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TRANSCRIPT OF PROCEEDINGS

ARKANSAS ADVISORY COMMITTEE

TO THE

U. S. COMMISSION ON CIVIL RIGHTS

LITTLE ROCK CONVENTION CENTER
MILLER ROOM
LITTLE ROCK, ARKANSAS

SEPTEMBER 23, 1998
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U.S. COMMISSION ON CIVIL RIGHTS

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Meet.
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APPEARANCES:

2 Civil Rights Commission Members:

3 Dr. Katherine P. Mitchell, Chairperson

4 Marge Lu Baker

5 Doris M. Both

6 Elijan Coleman

7 Nate Coulter

8 Father R. Scott Friend

9 Rabbie Eugene H. Levy

10 Jerome E. Ngundue

11 Danielle D. Strickman

12 Also Present:

13 Melvin Jenkins, District Director

14 Farella Robinson

15 Jo Ann Daniels

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1 DR. MITCHELL: Good morning. The Arkansas Advisory
2 Committee to the U.S. Commission on Civil Rights shall
3 come to order. Good morning.

4 For the benefit of our audience I want to introduce
5 the committee. I am Katherine Phillips Mitchell. I serve
6 as Chairperson of the Civil Rights Committee for the State
7 of Arkansas. We have here to my right we have Rabbie
8 Eugene Levy, Danielle Strickman, Marge Lu Baker, Jerome E.
9 Ngundue, Doris Both, Elijah Coleman.

10 We have maybe one or two other members that will be
11 joining us later on in this meeting. Also present with us
12 from the staff of our regional office in Kansas City,
13 Kansas, is Farella Robinson, who served as the Civil
14 Rights analyst, and in the back is Jo Ann Daniels, who is
15 administrative assistant.

16 We expect the director to come a little later. He
17 was en route to Little Rock, and he will be here later,
18 Mr. Melvin Jenkins.

19 We're here to conduct a fact-finding meeting for the
20 purpose of gathering information on the status of civil
21 rights enforcement in the State of Arkansas.

22 We want to determine whether or not citizens of
23 Arkansas have adequate and appropriate means for seeking
24 redress of a grievance or perceived discrimination, to

1 review the civil rights laws of this state, and determine
2 if they need to be changed or strengthened to comport with
3 federal guidelines, and to see where there is a need for
4 this state to have a civil rights enforcement agency.

5 The jurisdiction of the Commission includes
6 discrimination or denial of equal protection of the law
7 because of race, color, religion, sex, age, handicap or
8 national origin, or the administration of justice. The
9 proceedings of this meeting, which are being recorded by
10 public stenographer, will be sent to the Commission for
11 its advice and consideration.

12 Information provided may be also used by the
13 Advisory Committee to plan future activities.

14 We want to remind everybody about the ground rules
15 for this public hearing. It's open to the media and to
16 the general public. But we have a very full schedule of
17 people who will be making presentations with the limited
18 time we have available.

19 We want to strictly adhere to the time factor. The
20 presentations will be made by those people who have been
21 invited to do so. Following their presentations we will
22 have a question period from the members of the committee.
23 Those people who are present who would like to make a
24 presentation but are not on our schedule, periods have
25 been arranged for them to do so at the end of this day,

1 which would be around 8:00 p.m., and at the end of
2 tomorrow's meeting, which will be around 11:30.

3 Anyone wishing to make a statement during that
4 period should contact a staff member for scheduling.
5 Written statements may also be submitted to the committee
6 of the staff, or they may be mailed to the U.S. Commission
7 on Civil Rights, and we'll give you that address that's
8 located in Kansas City.

9 The record of this meeting will be closed on October
10 the 24th, 1998. Though some of the statements today may
11 be controversial, we want to ensure that all our invited
12 guests do not defame or degrade any person or
13 organization, and in order to ensure that all aspects of
14 the issues are represented, knowledgeable persons with a
15 wide variety of experience and viewpoints have been
16 invited to share information with us.

17 Any person or any organization that feels defamed or
18 degraded by statements made in these proceedings shall
19 contact our staff during the meeting so that we can
20 provide a chance for public response, or the person might
21 submit in writing statements to the regional office.

22 We urge all persons who are making presentations to
23 be judicious in their statements. The Advisory Committee
24 appreciates the willingness of all participants to share
25 their views and experience with the committee.

