, 79/13, 80/1, 81/4, 81/22, 95/5, 106/5, 106/6, 106/19
plane 54/21, 89/20, 123/12, 268/19, 269/7
planning 62/25, 329/6
plans 62/25, 78/8
plant 295/7, 295/15, 296/8, 296/20, 297/9, 304/12
planted 194/6
planting 78/3
plate 117/14, 196/5
plates 34/9, 195/20
play 9/12, 75/23, 276/8, 306/11
player 203/23
playground 149/23
playing 149/25, 150/2
plays 76/21
Plea 31/5, 43/12
plead 43/13
pleasure 7/21, 202/6, 218/6
plug 151/12
plus 23/20, 55/18, 246/14
POA 180/8
pocket 91/12, 108/9
podium 148/16, 159/19, 179/13
point 13/9, 32/25, 36/17, 37/2, 47/8, 47/19, 51/18, 53/9, 62/19, 75/14, 92/4, 121/9, 128/16, 164/2, 167/14, 170/24, 173/18, 185/5, 194/17, 202/2, 208/21, 213/6, 218/21, 219/23, 225/22, 285/6, 285/16, 289/17, 308/22, 327/16, 327/17
polated 50/14, 89/10, 164/12, 275/10, 277/2, 278/24
points 12/14, 46/5, 52/13, 167/13
pole 195/5
Police 2/7, 8/10, 8/11, 9/22, 10/1, 10/8, 21/3,

21/5, 32/4, 33/2, 33/6, 33/22, 43/6, 43/10, 44/4, 44/13, 60/4, 60/8, 60/10, 60/18, 60/20, 61/6, 61/18, 61/21, 63/12, 65/6, 65/9, 66/24, 66/25, 67/19, 70/17, 74/13, 75/1, 76/11, 77/8, 77/17, 77/19, 77/22, 78/2, 79/14, 79/15, 79/20, 80/25, 81/1, 81/5, 84/24, 86/7, 107/6, 110/23, 116/6, 116/7, 119/20, 120/19, 124/5, 124/19, 124/25, 126/14, 128/17, 128/18, 128/23, 129/5, 129/11, 131/1, 131/8, 134/9, 135/2, 136/5, 138/4, 139/8, 139/12, 150/12, 152/4, 152/7, 175/2, 175/6, 175/8, 175/13, 175/15, 175/17, 176/11, 193/1, 193/5, 193/21, 194/5, 195/10, 196/4, 198/4, 198/7, 198/20, 203/5, 207/6, 207/18, 227/16, 229/13, 229/19, 244/9, 249/14, 258/8, 260/8, 281/2, 281/10, 281/11, 281/19, 281/23, 282/8, 282/23, 287/9, 287/14, 287/16, 287/20, 288/9, 288/12, 288/20, 289/1, 289/20, 290/19, 291/15, 323/17
policeman 131/6, 150/11, 282/13, 284/5, 288/13
policemen 281/21, 281/24, 284/11, 284/18, 292/11
policies 9/14, 9/15, 9/20, 131/25, 133/14, 137/3
Policing 61/25, 135/22
policy 9/1, 9/23, 11/19, 11/24, 12/11, 36/25, 37/8, 42/8, 53/10, 81/18, 97/14, 118/23, 120/11, 129/23, 131/24, 132/3, 133/9, 136/8, 136/21, 202/17
political 9/18, 12/7, 14/20, 18/17, 25/19, 25/24, 40/16, 41/24, 46/5, 47/8, 49/11, 50/22, 50/23, 51/9, 53/3, 53/9, 59/1, 175/23, 220/21, 220/23, 220/24, 220/25, 221/15
politically 72/8, 123/21
politician 12/9
politician's 37/2
politicians 18/17, 36/7, 36/24, 38/10, 39/15, 42/4, 42/19, 47/25, 48/23, 49/15, 156/2
politics 9/9, 9/12, 18/6, 42/10, 58/24, 90/25, 293/13, 301/25
polls 38/17
polygraph 200/13, 324/22, 324/23, 324/24, 324/25, 328/24
pool 278/17
poor 18/9, 20/22, 108/16, 169/11, 177/8, 177/9, 177/24, 178/8, 184/9, 184/10, 232/10, 236/17
popular 18/22, 38/15, 46/15
popularity 119/10
popularly 46/16
population 19/7, 32/17, 37/4, 64/2, 66/13, 118/7, 143/6
portion 25/24
Portsmouth 17/8, 103/2
position 122/8, 124/15, 300/19, 318/14, 320/20
positioned 281/25
positions 83/13
positive 76/24, 105/19, 106/7, 110/16, 110/18, 132/4
possession 11/1, 11/25, 12/15, 28/8, 28/20, 28/23, 30/4, 40/8, 41/5, 52/8, 52/10, 52/23, 52/24
possibility 42/16, 42/17, 156/25, 328/6
possible 40/14, 40/17, 41/23, 42/1, 49/25, 56/3, 64/18, 94/12, 123/15, 139/18, 160/14, 175/16, 219/17
possums 149/10
post 108/24, 244/15
posted 119/18
postpone 191/12
pot 41/18
potential 10/14
pounds 176/8
poverty 91/1
powder 10/18, 10/22, 10/23, 11/5, 11/9, 12/17, 12/18, 12/21, 13/3, 28/5, 28/6, 28/19, 29/19, 30/13, 30/14, 31/1, 31/18, 35/16, 71/25, 85/5, 85/17, 263/22, 263/25, 265/25
power 160/23, 219/21, 220/1, 224/8, 270/7, 271/7, 306/11
powerful 231/2, 269/20, 305/18
powerless 269/17, 270/17, 272/10
Powhatan 252/5, 255/16, 255/17
PR 311/10, 311/11
practice 10/13, 13/12, 17/17, 25/17, 29/15, 30/12, 36/10
practiced 81/7
practices 8/18, 9/22, 10/1, 10/15, 17/24, 118/23, 135/17, 135/20, 135/23, 160/7, 294/10
practitioner 202/15
pragmatic 18/6
precinct 20/16
prediction 73/21
predominantly 64/16, 74/9, 124/22, 130/19, 130/22, 130/23
prefer 61/9
pregnancy 19/16, 55/22
pregnant 92/16
prejudiced 312/17, 315/4
preliminary 324/8, 324/15, 326/11, 329/11, 329/16
prelude 118/22
premise 114/15, 115/9, 122/3

prenatal 19/17
prepare 110/1, 168/10, 240/23, 290/10
prepared 63/5, 142/24, 146/4
prepares 240/24
presence 66/22, 136/15, 136/19
Presentation 2/3, 7/11, 49/25, 86/5, 94/20, 144/9,
145/5, 172/18, 172/21, 173/8
presented 43/16, 47/14, 55/1
presenter 27/18
presents 59/17
president 26/22, 166/12, 201/7, 201/16, 221/9,
287/11
President's 294/18
presidential 26/25
press 116/3, 120/9, 150/21, 228/19
pressure 305/16
pressures 40/1, 221/16
Preston 268/4, 280/19
presumptively 137/23
pretense 207/11, 207/12, 208/3, 208/4, 208/15
pretenses 202/25
pretrial 105/25, 106/15, 106/20, 107/19, 107/21,
108/20, 108/25, 109/17, 109/22
pretty 50/9, 59/10, 61/22, 65/5, 65/9, 65/15,
66/17, 72/23, 77/21, 78/7, 178/13
prevails 21/21
prevalence 65/25
prevention 18/20, 19/16, 19/19, 39/10, 92/12
price 31/22, 173/21, 173/25, 174/6, 174/16
prices 194/21
print 277/3
printed 23/10
prison 23/1, 26/19, 26/20, 55/14, 69/11, 252/9,
252/13, 253/9, 254/5, 254/6, 256/24, 256/25, 262/15,
311/23, 312/5
prisoner 20/12
prisoners 38/4
prisons 112/25
Privacy 5/1
private 6/12, 6/24, 218/23, 260/7
privileged 107/20
proactive 94/22, 95/3, 133/25, 134/5, 195/4,
218/19
probation 12/17, 23/6, 23/21, 24/18, 30/17,
86/13, 87/15, 87/16, 88/12, 89/8, 214/10, 214/13
probationary 23/20
problem 32/21, 34/20, 37/2, 47/10, 49/5, 55/19,
55/21, 62/4, 62/9, 65/20, 65/24, 68/11, 71/9, 73/23,
73/24, 78/15, 79/17, 80/21, 82/10, 82/11, 82/25,
83/2, 83/22, 84/1, 84/2, 84/21, 87/25, 88/10, 92/1,
94/4, 94/9, 94/21, 94/22, 94/23, 97/11, 99/21, 103/9,
123/24, 162/13, 162/15, 176/17, 177/11, 178/1,
184/25, 189/13, 189/14, 190/16, 190/17, 212/1,
220/17, 230/7, 230/8, 246/7, 247/7, 248/8, 251/9,
251/10, 275/15, 293/12, 308/10, 318/5, 318/6, 319/8
problems 6/19, 6/20, 7/1, 34/18, 62/6, 62/7,
63/18, 64/9, 64/21, 79/4, 79/24, 89/16, 92/17,
105/20, 132/12, 132/17, 147/8, 155/24, 155/25,
161/20, 174/19, 202/19, 216/15, 299/24
procedural 16/2, 267/15
procedure 118/23, 145/9, 232/23, 267/20, 268/17
procedures 132/1, 135/15
proceed 57/14, 63/7, 147/12
proceeded 193/12, 274/25
proceedings 333/9
process 9/19, 14/20, 14/22, 23/5, 24/4, 25/4,
25/10, 25/15, 26/18, 26/22, 27/2, 44/12, 44/16,
44/18, 46/11, 49/2, 49/15, 57/22, 57/23, 62/5, 85/21,
85/23, 86/7, 86/17, 88/6, 90/15, 96/20, 97/7, 97/10,
98/22, 124/15, 124/16, 128/21, 159/11, 163/20,
175/24, 221/6, 244/16, 244/25, 246/2, 270/18,
270/19, 282/8, 322/10
processing 98/24, 100/15
procure 219/11
produced 40/19, 40/21, 159/13
produces 12/2
professional 6/25, 61/19, 126/8, 135/15, 202/14
Professor 32/12, 204/13
professors 70/24, 331/14
profile 10/3, 32/19, 34/7, 34/20, 67/19, 75/18,
115/7, 119/25, 177/7, 194/9, 194/14
profiles 10/1
profiling 8/11, 9/22, 10/6, 10/13, 10/15, 34/13
profit 84/10
program 20/10, 37/11, 67/4, 75/10, 107/23,
108/20, 109/8, 109/22, 110/5, 110/10, 111/14,
111/16, 112/1, 141/2, 141/5, 141/7, 143/9, 143/11,
143/14, 143/17, 143/22, 213/24, 214/21, 214/22,
295/4, 299/19, 321/1
programs 18/20, 19/16, 19/18, 19/19, 19/23,
37/7, 71/14, 106/20, 106/21, 107/19, 107/22, 112/21,
113/2, 141/16, 141/20, 143/8
progressed 6/11

prohibited 16/13
project 5/7, 5/9, 21/11, 92/25, 93/7, 110/23
projected 55/10, 119/11
prolonged 298/15, 302/12
promise 21/16, 157/2
promote 42/14
promoting 50/24
promotion 51/9
promotions 6/23
prone 70/12
Proof 16/17, 189/21, 189/23, 300/11
propensity 9/25
properties 219/12
property 17/16, 108/18, 108/25, 149/17, 183/6,
220/4, 220/5, 221/20, 222/6, 222/20, 223/10, 223/15,
224/7, 237/20, 238/13, 238/15, 239/2, 239/4, 240/5,
244/7, 269/14, 270/9, 272/2, 273/17
proponents 20/6, 21/16
proportion 117/24, 127/8
proportional 38/3
Proposal 20/4, 37/7, 53/23, 55/10, 127/4
proposed 47/11, 47/16, 92/11
pros 52/21
prosecute 29/23, 65/12, 103/18, 248/9, 248/14,
248/16, 250/8
prosecuted 15/10, 15/11, 85/4, 88/11, 88/18,
88/21, 90/9, 95/11, 97/4
prosecuting 166/17, 248/7, 261/20
prosecution 13/14, 13/19, 30/22, 86/9, 87/8,
95/23, 171/15, 194/7, 259/2
prosecutions 15/6, 15/13
prosecutor 43/8, 43/12, 43/15, 96/11, 278/17,
315/21, 324/21, 325/16, 326/9
prosecutor's 45/2, 102/22, 315/20
prosecutors 42/23, 43/3, 44/5, 59/8, 60/12, 65/11,
88/15, 89/7, 96/1, 99/12, 103/4, 107/5, 135/18,
168/25
prospect 93/18
prosse 208/2, 208/3, 264/17
protect 17/18, 219/17, 288/25
protection 4/10, 138/7
protocol 113/16
prond 6/5, 217/6, 217/7
prove 237/12, 250/14, 270/2, 270/3, 299/17,
301/6, 308/22, 321/12, 327/14, 327/16
proved 308/24
proven 279/6
provide 18/7, 20/19, 20/22, 37/11, 111/17,
111/18, 112/12, 135/19, 137/6, 164/2, 331/7
provides 10/8, 23/3, 109/9, 109/17
proving 251/9
provision 15/13, 23/2, 26/5, 47/13, 55/11
provisions 15/16, 22/21, 187/9, 187/13, 246/24
provoke 198/12, 228/7, 275/25
provoking 193/14
Public 4/7, 4/20, 8/20, 11/19, 16/19, 17/9, 17/11,
17/16, 17/18, 17/21, 18/1, 38/11, 39/15, 42/14,
44/11, 53/19, 55/7, 124/16, 128/18, 135/9, 145/21,
157/12, 160/6, 161/2, 202/16, 209/1, 218/5, 222/9,
223/2, 231/6, 296/15, 300/24, 301/1, 303/20, 333/7
publicity 327/5, 327/6
published 5/1
pull 91/11, 91/12, 196/4, 196/9, 228/5, 279/1
pulled 193/6, 193/11, 195/17, 195/24, 273/9,
275/12, 275/17, 277/14
pulling 58/4
pills 76/4, 91/13
pulse 113/11, 114/9
punish 29/25, 30/1
punished 195/6
punishment 95/16, 110/12, 110/13
punishments 101/22
purchased 205/23, 219/25
purchases 157/7, 164/9
pure 27/12, 29/1, 31/9, 69/3, 69/5, 71/5, 71/6,
86/20
purity 174/12, 174/15
purpose 107/10, 299/21
purposely 161/6
purposes 89/14
pursue 36/22, 75/12, 116/19, 121/4, 122/1,
157/13, 159/16, 162/24, 163/6, 201/3, 201/7, 201/17,
289/21
pursuing 163/5
purview 13/18, 95/18
push 33/14, 70/20, 70/21, 105/2
pushed 48/4, 147/10, 275/18, 275/23
pushing 123/12, 213/4, 329/24
put 14/5, 14/6, 50/16, 68/14, 85/11, 87/20, 90/5,
123/23, 131/14, 131/19, 142/8, 148/12, 151/1,
151/22, 164/18, 167/11, 173/12, 182/5, 182/7,
205/18, 206/19, 207/17, 207/20, 223/13, 224/13,
229/14, 230/19, 235/12, 235/18, 236/11, 254/23,

256/22, 265/13, 265/21, 275/7, 275/9, 275/18, 276/1,
286/10, 286/14, 286/21, 286/23, 288/22, 292/25,
299/22, 304/10, 304/12, 304/14, 304/22, 305/16,
311/3, 313/19, 314/7, 318/6, 321/3, 321/8, 321/12
puts 90/3, 110/18, 232/11
putting 18/2, 79/6, 102/7, 133/10, 287/4
puzzle 220/7

Q

Quadros 180/25, 181/11, 182/20
qualified 103/8, 244/10
qualify 168/16
quality 19/18, 55/15, 174/15
Quamby's 273/7
quarter 260/24
question 13/22, 30/9, 31/7, 35/6, 42/21, 46/25,
47/23, 48/20, 50/6, 50/8, 53/17, 54/25, 56/22, 57/20,
82/16, 89/17, 94/17, 94/18, 95/21, 98/18, 98/20,
100/4, 104/12, 123/23, 129/10, 135/25, 136/4, 138/2,
138/3, 145/20, 146/14, 147/2, 152/20, 156/20,
156/23, 157/3, 159/23, 160/12, 161/23, 163/24,
169/23, 171/14, 171/18, 172/4, 172/8, 172/12,
172/14, 173/2, 173/5, 173/7, 174/24, 176/23, 194/16,
194/17, 198/1, 209/21, 210/18, 210/25, 221/20,
223/16, 224/24, 225/1, 243/15, 267/15, 288/10,
292/3, 294/7, 301/17, 329/18
questioned 203/8
questioning 50/10, 135/24, 323/22
questions 5/18, 32/14, 39/15, 39/18, 49/21, 61/9,
61/13, 63/5, 81/20, 81/23, 82/12, 86/5, 94/14, 98/8,
104/22, 116/11, 122/12, 122/16, 122/17, 122/18,
123/14, 133/22, 137/19, 139/20, 139/24, 140/11,
145/4, 145/8, 159/20, 162/7, 165/6, 172/3, 172/18,
172/22, 173/7, 174/21, 197/25, 198/16, 200/4,
225/16, 237/4, 237/7, 241/3, 257/9, 323/18, 323/22,
330/1
quick 231/17
quit 303/17
quoting 133/3

R

raccoons 149/10
race 4/11, 8/13, 9/7, 9/8, 9/25, 10/4, 13/20, 14/23,
14/25, 15/1, 18/4, 27/24, 40/19, 48/21, 58/18, 58/20,
58/23, 84/3, 101/17, 113/19, 143/11, 161/2, 264/24,
269/19
races 88/5
racial 8/6, 9/17, 12/3, 12/12, 16/11, 16/12, 16/17,
16/23, 17/6, 18/12, 32/17, 42/11, 42/12, 42/14,
50/11, 50/19, 51/23, 53/15, 281/12
racially 8/14, 16/8, 25/17, 50/24, 51/9
racism 8/21, 16/25, 57/23, 86/23, 86/25, 87/1,
330/5
racist 50/11, 58/11, 87/19, 315/4
racists 58/10, 87/4, 87/7
radiation 181/5, 181/22
radio 122/6, 196/5
railroaded 264/11
raise 14/10, 150/19
raised 14/16, 81/23, 82/6, 82/21, 83/23, 92/10,
116/12, 238/25, 252/10, 271/22, 272/19
raises 150/15
ran 178/2, 195/19
ranch 233/13, 233/15
Randle 330/4
range 101/22, 125/20
ranges 125/22
ranging 155/6
ranking 7/24, 55/4, 55/7
ranks 218/22
rape 322/25, 323/14, 324/6, 327/14
raped 231/6, 323/1
rare 61/1, 125/12
rate 19/9, 39/1, 105/8, 190/19, 218/14, 271/22
rates 143/2
rationale 26/5, 52/10
rats 149/9
Rattley 1/13, 6/9, 105/16, 185/17, 191/1
rays 251/15
reach 75/16, 76/22, 185/7
reached 117/23
reaching 76/3
react 94/23
reacting 94/20
reaction 9/15, 228/23
reactive 195/3
read 50/3, 70/4, 70/16, 71/7, 73/20, 89/25,
147/14, 147/16, 152/9, 152/16, 152/22, 154/8,
160/10, 187/16, 192/15, 196/21, 202/21, 215/23,
216/1, 282/11, 295/3, 322/20