1 Later when Mr. Jenkins arrives, I'm sure that he
2 will have some remarks that he would like to make, as
3 well.

4 We have an agenda, and I hope everyone has a copy.
5 We will first have opening statements by Mr. Joe Franklin,
6 who is the governor's liaison on behalf of Governor Mike
7 Huckabee, who could not be with us today. So, Joe, you
8 have a choice, you may stand or you may sit.

9 MR. FRANKLIN: First of all I want to say good
10 morning, give an honor to God for just allowing all of us to be
11 here this morning. On behalf of Governor Mike Huckabee and the
12 people of Arkansas, I certainly want to welcome Ms. Farella
13 Robinson with the Central Regional Office of the U.S. Civil
14 Rights Commission to Little Rock for this public hearing on
15 civil rights.

16 I'd also like to welcome again Katherine Mitchell
17 and members of the Arkansas Advisory Committee on Civil Rights
18 for this public hearing.

19 Last September Governor Mike Huckabee, along with
20 President Clinton and Little Rock Mayor Jim Daly, participated
21 in the 40th anniversary of the integration of Little Rock
22 Central High School. That day the three of them symbolically
23 held open the doors for nine African American students who had
24 been shut out of that school 40 years earlier.

25 Governor Huckabee said in his speech that day,

1 "Essentially it's not just a skin problem, it's a sin problem,"
2 because we in Arkansas have wandered around in ambiguity, all
3 kinds of explanations and justifications, I think today we come
4 to say once and for all that what happened 40 years ago was
5 simply wrong. It was evil, and we renounce it.

6 Ladies and gentlemen, a violation of someone's civil
7 rights and a practice of discrimination is simply wrong. And
8 we renounce it today and forever.

9 My first lesson about civil rights happened in 1963
10 in the State of Mississippi. My late grandmother had many of
11 her 87 grandchildren sitting under a big oak tree in her front
12 yard. She was trying to teach us something about current
13 events.

14 I remember the sad look on her face when she said,
15 "Why don't they let that man go to that school?" She was
16 referring to James Meredith, who was trying to enroll at the
17 University of Mississippi.

18 And that sad look on her face and the words that
19 came out of her mouth have stayed with me all of my life, so I
20 come here today on behalf of Governor Mike Huckabee and the
21 people of Arkansas to listen and to learn about what is
22 happening to civil rights in the State of Arkansas, and carry
23 those concerns back to Governor Huckabee and carry them back so
24 that we can do whatever is necessary to correct some of the
25 evils that still have not been corrected in this state, and

1 correct some of the mistakes and some of the evils that are
2 still going on as it relates to discrimination.

3 So on behalf of Governor Mike Huckabee and the
4 people of Arkansas, I am just proud to welcome you to the City
5 of Little Rock for the public hearing and to the State of
6 Arkansas, and I'm just here to listen and to learn and find out
7 what we need to do to correct the issues.

8 Thank you.

9 DR. MITCHELL: Thank you, Mr. Franklin. Members of
10 the committee, also joining us is Nate Coulter, who also
11 serves on this committee. You can come back a minute.
12 We're not finished with you yet. You will entertain
13 questions from the committee members. Does anyone wish to
14 ask Mr. Franklin a question?

15 MS. STRICKMAN: I guess I do. I wanted to know
16 whether you've had the opportunity to talk with the
17 Governor about the difference between the current civil
18 rights legislation in the State of Arkansas and the
19 proposed legislation that this committee is considering,
20 the draft legislation?

21 MR. FRANKLIN: I appreciate that, Ms. Strickland.
22 We have not had a chance to talk with the Governor at
23 length about new legislation, but we have had a chance to
24 talk with the Governor about the existing law in the State
25 of Arkansas. And we were hoping to have a meeting set up

1 between some of the officials from the U.S. Civil Rights
2 Commission and the Governor prior to this meeting, and we
3 were not able to do that, but we have scheduled a meeting
4 for early October to sit down and go over some of the
5 concerns.

6 DR. MITCHELL: Has the Governor discussed any of his
7 views concerning what he sees as the current status of
8 civil rights in our state?

9 MR. FRANKLIN: I think in his speech last September,
10 and I tried to quote from his speech, I think he pretty
11 much explained some of his own personal feelings about
12 civil rights and discrimination in that speech, but rather
13 than me paraphrase or try to say what he would say, I
14 would really like to have the meeting that we have
15 scheduled for October 5th and let him explain to the
16 officials, explain to you all, what his feelings are about
17 civil rights.

18 RABBIE LEVY: Will that meeting have anything to do
19 with the enforcement of the Civil Rights Bill or the
20 concept that we all deserve civil rights?

21 MR. FRANKLIN: I think that that meeting is set to
22 cover all aspects of the concerns that this Advisory
23 Committee has and the U.S. civil rights officials have.

24 MR. COULTER: I think that's, Joe, one thing we're
25 concerned about. I applaud the Governor for his statement

1 last September, and I think he's been on the record for in
2 a courageous vein that I applaud where he's been critical
3 of the church, and that's something that he's uniquely
4 situated to voice, I think, I think it's appropriate given
5 that the church is not always in the vanguard of the civil
6 rights movement, at least certain quarters of it -- white
7 church, but I think our concern is whether we need to go
8 beyond the acknowledgement that things aren't right and
9 things weren't right 20 years ago, to find ways to give
10 reality to those views that we now can commonly uphold and
11 share, and I think that's what the group that meets with
12 the Governor would be interested in hearing.

13 What things can we do to make his vision of civil
14 rights and Martin Luther King's and everybody else's a
15 reality for the people who live in small towns and
16 counties in Arkansas, and how can he get everybody else to
17 believe that -- to practice what the Governor now
18 preaches, in the workplace and the market.

19 MR. FRANKLIN: I appreciate that, Mr. Coulter, and I
20 think -- I hope at that October meeting -- I believe the
21 Governor will be able to lay out his vision and views --
22 his personal vision and views on civil rights.

23 DR. MITCHELL: Go ahead. Mr. Coleman.

24 MR. COLEMAN: Do you see that the Governor will have
25 the full impact when you talk about civil rights, that it

1 is all inclusive, and it's not a black and white issue?
2 For example, I find myself getting out of it, when I
3 started on this Commission, about the only thing I knew
4 about was white and black, but now I got to worry about
5 prosthesis, age, and all those other included things in
6 civil rights. I don't think we sometimes get the full
7 impact, especially from everyday politicians. They're
8 still thinking of it in terms of you know, black and
9 white, talking about -- we always been talking about it,
10 but it never impacted on us as greatly as it would today.
11 I think that's one of our difficulties.

12 MR. FRANKLIN: I appreciate that. One of the
13 reasons -- I've been in state government for -- this is my
14 14th year, and I came over from the Secretary of State's
15 office last year. And my job is liaison for minority
16 affairs to the Governor, and my job covers those areas
17 that you talked about and one of the things that Governor
18 Huckabee laid out for me when I accepted the job was to
19 not just look at minority affairs, as covering African
20 Americans in the State of Arkansas.

21 We have a vastly growing population of hispanics and
22 other minorities in this state, so this administration --
23 we're trying to focus policies and focus attention on all
24 minorities in the State of Arkansas, not just the 18, 17,
25 18 percent of African Americans we have in the state.

1 Certainly the growing hispanic population, the other
2 minorities that we have, and we have done -- we have made,
3 I believe we have made an effort to reach out and be
4 inclusive and implement policies within the administration
5 to appoint people of various backgrounds and ethnic groups
6 to boards and commissions in the state.

7 We have made an effort to try to reach out and
8 diversify in the various state agencies, in the levels of
9 employment opportunities. So this administration, we have
10 reached out, and I'm sorry I don't have one up here, but
11 we have just recently published kind of a publication on
12 what we have done for the last couple years in the area of
13 dealing with minorities in the state.

14 We wanted to show the people of Arkansas that this
15 is an all-inclusive administration, and we are making a
16 giant effort to reach out and bring everybody into -- an
17 give everybody a seat at the table.

18 MR. COLEMAN: Actually my equipment -- you
19 anticipated my question when you responded to Mr. Coleman,
20 that since -- difficulty speaks with the Governor prior to
21 this more lengthy meeting that you're going to have with
22 him to discuss these issues, I was going to ask about your
23 role as the liaison and what -- and even though you've
24 identified some of it already, perhaps you could just add
25 to that and really talk about what your experience has

1 been and what groups you meet with, or -- I'm glad to know
2 in terms of the appointment process and employment
3 opportunity process, that's one avenue with which the
4 government is trying to be more inclusive, but are there
5 any other highlights from your position that might help
6 up?