reading 216/7
realistic 93/18
reality 91/24
reap 219/11
reapply 318/8
rear 131/23
reared 196/16
reason 10/9, 21/21, 35/17, 51/1, 95/15, 115/16, 162/12, 162/25, 163/2, 163/3, 196/8, 214/6, 228/5, 238/6, 264/18, 266/8, 275/20, 284/24, 285/22, 311/7, 320/5, 320/6, 328/16, 328/17, 328/18, 328/20, 329/9
reasonable 14/15, 15/25, 75/2
reasons 50/15, 140/23, 304/8, 320/10
reauthorization 9/5, 39/10
reauthorized 8/24
rebels 173/20, 174/18
recall 24/5, 206/21, 209/24, 210/13, 287/2
recalled 181/25
receipt 156/14, 157/6, 157/7, 159/13, 164/1, 164/2, 164/3, 164/9, 164/19, 164/21, 180/24
receipts 149/13
receive 7/2, 9/3, 10/24, 38/24, 41/2, 65/15, 79/7, 145/7, 155/12, 205/20, 249/15
received 15/2, 70/23, 125/16, 129/8, 144/22, 155/5, 205/21, 216/4, 249/16, 260/23, 260/25, 266/8
receiving 81/9
recess 56/14, 56/20, 59/6
recidivism 11/20, 100/23, 140/13, 140/14
reckless 276/21, 279/9
recommend 23/7, 29/10, 109/5
recommendation 12/7, 36/2, 36/4, 109/2, 126/25, 155/13, 158/19, 236/5
recommendations 8/25, 12/20, 24/21, 50/17, 89/16, 126/23, 154/15, 216/4
recommended 12/20, 29/22, 127/2, 280/5
reconvene 144/5
record 50/5, 54/18, 67/11, 94/17, 98/1, 99/15, 100/7, 113/17, 118/1, 118/13, 118/14, 139/17, 169/7, 169/16, 178/11, 178/12, 178/13, 184/5, 198/5, 200/19, 202/11, 202/12, 203/4, 208/20, 209/2, 213/4, 213/21, 222/13, 266/19, 266/23, 322/20, 330/3, 330/10, 330/16, 330/25, 331/3, 331/15
recorded 223/9, 234/20, 288/1
recorder 234/18, 234/20, 295/23
Records 4/25, 220/3, 223/5, 224/6, 226/3, 269/22, 269/24, 270/1, 277/20, 288/12, 305/4
recourse 194/14, 325/1
recovery 101/2
recreational 19/18, 20/24
recycle 216/13
recycling 188/12
red 70/18, 272/23, 274/2
redistricting 49/8
redraw 49/2
reduce 11/20, 18/14, 18/18, 19/15, 19/24, 42/9, 52/14
reduced 215/6, 215/16, 271/20
reducing 18/15, 18/21, 21/23, 50/18, 53/14
reduction 19/12, 19/21, 20/7, 30/25, 31/1, 31/3
Reed 151/3
reelected 39/7, 46/22
reelection 46/18, 149/3, 175/24
reference 7/14, 9/10, 68/21, 154/18, 180/7, 182/8, 182/10, 183/10, 208/6, 225/9, 226/5, 331/14
references 215/2
referrals 5/11, 109/19, 109/20, 109/21
refined 219/1
Refinery 273/4
reflect 103/11, 224/6, 331/1, 331/3
reflection 18/12
reform 21/21, 38/14
reforms 14/1
refused 240/3, 240/17, 245/10, 248/9, 281/9, 285/20
refuses 269/24
refute 230/22
refuted 289/6
Reginald 3/12, 268/7, 293/4
Regional 226/12
Register 5/1, 5/3
registered 202/14, 237/17
registrar 24/15
registry 115/18
regret 98/10
regular 41/3, 107/12
rehabilitated 150/19
rehabilitation 11/20, 21/8, 21/11, 217/2
reimburse 200/19
reinforce 283/3
reinforcing 131/21, 284/6
reinstatement 26/17, 47/2
reiteration 133/9
reject 36/1, 52/9

rejected 36/4, 36/5
related 71/16, 269/11
relates 200/25, 321/11
relationship 8/2, 174/17
relative 108/15
relatives 17/21, 18/3, 245/5
release 44/17, 107/25, 108/25, 109/6, 109/17, 215/7, 245/14, 245/24, 246/1, 325/14
released 108/7, 108/10, 108/17, 109/6, 109/11, 109/21, 213/22, 245/10, 247/4, 249/12
relief 18/8, 156/3
religion 4/11
reluctant 287/21
remains 16/3
remark 162/6
remarks 5/22, 56/2, 148/20
remarried 296/22
remedied 53/24, 54/9
remember 24/3, 25/9, 26/24, 27/1, 35/6, 40/12, 48/11, 147/25, 205/3, 206/9, 210/15, 247/24, 283/24, 284/2, 285/3, 328/2, 328/3
remembers 287/4
remind 197/20
reminding 8/20
remove 284/4, 285/8
removed 30/18
remuneration 156/22
rendered 270/17, 272/10
Reno 49/4
rent 79/19, 238/25, 240/7
rental 34/9
rented 64/6
repainting 111/7
repaired 237/25, 238/13
repairs 183/12
repay 110/20
Repeat 179/21, 245/20
repercussions 14/12
replaced 30/18
replies 318/4
report 15/4, 15/9, 22/5, 49/23, 70/3, 109/2, 120/10, 132/2, 135/6, 135/9, 141/18, 144/1, 160/5, 160/11, 197/17, 201/1, 201/9, 229/23, 249/15, 255/12
reported 131/1, 210/19, 231/7
reporter 70/2, 145/22, 317/23, 331/21
reporting 126/3, 134/18
reports 5/10, 134/21, 235/16, 235/17
represent 61/15, 61/18, 124/19, 182/24, 230/24, 249/22, 278/13, 287/15, 287/16, 291/16, 311/25, 315/15, 316/20, 316/22, 322/3
representation 6/13, 158/4, 293/11
representative 107/7, 107/8, 200/15, 221/2
represented 6/20, 57/7, 249/21, 278/16
representing 182/22
Republic 208/24
reputations 288/17
request 133/24, 263/23
requested 4/21, 331/5, 331/13
require 270/25
required 17/12, 134/21, 135/1, 161/2, 161/3, 269/22, 270/22, 277/7
requirements 5/2, 143/18, 143/20
requires 271/15
requiring 168/7
rescue 234/3, 245/6
research 8/25, 9/17, 18/19, 23/18, 39/3, 52/13, 70/10, 70/23, 155/17
residence 54/2, 54/5, 67/5
resident 199/1
residential 74/16
residents 17/12, 17/18, 18/1, 62/2, 65/23, 228/10
residue 263/22, 265/25
resign 300/6, 303/9, 318/22, 320/2
resigned 261/25, 262/1, 303/3, 303/7, 303/24, 318/23, 320/9, 321/7
resigning 304/5, 304/18, 320/5
resolution 62/4
resolve 82/11, 121/23, 199/19
resolved 133/2
resort 14/20, 119/2, 119/3
resorted 213/8
resource 20/16, 20/18
resources 83/20, 139/3
respect 123/20, 161/17, 223/25, 236/2
respond 66/7, 70/3, 75/4, 77/2, 77/13, 139/2, 139/7, 231/20, 282/20
responded 157/4, 157/8, 281/20, 282/2, 282/22, 288/5, 288/10, 297/18
responding 18/22, 128/20, 198/13
response 81/25, 131/12, 133/9, 138/15, 139/21, 200/3
responses 55/2
responsibility 7/18

responsible 54/11, 105/24, 256/12
rest 49/16, 194/10, 205/9, 216/2, 238/22
restitution 112/16
restoration 22/7, 25/14, 47/13
restore 22/22, 23/3
restored 23/1, 23/8, 23/13, 24/11, 25/5
restrain 234/8
restrained 23/2
restriction 256/22
result 10/2, 38/21, 43/14, 87/22, 126/3, 132/22, 135/10, 140/12, 170/6, 176/2, 230/14, 258/17, 288/16
results 12/1, 121/23, 140/3, 140/4, 140/9, 328/9, 328/10
resume 56/19
retailer 157/16
retain 108/13
retallate 305/8
retired 147/9, 189/1, 203/13, 238/4, 238/8, 280/23
retirement 181/15, 181/19
retraction 331/14
retrial 261/13, 261/14
return 158/14, 205/21
returned 152/24, 153/2, 244/17, 278/10
Revco 283/24
reveal 325/19, 325/22
revealed 15/9, 325/21
Reverend 1/17, 2/12, 2/23, 47/21, 47/22, 48/19, 95/21, 98/4, 99/10, 105/3, 105/5, 105/12, 105/15, 113/5, 122/22, 122/23, 138/14, 145/19, 198/17, 199/3, 199/16, 200/21, 200/25, 201/15, 212/15, 224/25, 225/13, 225/19, 225/24, 226/6, 226/25, 263/9, 264/22, 287/11, 287/15, 287/22, 288/11, 290/7, 297/22, 302/3, 303/1, 303/7, 303/23, 304/1, 304/4, 314/9, 316/7, 320/2, 320/4, 320/11, 320/14, 320/17, 321/6, 331/19
reverse 114/20
review 44/25, 45/11, 45/18, 45/25, 46/3, 46/4, 46/9, 46/11, 75/10, 116/11, 121/11, 126/12, 158/7, 158/18, 160/6
reviewed 11/9, 17/25, 45/7, 143/1
reviewing 137/2
reviews 45/1
revival 214/18
revulsion 12/11
reward 119/18
Ribbon 119/13
ribbons 119/15
rich 9/12, 157/14, 157/15, 159/9, 177/9, 177/10, 177/24
Richard 9/10
Richmond 17/9, 32/13, 232/25, 294/9, 294/13, 302/7
rid 175/16
ride 151/8, 152/8, 152/10
rightful 289/3
RIGHTS 1/5, 4/3, 4/6, 4/17, 5/8, 7/23, 8/10, 8/23, 22/1, 22/7, 22/17, 22/22, 23/1, 23/4, 23/8, 23/12, 24/11, 25/4, 47/13, 47/24, 48/1, 48/7, 48/14, 48/15, 48/23, 49/6, 49/12, 118/19, 144/8, 144/25, 155/1, 155/9, 155/14, 155/17, 162/18, 197/15, 201/4, 201/5, 226/9, 226/13, 226/19, 239/23, 248/3, 259/18, 265/23, 265/24, 266/25, 294/13, 294/16, 311/13, 317/8, 333/10
riots 9/11
rip 195/22
ripped 90/13, 194/25
risk 38/3
road 193/7, 193/23, 196/8, 234/13, 291/4, 295/18
roads 147/23, 148/5
robbed 93/21
robberies 252/23
robbery 100/14, 186/23, 186/24, 252/7, 252/19, 255/21, 282/6, 282/10
robbing 252/15
Robert 2/4, 2/21, 6/17, 7/12, 179/10, 192/11, 273/7, 277/11, 277/21, 278/5, 278/9, 331/2
Roberts 2/19, 178/25, 179/4, 179/5, 179/7, 179/10, 179/17
Robinson 3/14, 268/12, 317/21
role 9/3, 9/13, 75/23, 76/21, 81/9, 120/2, 175/5
Roll 273/13, 274/21
rolled 273/14
Ronald 146/17
Ronnie 153/22, 153/23, 178/21
Room 5/16, 146/11, 146/15, 146/16, 146/17, 146/18, 294/20, 295/8
Rooney 6/4
root 62/9
roots 118/25
rose 218/22
Rosemary 330/4
round 53/1
rounds 246/23

roundup 8/18
route 200/12
routine 10/10, 23/4
routinely 5/7, 16/18, 133/18, 134/18
row 14/3, 14/8
Roy 2/16, 147/12, 147/16, 212/19, 214/19
rude 125/23
rudeness
ruined 167/20
rule 60/15, 86/16, 172/24, 238/8, 308/20, 309/3, 309/4, 309/16, 309/21, 310/5
ruled 48/25, 159/15, 239/1
rules 16/2, 240/1
ruling 10/8
run 20/17, 21/10, 38/16, 41/3, 44/3, 113/10, 170/1, 178/6, 178/9, 196/6, 223/3, 260/12, 264/7, 274/18, 275/1, 276/8, 276/10
running 84/20, 93/5, 93/10, 94/9, 98/1, 141/22, 149/3, 150/14, 169/22, 173/12, 190/22, 190/24, 275/1
rush 122/19
rushed 207/5

S

Saad 232/25
sabotage 245/17, 245/23
sad 233/5
safe 117/18
safety 18/1, 135/3, 225/16, 225/17
salaries 271/8, 301/18
sale 52/9
Sally 93/11
Sam 195/7
sample 325/15, 325/17, 326/1
sanctions 101/22, 130/1
sat 151/24, 181/6, 193/15
satisfaction 114/25, 134/11
satisfied 121/2, 146/7
satisfy 129/14
save 19/20, 42/9, 237/2
saving 50/18, 53/14
savings 55/12
saw 51/13, 82/1, 93/3, 107/23, 159/12, 191/3, 191/6, 191/15, 191/17, 206/10, 246/20, 246/23, 249/14, 263/19, 277/12, 286/23, 308/5
scared 279/12
scene 116/7, 228/18, 228/25, 233/12, 233/18
scheduled 8/24
scheme 29/17
School 6/11, 91/9, 91/19, 92/15, 96/25, 117/6, 117/7, 117/10, 117/17, 121/19, 149/21, 149/22, 151/1, 151/2, 152/6, 170/22, 180/11, 216/17, 254/11
schoolhouses 29/24
schools 149/21
science 11/18, 138/17
scientifically 71/23
SCLC 287/11, 321/18
Scoggin 207/24, 208/8
scooter 151/8
Scott 2/4, 6/17, 7/12, 46/24, 47/22, 49/20, 59/7, 75/14, 86/6, 89/11, 90/23, 106/5, 167/12, 167/13, 321/21
Scott's 86/5, 92/10
scratched 314/6
scream 299/12
screamed 233/19
screaming 198/8, 234/1, 234/2
scrutiny 37/9
scuff 277/3
se 227/3
Search 2/9, 284/7, 285/19, 285/23, 286/2
searched 286/13
searches 10/5
searching 285/14
seat 191/22
second 12/8, 36/8, 36/11, 36/17, 38/11, 39/5, 53/13, 89/18, 115/12, 120/5, 153/21, 153/22, 159/25, 168/1, 178/24, 211/13
seconds 93/4, 233/10, 246/14
Secretary 321/19
section 4/20
sections 70/17
sector 199/14, 218/23, 228/3
secure 38/25, 108/25, 117/18, 117/22
security 156/15, 164/6, 181/16, 181/19, 273/19, 273/20
Sedgwick 115/13, 115/19, 120/8
seeking 250/9
segregation 257/2
select 49/14, 173/13
selected 169/25, 171/1, 171/21, 171/24, 176/24, 177/3
selective 32/24

selectivity 33/17
self 42/4, 42/10, 42/19, 50/22, 50/23, 51/8, 160/17, 327/2
sell 10/23, 64/6, 66/4, 66/5, 79/19, 171/2, 272/6
sellers 90/13
selling 28/5, 52/20, 68/17, 69/22, 73/10, 73/14, 84/22, 85/4, 85/8, 85/13, 85/17, 91/6, 91/17, 141/10, 149/19, 194/25, 195/5, 213/5, 270/10
seminars 45/12
Senate 21/19
Senator 167/12
send 23/11, 48/10, 126/12, 126/15, 126/21, 127/3, 132/19, 145/14, 152/16, 153/6, 177/4, 190/13, 205/9, 262/23, 266/25, 278/7, 278/14, 279/11, 279/20, 290/7, 294/2, 299/18, 330/22
sending 102/5
sends 231/18
senior 202/10, 202/23
sense 32/22, 38/10, 52/11, 67/22, 70/22, 83/19, 95/3, 114/8, 114/11, 114/18, 115/1, 115/20, 116/6, 117/9, 117/16, 118/7, 118/17, 118/18, 119/5, 119/8, 119/9, 119/11, 120/7, 120/18, 121/3, 121/23, 121/25, 122/2, 122/3, 128/18
sensitive 225/12, 225/14
Sensitivity 9/17, 224/4
sent 17/19, 17/22, 60/10, 128/7, 170/20, 181/2, 192/20, 204/24, 210/1, 256/25, 261/14, 261/15, 278/15, 279/20, 297/17, 299/18, 302/8, 310/22, 318/2, 326/14
sentence 10/25, 11/3, 11/23, 11/25, 12/16, 13/15, 29/10, 36/23, 37/11, 37/18, 43/1, 43/23, 52/20, 52/22, 215/6, 215/16, 299/22
sentenced 11/11, 11/23, 258/19
sentences 14/18, 40/25, 41/2, 69/3, 214/11
sentencing 11/8, 11/9, 12/5, 12/6, 12/19, 27/18, 29/9, 29/21, 35/21, 36/1, 36/3, 36/6, 37/14, 37/15, 40/13, 42/22, 42/24, 50/16, 110/7
separate 29/7
separated 311/21
separately 214/23
separating 71/2, 71/3
September 5/3, 61/20, 124/12, 163/11, 323/21
serial 200/6
series 287/8
serious 17/5, 38/18, 41/6, 47/9, 129/25, 130/1, 131/10, 192/4, 202/18, 202/19, 289/8
seriousness 96/22
serve 7/24, 37/13, 38/4, 38/7, 100/16, 106/1, 111/25, 201/10, 306/7
served 37/20, 38/2, 38/6, 74/3, 218/21, 244/6, 246/13
serves 7/16
Service 68/16, 77/10, 79/20, 81/12, 110/11, 110/15, 110/21, 112/1, 142/7, 142/9, 142/16, 143/19, 168/25, 202/17
services 6/25, 19/14, 21/7, 74/11, 80/17, 99/19, 99/20, 105/25, 106/15, 106/20, 107/8, 107/19, 216/17, 245/7, 245/13, 268/23
serving 42/4, 42/10, 42/19, 50/22, 50/23, 51/8
session 48/20, 104/10, 145/21, 146/10
set 5/8, 43/3, 43/6, 47/12, 108/8, 120/1, 120/8, 168/4, 172/23, 176/5, 176/9, 251/16, 289/15
sets 13/14, 13/15, 17/15, 108/6, 108/23, 168/2
setting 29/24
settled 169/13, 271/18
settlement 271/19
seven 151/25, 189/11, 189/12
severe 244/8
sex 4/11, 300/15
sexual 300/9, 306/7, 306/9, 306/10, 306/16, 308/18
sexually 231/6
shack 296/23
shake 307/13
shakes 315/16
shaking 296/2, 307/12
share 73/2, 107/12, 114/13, 133/13, 156/5, 159/25, 218/5, 218/7
shared 225/1
Sharon 280/2
sharp 35/4
Shaw 49/4
shed 218/15
sheet 144/10, 144/11
sheets 254/8, 256/19
Sheila 3/7, 251/24, 252/1
shelter 167/23
sheriff 176/3, 245/9
shift 40/7, 246/18
shifted 13/18
shine 160/7, 161/22
Shipbuilding 119/17
Shipyards 93/19, 119/17, 271/16, 271/17, 271/25
Shipyards' 271/20, 272/1

Shirley 245/11
shirt 282/14
shock 207/15
shocking 27/14
shoes 156/12, 156/13, 157/5, 164/12, 164/14, 164/18, 253/14
shook 295/10
shoot 71/25, 105/9, 258/11, 263/19, 264/7
shooting 257/24, 258/1, 258/3, 258/8, 258/15, 258/21, 259/13, 263/20
shop 237/19, 239/11, 243/12, 243/13
shoplifter 286/15
shoplifting 110/13, 136/17, 213/8, 281/8, 282/2
shopping 110/24, 111/1, 237/19, 237/22
short 54/24, 179/16, 204/8, 211/2, 211/6, 279/8, 295/1
shorten 139/5
shorter 275/22, 318/18
shot 93/1, 173/1, 263/18
shoulder 246/25
shouted 198/5
shouting 193/14
shoved 164/15
show 34/6, 72/16, 80/12, 92/23, 113/9, 164/3, 168/17, 209/7, 228/16, 266/21, 277/3, 278/23, 279/1, 279/2, 279/24, 304/25
shows 18/19, 126/3, 146/15, 169/7, 229/16
shuffle 285/6
shut 148/18, 273/5
sick 254/21, 254/23, 254/24, 255/3, 255/9, 316/10
sickening 153/10
side 33/4, 193/4, 232/9, 267/13, 274/21, 283/7, 284/17
sidewalk 151/5, 151/13
sidewalks 151/8, 151/9, 153/3
sign 24/23, 56/16, 56/18, 108/13, 144/10, 144/11, 144/24, 151/11, 179/24, 180/8, 182/11, 201/24, 274/17
signature 211/9
signed 145/1, 179/18, 274/24
Signet 184/4, 184/6
signs 241/1
simple 10/25, 11/25, 12/15, 28/7, 28/20, 28/22, 39/13, 41/4, 52/8, 52/10, 52/23, 52/24, 176/13
Simpson 115/15, 115/21
single 166/19, 271/13, 272/9
sissies 221/8
sister 103/20, 103/23, 170/23, 244/13, 244/17, 259/17, 265/17, 265/18, 273/16
sister's 267/12
sit 148/18, 165/19, 165/20, 179/14, 192/24, 268/22, 311/11
sites 142/9, 142/11, 142/13
sits 232/11
sitting 41/12, 66/2, 165/20, 165/21, 170/12, 207/21, 218/7, 260/14, 274/14, 295/8, 297/21
situation 10/14, 26/24, 48/3, 120/18, 130/25, 154/11, 155/8, 155/22, 162/11, 167/17, 167/18, 174/23, 189/9, 194/13, 195/2, 199/18, 213/21, 218/10, 218/15, 220/9, 223/4, 223/5, 224/12, 225/12, 226/23, 227/1, 256/7, 258/21, 302/4
situations 44/19, 212/23, 213/9, 218/20, 270/15
six 17/20, 17/22, 24/10, 53/18, 62/17, 62/18, 100/16, 107/4, 213/2, 213/25, 214/12, 215/12, 240/6, 256/25, 278/2, 311/6, 311/12, 326/14
sixty 181/10
size 106/18
sized 112/25, 151/9
sketch 323/3, 323/4
skills 112/3, 112/17, 321/2
skin 157/23, 158/16, 189/15, 196/1
skipped 210/14, 210/15
slam 229/17
slammed 230/1
slander 288/14, 288/15
slides 287/9
slogan 38/14
slogans 21/23
sloppily 319/5
slow 277/22
slurs 281/13
small 27/8, 203/7, 203/9, 203/10, 203/24, 213/2, 233/12, 233/14, 233/16, 237/19, 237/22, 286/7, 286/9
smallest 216/16
smart 282/13, 282/14, 282/18, 283/2, 283/4, 285/7, 285/18, 297/2
smell 66/21
Smith 186/11
smoke 69/5, 72/2, 72/3
smoking 234/5
snort 69/6, 72/1
snow 205/2
social 7/4, 62/23, 181/16, 181/19, 216/17, 273/19,

273/20
society 8/21, 38/3, 48/3, 219/2, 224/19, 273/8
sodomy 322/25
soft 12/9, 36/8, 53/13
sold 189/11, 224/7
soldier 8/12
sole 43/15
solid 9/16, 70/1
solidarity 119/15
solution 28/1, 55/18, 105/19, 111/11, 114/12, 308/4
Solutions 2/9, 18/7
solve 66/25, 155/24
solved 121/10
solves 55/20
solving 47/9
someplace 138/8, 214/2, 253/19, 253/21
son 91/8, 116/10, 170/3, 178/11, 179/25, 203/23,
212/19, 212/23, 214/16, 216/12, 252/5, 252/21,
254/22, 255/24, 257/15, 259/19, 296/25, 311/20,
311/23, 316/1
sort 33/11, 118/25, 124/1, 128/16, 131/12, 131/13,
131/14, 133/9, 133/13, 175/10, 211/20, 284/10,
294/14
sought 220/18, 245/6, 289/18
sound 19/23, 20/1, 21/16, 21/24, 36/24, 37/1,
40/1, 40/10, 40/16, 41/24, 53/13
sounds 32/20, 38/16, 112/22, 197/22, 268/14
source 83/6
sources 119/23
South 196/23
southeast 92/19, 93/17, 269/21, 270/16
southeastern 269/18
Southern 201/6, 322/2
span 137/12
speaker 144/7, 227/5, 307/13, 307/23, 308/3,
308/6, 315/16
SPEAKERS 2/15, 3/2
speakers' 330/7
spearheaded 6/14, 62/13
specifications 151/14
speculate 40/3, 40/11
speculations 47/5
speed 196/8, 197/5, 198/9, 198/10
speeding 193/2, 272/22, 273/9
spelled 210/2, 210/5, 210/11
Spencer 150/22
spend 26/15, 37/10, 37/25, 38/8, 42/13, 61/9,
70/11, 153/3, 158/11, 167/16, 256/3, 264/13
spending 21/7, 42/5, 52/15, 141/7, 242/23
spends 232/13
spent 21/10, 21/18, 55/15, 92/12, 92/13, 150/16,
230/15, 241/14, 252/8, 256/8, 264/14, 270/10, 287/23
spiritual 273/7, 273/8
spoon 200/8
spot 108/10, 111/19
spots 116/12
spread 32/16
spring 323/9
STAFF 1/25, 4/16, 4/23, 49/22, 106/2, 122/16,
123/10, 126/10, 145/25, 146/2, 155/9, 226/2, 226/4,
226/6, 236/3, 243/17, 294/18
stage 77/24
stake 16/21
stamped 205/22
stand 63/11, 108/15, 118/1, 178/6, 179/13, 179/15,
186/1, 249/8, 249/10, 253/13, 258/25, 260/15, 279/21
standard 44/23
standards 6/22, 61/20, 126/8, 131/13
standing 33/20, 39/7, 66/3, 73/12, 185/23, 194/24,
263/17, 263/20, 321/10
standpoint 154/15
stands 227/24
star 321/17
staring 50/20
start 18/15, 19/18, 20/21, 34/21, 80/3, 92/1, 94/2,
95/20, 136/4, 169/24, 178/7, 204/25, 290/5, 312/14
started 48/8, 48/23, 115/22, 119/13, 128/1,
132/13, 207/4, 211/15, 211/18, 221/6, 295/5, 300/14
starting 127/25
starts 20/14, 39/15, 49/11
state 61/6, 7/7, 8/16, 20/23, 21/4, 21/13, 21/19,
22/16, 26/1, 26/18, 27/4, 27/9, 45/6, 51/2, 55/5,
59/9, 59/20, 63/15, 65/6, 65/7, 65/9, 74/2, 76/16,
76/18, 78/20, 106/17, 120/24, 122/10, 135/6, 145/3,
152/7, 154/23, 207/14, 207/19, 215/8, 227/23, 235/5,
235/19, 238/5, 239/22, 239/24, 242/8, 248/6, 262/21,
264/16, 269/22, 273/10, 276/2, 276/4, 299/10,
299/11, 302/15, 302/25, 307/3, 307/5, 307/15
statement 15/22, 63/11, 145/3, 176/25, 196/15,
204/18, 204/19, 204/20, 211/5, 211/7, 211/11,
248/23, 260/15, 260/17, 262/25, 277/8, 286/25,
289/13, 290/2, 290/3, 290/5, 290/10, 291/22, 291/23,
292/20, 297/6, 300/9, 303/15, 317/23, 330/4, 330/11,

330/20, 331/1, 331/6
statements 5/10, 63/6, 145/6, 146/5, 258/8,
258/24, 258/25, 261/3
states 16/1, 19/5, 22/21, 22/23, 46/17, 82/22,
157/16, 196/22, 231/20, 231/23, 246/12
statewide 112/20
statics 27/16
station 150/6, 150/9, 233/9, 234/12, 234/13,
282/9, 287/16, 287/20, 289/20
stationed 199/1
statistical 63/19
statistically 21/17, 143/15
statistics 22/8, 31/14, 63/21, 63/23, 63/24, 68/4,
68/6, 68/7, 68/14, 79/5, 79/15, 80/12, 83/10, 83/16,
91/21, 101/6, 133/4, 137/6, 143/2, 177/14, 228/13
stature 18/17
status 243/6, 244/22, 249/16, 250/4, 250/6
statute 4/5, 4/7, 15/7, 15/11
statutes 271/2
statutorily 22/22
statutory 4/14, 47/12
stay 36/16, 39/20, 91/9, 98/6, 104/16, 104/20,
105/2, 123/3, 274/4
stayed 122/25
stays 275/5
stealing 72/15, 156/13, 157/5, 164/14, 211/21,
248/10, 252/15
steam 295/7, 297/8
stenographer 268/23
step 48/5, 117/13, 220/14, 270/18, 282/23
steps 131/19
stereotype 33/17
Stevens 291/4
Stewart 3/9, 267/24
stick 282/15
sticker 181/3, 181/5
stint 251/4
stir 197/20
stole 164/15
stolen 196/6
stood 119/14, 193/22, 233/20, 284/16
stop 10/11, 30/9, 71/11, 72/11, 83/14, 83/21,
148/22, 151/11, 182/13, 193/9, 193/10, 193/12,
195/10, 196/19, 246/4, 272/11, 282/25, 289/5, 296/4,
312/21
stopped 24/6, 111/7, 193/1, 193/23, 197/4, 228/9,
228/11, 260/16, 304/23
stops 10/5
store 158/9, 159/14, 161/7, 194/21, 194/22,
195/20, 213/11, 281/4, 281/7, 281/9, 281/22, 281/24,
283/9, 283/10, 283/11, 283/15, 283/17, 283/23,
284/7, 284/17, 284/24, 285/11, 286/4, 286/6, 286/9,
292/15, 292/18, 312/10
store's 164/5
stores 72/15, 161/3, 161/9, 205/24, 205/25
stories 147/3
story 170/19, 190/8, 279/8, 279/12
straight 251/13, 251/14
strangely 102/23
strap 287/5
strapping 203/23
strategic 62/24, 78/12, 78/18, 78/19, 78/24, 79/6,
79/13, 80/19, 81/3
strategically 84/23
strategies 18/23, 67/3, 80/6, 80/18, 120/9
strategy 78/15, 80/6
Street 5/15, 30/16, 30/17, 30/23, 31/2, 31/3,
33/21, 44/12, 67/20, 67/21, 73/12, 75/9, 84/22, 87/5,
89/6, 89/19, 130/13, 130/25, 147/25, 149/24, 150/22,
152/10, 177/5, 177/25, 194/24, 195/11, 204/15,
217/10, 226/19, 233/9, 258/3, 258/12, 259/13, 264/4,
264/5, 264/7, 272/20, 275/12
streetlights 73/17
streets 35/7, 150/5, 173/22
stress 131/25, 265/13, 290/22, 299/25, 304/22
stretcher 255/8, 255/11
strict 62/10, 62/21
strike 218/14, 278/17, 278/19, 278/20
strikes 18/24
strip 285/13
strong 109/3, 201/4
struck 278/21
stuck 31/3, 42/10, 50/23, 168/21
studied 15/5
Studies 11/19, 14/4, 28/13, 42/6
study 4/8, 19/13, 81/3, 140/24, 143/21, 155/17,
228/8
studying 27/22
stuff 29/14, 82/18, 82/21, 150/19, 150/20, 180/21,
190/21, 237/10, 237/12, 253/6, 255/13, 261/24,
275/19, 275/21, 279/5, 279/6, 280/7, 280/11, 295/25,
298/22, 301/5, 301/19, 301/25, 305/5
stupid 258/11

style 233/13
subcommittee 7/25, 8/8, 15/5
subconscious 33/16, 40/15
subject 34/16, 37/8, 56/15, 123/8, 144/25
subjected 10/4, 101/21, 123/22
submit 122/16, 226/11, 285/19
submitted 126/24, 226/23, 287/10, 287/12
subpoenas 4/19
substance 28/21, 109/19, 111/16, 248/8
substantiate 114/19, 115/9
substantiated 116/13
substantiating 220/11
suburbia 67/18
suburbs 31/10
success 143/14
successful 143/17, 143/22, 188/15, 219/3
sue 157/14, 157/17, 288/14, 288/15
sued 183/24
suffer 18/9, 298/9
suffered 300/21
suffering 37/4, 156/10, 175/20, 245/3
sufficient 35/10, 56/9, 56/11, 75/17, 103/17, 330/23
sufficiently 315/15
Suffolk 221/20
suggestion 49/5
suggestions 139/1, 307/8, 308/13
suicide 120/11
suit 33/25, 132/24, 274/14
sum 235/3
summarize 208/13
summarized 287/1
summarizing 112/20
summary 230/14, 232/13, 233/2, 235/1, 240/12,
240/13, 271/12
summer 19/19, 20/22, 151/19
summertime 258/5
summoned 244/13
summons 191/19
Sunday 273/9, 312/15
super 157/15, 159/9, 270/3
supervised 109/6, 109/22
supervisor 125/8, 231/7, 296/13, 296/17, 306/15
supplied 4/16
support 9/4, 52/19, 91/5, 91/16, 112/16, 114/18,
215/7, 215/17, 215/18
supporter 15/21
Supreme 10/7, 34/10, 239/24, 242/7, 242/8
surety 108/15
surgery 251/4, 251/18
surreptitious 85/23
surrounded 282/1, 283/13
surveillance 123/22, 135/22, 138/8
survey 79/22, 102/21
surveyed 103/6
surveyors 220/10
survives 102/9
suspect 83/19, 176/18
suspected 77/8, 77/12
suspended 277/25, 278/1
suspicion 68/25, 74/25, 75/3, 75/7, 75/16
suspicions 278/11
suspicious 34/10, 249/3
sustained 126/19, 127/9, 132/22, 133/5, 135/8,
135/10, 244/8
sustenance 246/24
Swanson 180/25, 181/11
swear 176/20
sweater 275/19
sweep 150/5
switch 12/17
switched 147/9
sworn 60/7, 65/7, 235/9
sympathy 270/4
system 5/9, 13/18, 14/19, 26/16, 31/6, 34/18,
37/10, 46/14, 59/9, 59/10, 59/13, 59/20, 60/1, 61/4,
68/22, 69/11, 86/11, 86/12, 86/15, 86/24, 87/20,
87/22, 89/19, 90/9, 91/18, 95/12, 95/13, 95/24, 97/4,
97/10, 99/18, 99/23, 99/25, 100/2, 100/11, 100/18,
100/24, 101/1, 101/2, 101/13, 101/22, 102/1, 102/3,
102/5, 103/14, 103/23, 106/22, 107/3, 107/14,
107/25, 108/4, 108/22, 110/6, 111/19, 112/9, 112/14,
113/4, 114/15, 127/17, 134/11, 134/20, 143/3,
154/19, 155/7, 156/1, 157/24, 158/13, 159/7, 159/16,
161/16, 161/23, 162/6, 162/8, 162/16, 163/17,
165/24, 167/8, 169/12, 169/14, 186/20, 187/10,
194/15, 195/1, 212/22, 218/11, 218/12, 218/13,
218/18, 220/3, 225/5, 227/13, 227/22, 260/12, 262/4,
269/12, 330/5
Systems 4/25, 5/8, 27/21

table 33/5, 56/16, 114/11
 tactical 62/25, 78/7
 tactics 136/5
 talented 214/14
 talk 27/14, 27/17, 27/20, 32/24, 61/7, 68/15, 69/2,
 69/10, 72/9, 77/6, 90/18, 90/19, 90/23, 93/1, 105/18,
 105/20, 113/9, 119/1, 132/7, 139/16, 148/17, 151/17,
 152/4, 177/23, 184/24, 186/20, 217/17, 222/1,
 224/15, 224/19, 224/20, 226/16, 226/25, 227/12,
 235/12, 243/24, 247/10, 253/23, 254/12, 254/13,
 256/16, 259/21, 281/1, 283/2, 295/1, 303/21, 304/10,
 315/3
 talked 42/22, 48/14, 48/17, 66/1, 71/18, 86/4,
 115/18, 155/10, 162/25, 181/7, 184/7, 208/12,
 213/20, 217/16, 218/16, 219/5, 222/22, 232/1, 232/6,
 255/4, 255/7, 273/23, 286/4, 286/20
 talking 25/18, 32/23, 33/15, 33/21, 48/23, 74/12,
 75/5, 76/6, 76/17, 77/5, 78/22, 79/13, 89/11, 92/1,
 93/6, 93/7, 94/20, 130/12, 150/11, 169/19, 171/23,
 175/1, 181/2, 184/13, 217/15, 223/2, 223/3, 223/4,
 224/11, 234/16, 235/10, 267/10, 273/18, 274/23,
 276/16, 283/4, 283/5, 284/8, 285/24, 301/16, 306/24
 talks 70/8
 tally 180/7
 tape 234/18, 234/20, 234/22, 295/23, 296/2, 301/4
 taped 295/22, 295/24, 301/5
 tapes 285/1, 300/12
 tapped 226/17
 target 33/7, 33/12, 80/23
 targeted 11/11, 118/8, 118/10, 118/12, 177/20,
 195/25
 targeting 32/21, 115/4, 161/24
 tarnished 118/9, 118/13
 tarnishing 115/5
 task 8/20, 65/5, 65/10, 120/1, 138/16, 138/23
 tax 55/16, 55/23, 183/1, 183/6, 271/20, 271/22
 taxes 167/21, 180/3, 180/5, 183/3, 273/18
 taxpayers' 53/12
 tea 48/14, 48/16
 teach 68/2, 311/5
 teaches 214/20, 293/22
 technical 70/24, 86/16, 87/18
 technician 227/11
 techniques 66/4
 teen 19/16, 19/17, 55/21
 teenager 203/8, 203/17
 teenager's 203/10
 telephone 125/14, 243/19, 294/3, 322/14
 ten 21/11, 23/21, 26/10, 31/20, 31/22, 32/5, 37/18,
 37/19, 37/22, 51/19, 56/14, 88/16, 104/17, 119/18,
 122/14, 270/13
 tenacity 218/25
 tenants 238/23
 tend 6/5
 tendency 221/3
 tentacles 220/2
 term 6/7, 6/15, 68/21, 128/3
 terminate 130/6
 terminated 118/18, 130/7, 303/2
 terminating 115/6
 terms 6/22, 6/23, 6/27, 6/21, 6/22, 6/7/3, 76/4,
 80/4, 84/6, 85/7, 86/8, 86/9, 86/10, 88/1, 89/2,
 100/15, 101/25, 102/15, 110/11, 127/4, 127/5,
 129/12, 131/21, 131/22, 132/21, 134/18, 135/7,
 138/15, 138/19, 141/15, 142/8, 142/18, 163/15,
 163/23, 271/12, 306/16
 terrible 230/7, 233/4
 terrified 282/19
 terrorism 244/1
 terrorize 281/16
 terrorizing 117/9
 test 25/20, 25/21, 26/6, 263/22, 263/25, 324/1,
 324/6, 325/8, 325/9, 325/12, 325/15, 328/9, 328/20,
 329/23
 tested 170/25, 171/4, 176/14, 324/5, 325/10,
 325/11, 328/11, 328/17, 328/18
 testified 190/6, 239/3, 312/17
 testify 249/25, 316/6, 316/8, 316/11
 testifying 316/4
 testimony 4/19, 25/2, 43/2, 57/12, 60/7, 64/14,
 170/6, 324/16, 329/11, 330/10
 testing 328/19, 329/7
 tests 328/11
 Texas 65/19
 Thalheimer's 205/24, 206/1, 206/10
 Thank 5/24, 7/8, 7/9, 7/19, 22/1, 22/4, 36/20,
 50/7, 53/16, 54/19, 54/20, 55/24, 55/25, 56/12,
 56/25, 58/7, 61/11, 61/12, 94/8, 98/14, 104/14,
 105/3, 105/15, 122/13, 123/18, 134/15, 135/12,
 137/16, 139/13, 139/23, 145/15, 152/16, 154/6,
 162/4, 162/20, 165/10, 165/18, 170/20, 171/12,

173/10, 178/15, 185/3, 185/16, 186/5, 186/6, 186/7,
 187/24, 192/8, 192/9, 196/11, 198/14, 201/19,
 212/10, 212/12, 212/18, 217/9, 217/18, 217/22,
 221/19, 224/22, 226/20, 227/4, 237/14, 241/3,
 243/20, 251/21, 257/17, 272/12, 280/14, 310/7,
 317/17, 317/18, 322/17, 330/2, 330/24
 Thanks 165/11, 251/3
 theirs 223/7, 257/24, 261/1
 theory 25/20, 44/3
 they've 14/6, 74/2, 74/15, 110/19, 114/19, 117/10,
 148/11, 173/9, 218/9, 271/13, 288/19
 Third 49/1, 111/6, 115/5, 116/21, 170/21, 178/19,
 178/21, 186/8, 245/5, 253/3
 Thirteen 22/23
 thirty 6/6, 12/8, 17/19, 26/9, 36/8, 36/11, 38/11,
 39/5, 53/13, 93/4, 105/7, 252/8, 253/6, 256/8,
 256/10, 277/24
 Thompson 194/10
 thousand 19/3, 19/4, 19/7, 22/9, 22/10, 26/1,
 108/8, 108/9, 108/11, 119/19, 149/17, 241/14, 279/10
 thousands 219/20, 222/13
 threat 117/11, 301/3
 threaten 318/21
 threatened 189/5, 189/6, 189/15, 190/7, 240/19,
 287/24
 three 18/24, 20/7, 20/9, 23/23, 24/20, 38/5, 69/12,
 82/3, 88/14, 115/7, 124/18, 126/13, 126/14, 138/22,
 139/5, 151/9, 162/12, 176/8, 186/23, 191/19, 193/10,
 205/11, 207/8, 207/10, 207/14, 212/4, 214/12,
 216/16, 216/20, 228/24, 233/13, 244/20, 246/13,
 246/14, 246/17, 247/5, 248/19, 258/10, 269/5,
 284/12, 285/19, 288/6, 290/2, 296/14, 297/20,
 309/14, 325/23
 threshold 41/12
 threw 176/16, 252/20, 313/21
 throat 307/17
 throw 252/20, 274/1, 274/3
 throwing 92/2, 190/3
 thugs 72/15
 ticket 192/19, 274/17, 274/24, 277/15
 Tidewater 102/22, 102/25, 103/4, 136/9, 220/19
 tie 44/18, 274/15, 324/14
 tied 110/21
 ties 109/3, 109/12, 201/4
 tightening 133/11
 timber 222/11
 time 5/19, 14/9, 18/15, 23/5, 23/20, 24/3, 24/6,
 24/17, 25/8, 26/12, 26/15, 28/22, 29/16, 29/20, 30/4,
 30/7, 35/12, 35/14, 35/19, 36/2, 36/5, 37/12, 37/20,
 38/2, 38/5, 38/15, 38/25, 39/7, 40/10, 44/3, 48/1,
 53/18, 56/17, 61/8, 61/9, 61/17, 62/17, 68/21, 70/11,
 71/3, 74/3, 74/18, 74/20, 77/9, 82/13, 85/15, 85/18,
 89/13, 89/25, 102/12, 104/9, 104/13, 106/13, 111/6,
 111/23, 111/25, 112/9, 113/11, 113/12, 116/24,
 124/12, 125/22, 135/17, 135/23, 136/11, 137/12,
 139/5, 142/21, 144/4, 144/6, 149/2, 149/16, 151/23,
 153/9, 153/13, 153/18, 153/22, 165/15, 165/19,
 169/22, 170/12, 173/13, 178/19, 178/21, 185/1,
 186/16, 188/3, 188/7, 188/25, 189/2, 189/14, 190/3,
 190/5, 190/23, 190/24, 192/6, 195/9, 200/8, 204/12,
 205/20, 207/14, 209/10, 212/1, 212/2, 213/20, 214/3,
 214/9, 216/9, 217/8, 220/10, 222/1, 226/1, 237/3,
 246/23, 247/3, 247/22, 252/24, 253/8, 253/10, 254/5,
 254/13, 255/7, 255/24, 256/3, 256/10, 256/21, 257/4,
 258/18, 258/23, 259/15, 262/16, 264/19, 265/16,
 268/20, 268/21, 271/13, 272/12, 273/16, 275/2,
 275/8, 279/22, 280/14, 284/12, 284/19, 287/7,
 296/10, 311/14, 316/3, 324/13, 325/23, 325/24,
 327/13
 timed 145/5
 timely 298/17
 times 12/1, 12/2, 38/5, 42/6, 42/7, 75/3, 99/23,
 149/15, 180/14, 196/24, 285/19, 322/10
 timing 51/20
 title 118/25, 222/20
 Togo 321/20
 token 114/7
 tone 287/18
 tons 30/13, 148/11
 top 72/8, 263/18, 263/20, 265/10, 274/18, 275/1,
 276/10, 284/4, 290/12, 298/25
 topic 63/8, 63/9, 163/19
 torn 247/2, 251/5, 251/12, 251/17, 262/14, 272/20
 totem 195/4
 touch 181/17, 181/18, 236/25, 311/15, 323/16
 touching 116/1
 tough 18/23
 tour 197/16
 town 39/18, 147/23, 193/8, 203/2, 247/19, 259/22,
 262/2, 265/22, 273/6, 316/10
 towns 160/8
 Townsend 315/2
 toys 152/11

Tracey 331/12
 Tracker 229/4
 tracking 81/11
 tracts 219/24
 trade 21/14, 83/13, 83/21, 180/13, 180/14
 traditional 62/25
 traditionally 25/15, 124/22
 TRADOC 318/1, 318/25, 321/15, 321/16, 321/23,
 321/25
 traffic 10/11, 72/12, 192/19, 202/13
 trafficking 80/10
 tragedy 91/2, 91/7, 91/14, 93/20
 trained 75/6, 170/1, 186/5, 218/24, 219/1, 224/17
 trainee 131/23
 training 19/17, 19/20, 21/1, 131/21, 133/21, 136/2
 transcribe 145/22, 290/1
 transcribed 56/5
 transcriber 146/9
 transcript 164/24, 242/12, 261/18, 263/14,
 266/19, 298/23
 transcripts 260/19
 transfer 99/2, 100/21, 101/25, 294/4, 300/25,
 301/4, 303/18, 303/22
 transfers 98/21, 98/23, 98/25, 101/7
 transmission 189/12, 275/2, 275/3, 275/7
 transportation 215/13
 transverses 84/3
 traveling 192/22, 192/25, 193/2, 203/14
 treat 10/21, 62/12
 treated 38/19, 38/21, 68/8, 71/12, 87/14, 95/11,
 96/13, 97/15, 156/11, 157/22, 158/10, 264/23,
 264/24, 265/3
 treating 285/25
 treatment 11/13, 12/20, 39/11, 68/7, 68/18,
 74/15, 74/16, 78/25, 95/24, 109/20, 111/14, 181/4,
 213/23
 tree 151/10
 trends 137/12
 trespass 53/20, 314/1, 314/5, 314/7, 314/13, 314/14
 trespassed 224/5
 trespassing 17/7, 17/22, 227/2, 310/19, 313/20,
 313/23, 314/10
 trial 16/10, 108/17, 109/5, 109/15, 110/1, 157/25,
 164/25, 170/5, 247/12, 253/4, 255/22, 260/14,
 260/16, 299/1, 299/3, 316/12, 316/14, 324/18
 trials 38/22, 38/23
 triangle 115/1
 triggered 286/18
 trip 226/24
 trooper 273/10
 trots 276/2
 trotted 275/15
 trotting 276/4
 trouble 34/14, 173/15, 176/21, 215/20
 troublesome 10/7
 truck 182/5, 272/24, 274/20, 275/1, 275/4, 275/9,
 275/16, 277/15, 277/16, 277/17
 trucks 150/5
 true 193/25, 214/15, 260/17, 264/25, 333/8
 trust 89/14, 129/3, 129/5, 134/9, 293/14
 truth 31/8, 37/14, 37/16
 tuned 278/2
 turn 36/13, 155/20, 242/17, 243/16, 257/25,
 259/12, 274/22
 turned 40/12, 161/16, 176/8, 193/10, 222/24,
 260/17, 263/5, 310/18, 318/9, 318/24
 turning 157/10, 193/4, 274/2
 turns 148/8, 148/9, 318/20
 TV 92/23
 twelve 119/18, 152/12, 297/9, 312/20, 315/5
 twenty 6/15, 15/23, 26/9, 115/24, 144/20, 241/14
 two 11/4, 12/13, 14/17, 20/10, 27/20, 37/19,
 38/23, 63/6, 77/5, 82/2, 82/12, 87/16, 94/13, 106/12,
 106/16, 107/4, 107/6, 107/7, 127/5, 147/23, 148/5,
 149/17, 149/20, 151/16, 153/16, 162/1, 165/25,
 171/10, 187/11, 194/23, 205/11, 211/13, 214/11,
 216/20, 219/24, 233/7, 233/9, 233/10, 234/9, 235/14,
 235/22, 236/17, 238/16, 244/9, 257/23, 263/3, 269/5,
 272/17, 279/10, 288/6, 322/8, 323/4, 323/20
 twofold 66/20
 type 9/22, 36/9, 62/24, 64/3, 64/24, 65/12, 65/20,
 65/22, 65/24, 66/6, 66/7, 66/23, 66/25, 67/5, 67/6,
 67/10, 67/11, 74/17, 74/19, 77/11, 78/11, 78/16,
 79/20, 80/18, 87/19, 99/13, 110/22, 111/9, 133/6,
 137/3, 138/16, 138/18, 138/21, 163/2, 198/12,
 198/13, 222/12, 298/22, 305/20
 typed 50/2, 304/3, 304/6, 314/6
 types 35/4, 66/11, 67/7, 81/12, 99/3, 109/13,
 113/2, 124/20, 132/5, 134/12, 134/22, 161/20

U

Uncle 195/7
 unconscious 33/16, 51/12
 unconsciously 88/20, 88/23, 101/17
 underemployed 178/10
 undress 281/8, 284/4, 292/15
 undrug 176/14
 unemployed 178/10
 unemployment 21/14, 298/14, 298/15, 298/24, 299/4, 301/10, 302/4, 302/7, 302/9, 303/6
 unfair 9/24
 unfounded 126/19
 uniform 42/24
 unformed 66/10, 77/21
 Unit 138/18
 United 19/5, 82/22, 157/16, 246/12
 universities 134/20
 University 32/13, 134/19, 171/25, 175/25, 176/2, 218/25, 294/9, 306/6
 unkind 157/4
 unknown 40/19
 unlawful 246/5
 unlike 19/22
 unlimited 6/19
 unnamed 331/14
 unravel 185/2
 unreliability 14/21
 unrepresented 53/6
 unsafe 117/9
 unsubstantiated 198/22
 unsupervised 170/1, 176/14
 unwarranted 123/22
 unwillingness 18/11
 uphold 240/2
 upholds 239/25
 upper 296/5
 UPS 85/6, 85/17, 201/24
 upset 157/21, 312/18, 315/5, 320/23
 Upton 3/11, 268/5, 280/20, 280/23
 urban 9/10, 31/8, 67/15, 67/18, 244/1
 urge 22/2
 usage 40/5
 users 11/14, 11/20, 30/1
 utilities 205/1
 utility 205/6
 utterance 202/25, 207/8, 207/9, 207/12
 UVA 170/3

V

VA 1/12, 181/4, 251/4, 251/19
 vacation 233/16, 295/19, 295/22, 295/25
 validate 210/10
 value 12/16, 19/12, 269/14, 272/2, 272/4
 valued 149/8, 270/9, 272/6, 272/7
 values 160/11
 van 151/24, 151/25
 vandalism 111/3
 varies 54/15
 vast 63/25, 102/24, 142/10
 vehicle 67/9, 181/6, 182/4, 183/1, 193/12, 198/7, 228/10, 228/11, 228/16, 228/17, 229/15, 230/2, 230/3, 230/4, 232/19, 232/21, 232/22
 vehicles 66/11, 228/11, 229/12
 vendors 31/2, 31/3
 venture 139/10
 venue 65/22
 VEPCO 73/18
 verdict 115/15, 115/21
 verge 113/22
 verify 262/24
 versa 37/1
 versed 16/16
 version 11/5
 versions 39/12, 220/13
 veterinarian 254/9
 Vice 2/2, 5/20, 37/1, 148/24
 vicious 37/3
 victim 15/1, 96/23, 103/18, 280/25, 310/25
 victim's 103/20
 victims 18/10, 18/14, 38/22, 64/3
 victory 185/22
 videotapes 284/25
 view 37/3, 47/19, 53/9
 vigorously 328/5
 violated 86/15, 214/10, 311/13, 317/8
 violating 239/6, 239/8
 violation 21/12, 87/18, 87/19, 129/23, 132/1, 248/3
 violence 12/25, 13/8, 29/4, 29/6, 29/14, 29/23, 96/10, 136/9, 136/16, 136/22, 213/22
 violent 28/25, 29/24, 39/2

violently 29/20
 VIRGINIA 1/3, 7/22, 14/13, 14/17, 15/19, 17/8, 20/17, 22/9, 22/16, 27/9, 46/17, 57/3, 59/21, 60/3, 61/4, 69/12, 74/2, 88/7, 88/14, 102/15, 106/10, 110/3, 154/23, 166/2, 166/3, 168/5, 170/14, 170/15, 171/5, 171/25, 179/24, 188/22, 196/23, 202/20, 204/13, 219/18, 220/18, 237/18, 238/6, 239/24, 240/2, 244/4, 249/25, 272/18, 273/6, 307/2, 307/4, 307/16, 307/20, 308/1, 323/1, 323/13, 323/14, 327/7, 330/5, 333/10
 Virginian 102/20, 103/7
 visibility 85/7
 visible 85/9, 102/17, 177/22, 177/23
 vision 78/19, 78/20
 visiting 17/9, 17/11, 17/20, 17/23, 18/2, 53/19, 54/8
 voice 122/6, 286/5, 287/18
 volt 152/12
 voluntary 4/17
 vote 9/16, 19/23, 21/18, 23/24, 25/14, 26/5, 26/10, 26/11, 26/12, 49/14, 51/6, 51/18, 51/25, 52/25, 74/2, 151/18, 151/20, 151/23, 187/2
 voted 12/6, 36/1, 39/16, 40/12, 106/10
 voters 46/1, 47/15
 voting 8/10, 22/7, 22/16, 22/22, 49/12, 50/16, 151/17
 vouch 147/1
 vu 196/15, 197/14

W

wage 92/5, 141/12, 142/8, 142/18
 wait 23/21, 185/12, 185/15, 185/16, 253/16, 291/17, 325/2
 waited 233/18, 233/21, 233/22, 281/11
 waiting 73/13, 74/17, 201/8, 201/25, 276/14
 Wal 156/11, 157/5, 157/15, 157/23, 159/9, 161/5
 walk 22/25, 153/18, 276/7, 276/9, 302/23
 walked 204/14, 253/24, 295/9, 296/12
 walking 67/21, 194/12, 195/16, 276/7
 wall 195/21, 301/20
 wallet 246/15
 walls 111/8
 Walter 151/3
 war 173/19
 Ward 147/17
 warden 254/12, 254/13, 254/22, 255/4, 255/10, 255/13, 256/16
 warrant 60/8, 60/10, 75/11, 181/14, 244/6, 312/25, 313/12
 warrants 60/2, 61/5, 310/14, 310/15, 310/17, 310/20, 310/21, 313/3
 Warthell 146/17, 146/24, 202/5, 202/9, 202/22
 Warwick 281/22, 283/12
 wash 264/1
 Washington 1/11, 5/15, 123/11, 226/2, 226/20, 266/16, 293/25, 294/13, 318/3
 waste 42/13, 149/15
 wastes 53/11
 watch 44/9, 44/10, 78/11, 81/11, 196/3, 274/6
 watched 230/18
 watching 92/22, 245/12
 water 44/3, 298/8
 watered 11/5
 Watkins 331/12
 weak 255/9, 326/23, 327/1
 weakening 14/11
 weapon 29/12
 weapons 12/25, 29/14, 253/15
 wearing 34/15
 weed 72/22
 week 35/20, 181/13, 216/20, 242/16
 week's 11/1, 11/25, 28/8, 41/5, 41/19
 weekend 192/22, 214/24, 253/23
 weeks 46/19, 82/8, 119/14, 171/10, 180/24, 213/25, 325/23
 weigh 296/23
 weighed 52/22
 weighs 52/21
 weight 174/10, 321/9
 Welcome 2/2, 5/22, 6/2, 6/3, 7/5, 7/18, 57/13, 251/22
 welfare 7/4, 19/22, 55/13
 West 321/20
 wheelchair 246/19
 Wheels 150/24, 274/22
 whispering 284/10
 white 15/11, 15/12, 15/14, 26/11, 28/17, 28/20, 32/18, 33/25, 40/6, 48/12, 67/2, 68/5, 68/12, 68/16, 71/6, 74/8, 74/22, 84/1, 85/14, 85/15, 87/17, 87/18, 114/5, 131/7, 131/9, 147/19, 149/20, 149/22, 151/2, 153/11, 161/9, 170/4, 170/8, 171/8, 171/16, 177/9, 177/10, 186/22, 187/7, 187/12, 187/14, 189/16,

190/9, 228/24, 229/13, 231/7, 232/20, 274/2, 294/12, 294/17, 294/20, 294/21, 296/11, 297/2, 297/15, 297/16, 297/18, 298/4, 305/15, 308/25, 310/11, 312/12, 312/16, 315/8, 315/9
 whites 11/14, 27/17, 64/15, 66/14, 68/8, 69/4, 71/12, 73/6, 113/21, 143/22
 wide 131/12, 155/6
 wife 147/21, 153/12, 180/22, 195/17, 196/2, 213/1, 213/19, 215/9, 216/14, 280/24, 281/3, 281/7, 281/11, 283/9, 284/2, 284/5, 284/18, 286/5, 286/7, 287/2, 287/15, 288/8, 289/8, 290/1, 290/22, 310/11, 316/10
 wife's 282/15
 William 1/25, 2/19, 170/21, 179/5, 179/6, 179/7, 179/10, 179/17
 Williams 2/23, 3/6, 212/16, 212/19, 214/19, 243/22, 243/24
 Williamsburg 189/17
 Willie 9/12, 36/8
 willing 42/13, 200/12, 307/4, 329/5
 willingly 128/24
 willingness 123/2
 willpower 218/25
 Wilson 149/22
 window 73/8, 125/4, 254/19, 273/14
 windows 285/11
 winds 214/8, 252/16
 wine 13/5, 13/7, 29/5, 29/7
 Winfrey 92/23
 wins 231/21
 wire 67/10
 wise 267/4
 wish 31/7, 56/15, 56/18, 98/16, 113/1, 144/24, 145/4, 145/6, 151/7, 225/15, 225/16, 237/13
 withdraw 268/11
 witness 248/12, 297/7
 witnessed 246/3
 witnesses 38/23, 230/20, 236/14, 249/13, 258/15, 258/22, 327/21
 witnesses' 258/25
 wives 214/23
 WNIS 272/15
 woke 224/9
 woman 103/18, 189/4, 189/17, 233/24, 313/5, 327/25
 women 190/9
 women's 203/16
 won 173/19, 173/20, 231/22, 231/25, 232/2, 271/17
 wonder 47/5, 95/5, 160/21, 161/18, 198/3
 wondering 72/7, 274/20, 318/9, 324/25
 Woodrow 149/21
 woods 149/2
 word 9/9, 11/13, 71/15, 90/5, 140/13, 152/13, 169/18, 240/19, 266/21, 323/17
 words 10/23, 11/23, 12/23, 53/5, 74/12, 78/8, 79/2, 110/12, 132/17, 133/18, 136/22, 138/7, 182/2, 283/8, 324/19
 wore 161/5
 work 8/3, 8/22, 20/1, 22/2, 22/4, 33/3, 39/23, 45/14, 62/1, 65/4, 65/9, 78/10, 78/13, 89/1, 90/7, 91/22, 92/4, 97/14, 98/17, 102/25, 103/4, 104/1, 104/2, 109/25, 110/15, 110/23, 114/21, 116/6, 116/7, 122/10, 124/9, 125/5, 126/14, 129/10, 134/19, 141/12, 142/7, 146/6, 150/4, 150/6, 166/9, 167/6, 169/2, 180/10, 180/12, 183/9, 184/12, 195/15, 201/5, 205/4, 215/7, 215/11, 216/23, 240/8, 270/20, 270/21, 273/1, 275/6, 276/1, 277/24, 278/5, 295/2, 296/17, 300/17, 304/9, 306/7, 307/14, 307/14, 307/18, 308/1, 309/14, 311/22, 312/22, 315/21, 328/5
 workable 218/12
 worked 27/18, 93/19, 164/6, 182/18, 188/13, 202/18, 214/19, 231/5, 295/5, 300/3, 315/20
 worker 292/18
 workers 89/21, 230/11, 230/12
 working 8/2, 21/25, 111/25, 130/18, 161/7, 179/19, 220/2, 224/8, 238/2, 273/3, 300/5, 300/20, 312/14, 318/24, 319/22
 Workmen's 304/21, 304/24
 workplace 6/20, 186/3
 works 30/22, 89/22, 214/20, 231/6, 250/12, 296/15, 297/25, 300/25, 301/1, 303/20
 world 19/6, 157/17, 168/22, 170/16, 219/2, 219/19, 224/19, 224/20
 worms 220/20
 worried 36/25, 81/4, 81/6
 worth 10/24, 11/2, 11/25, 28/6, 28/8, 28/9, 30/14, 30/25, 31/19, 31/20, 41/5, 41/13, 41/19, 142/18, 174/3, 195/5, 195/8, 240/4, 272/17, 290/11, 301/16
 worthwhile 156/4
 worthy 122/5
 wounding 96/5, 99/5, 313/7, 313/25
 writ 266/6
 write 23/17, 109/1, 113/7, 148/7, 183/22, 185/13, 208/16, 209/5, 226/11, 229/23, 237/20, 305/14

writes 171/12
writing 122/7, 150/22, 182/1, 191/21, 206/11,
211/22, 213/12, 215/12, 225/11, 262/19, 262/21,
266/15, 319/6, 319/16
written 10/16, 22/14, 135/14, 135/19, 145/6,
205/22, 208/13, 209/4, 211/6, 269/13, 326/6, 330/4,
330/20, 331/1
wrong 12/6, 25/21, 27/22, 72/25, 97/9, 110/19,
148/7, 148/10, 148/11, 148/21, 150/25, 151/13,
151/21, 152/13, 160/2, 180/17, 183/9, 183/25, 195/6,
211/1, 220/12, 240/1, 256/1, 261/22, 262/3, 279/23,
318/15
wrote 191/21, 193/24, 209/6, 216/3, 274/7,
277/12, 289/25, 294/19, 294/20, 296/15, 296/16,
297/15, 303/15, 304/8, 305/15, 308/25
Wyche 2/7, 57/7, 61/15, 63/13, 64/19, 67/25,
74/6, 75/25, 76/12, 77/2, 77/19, 78/5, 79/12, 81/8,
94/17, 94/19, 104/17, 123/16, 124/8, 124/11, 124/17,
125/7, 125/19, 126/5, 127/11, 127/21, 128/6, 128/10,
128/14, 129/2, 129/8, 129/23, 130/2, 130/4, 130/10,
130/14, 130/17, 130/20, 131/8, 131/16, 132/16,
133/17, 134/7, 135/5, 136/3, 137/9, 137/13, 138/1,
138/12, 139/7
Wythe 234/12, 234/13

X

X 2/1, 20/4, 37/7, 55/10, 106/5, 106/6, 251/15

Y

yards 318/21
year 8/15, 8/24, 10/24, 11/2, 11/22, 11/24, 12/15,
20/11, 35/25, 37/18, 41/4, 41/10, 45/16, 52/11,
55/17, 100/12, 100/16, 102/8, 102/21, 116/21, 130/9,
130/10, 141/22, 142/7, 142/15, 153/4, 163/11,
167/10, 167/15, 167/22, 170/21, 180/2, 205/18,
211/24, 213/15, 213/16, 214/11, 243/25, 272/1,
272/3, 272/9, 295/7, 298/6, 298/16, 302/12, 309/12,
311/20, 323/1
year's 125/22
years 6/6, 6/15, 12/18, 14/14, 15/23, 21/12, 23/10,
23/21, 23/23, 24/8, 24/9, 24/11, 24/22, 25/8, 28/6,
28/9, 30/20, 31/4, 37/19, 37/22, 41/16, 41/20, 45/4,
45/7, 46/1, 48/7, 58/15, 62/10, 74/12, 74/13, 84/16,
85/3, 90/10, 91/8, 92/23, 93/8, 95/25, 96/4, 96/12,
115/24, 117/4, 117/5, 125/17, 137/13, 137/14,
138/22, 139/6, 141/2, 150/2, 150/22, 168/6, 170/17,
174/14, 196/18, 197/23, 202/18, 208/19, 214/11,
214/12, 237/17, 237/22, 246/12, 246/13, 252/2,
252/6, 252/13, 252/17, 253/7, 256/10, 259/14,
260/24, 260/25, 261/1, 265/15, 270/10, 271/18,
280/12, 282/16, 295/3, 297/9, 297/20, 309/14, 311/2,
326/17
yell 39/5
York 65/17, 98/12, 221/21
young 19/14, 33/19, 33/20, 34/8, 34/15, 53/5,
68/24, 69/10, 90/20, 91/3, 91/7, 98/5, 115/23, 116/8,
117/4, 117/5, 118/9, 147/9, 169/10, 170/4, 170/6,
171/10, 178/10, 185/20, 186/21, 186/22, 187/13,
190/25, 203/21, 217/4, 227/14, 247/25, 258/10,
258/14
younger 141/4
youngest 259/14, 259/15, 265/15

Z

Zeavin 1/23