7 MR. FRANKLIN: Early on last year after I came on
8 board, we made an effort to really reach out to the
9 various professional groups within the minority community.
10 African American doctors, attorneys, working people,
11 African American farmers, and get an audience between
12 those groups of individuals and the Governor, so they
13 could sit down and actually share their concerns about
14 what they're going through in various areas that they're
15 involved with.

16 And I would say that we probably had seven or eight
17 of those sessions. We also made an effort to reach out to
18 the hispanic organization. There's an organization called
19 LULAC in the State, and we invited members of that group
20 to come in and have a lengthy meeting with the Governor
21 and share information about recommendations and policies
22 that they would like to see implemented throughout state
23 government.

24 So we -- a part of my role is to help identify those
25 groups that may not have had a seat at the table in the

1 past, try to bring those issues to the Governor and bring
2 those individuals forward so they can have a seat, and can
3 share their concerns and issues with the Governor, so we
4 can seek solutions and find answers to their problems.

5 MS. ROBINSON: In regard to your comment regarding
6 your book --

7 MR. FRANKLIN: I think I still have -- I may have a
8 copy of it. I just want to hold it up.

9 MS. ROBINSON: I'd like to get a copy of that. I'd
10 like to make that part of our record.

11 MR. FRANKLIN: Okay.

12 MS. BOTH: Mr. Franklin, have you considered
13 implementing the civil rights laws so that it can be
14 accessible to people? At the moment there's no way of
15 contacting anybody concerned with it, except through one
16 of the groups. The law itself through the state has no
17 telephone number, no nothing. It absolutely has no
18 implementation.

19 MR. FRANKLIN: I had not considered that part of it,
20 but hopefully that will be part of some of the comments
21 that will be shared in our meeting with the Governor,
22 things that state government can do to share information
23 about the existing law in the state.

24 I think I was around in state government when the
25 law was passed in 1991, I believe. There's probably a lot

1 we all can do to get information out to constituents
2 across the state that we have an Arkansas civil rights
3 law, and they have certain rights under that law, and we
4 haven't done anything up to this point, but certainly that
5 will be part of whatever efforts we do in the future.

6 RABBIE LEVY: I may be overstepping bounds a little
7 bit and bringing it into the political, but sometimes --
8 at least I have a hard time picturing Republicans being in
9 favor of civil rights. I mean, it seems the history of
10 the nation shows where civil rights is generally promoted
11 by one party and often hindered by another party.

12 How is the Governor in this race or beyond this race
13 going to show that he is in fact really in support of it,
14 and it's not just a political thing that comes up, you
15 know, in November and then dies down again, because
16 honestly, in the time that he's been both Lieutenant
17 Governor and Governor, I haven't heard him talk much about
18 civil rights. It just doesn't come out. It comes out now
19 that the election is coming out, but then it seems -- you
20 get what I'm saying? How can we really know that he is
21 honest about this and it's not just words?

22 MR. FRANKLIN: I can -- Rabbie Levy, I can certainly
23 appreciate your question, but I would much rather look at
24 it in the context of not so much politically but what can
25 we do as individuals to help solve this issue and work to

1 find solutions to the discrimination that exists in the
2 State of Arkansas? And for a long time people have had
3 the perception that Republicans and even some conservative
4 Democrats don't care as much as they should about the
5 issues involving civil rights.

6 But I can only speak from my personal experience and
7 what actions I see being -- that are taking place within
8 the administration, and I don't want to speak for the
9 Governor today. I just want to speak on behalf of the
10 Governor and say that actions that are being put forward
11 and demonstrated within the administration show me as an
12 individual that this Governor would like to reach out and
13 be all inclusive of all minority groups in this state.

14 Maybe he's a different kind of Republican, if you
15 want to call it that, but I see evidence of him reaching
16 out, giving people an opportunity to have fairness in
17 employment opportunities, fairness in being able to serve
18 various positions in state government. So I can only
19 speak from my own personal experience with what's
20 happening, and speak from the evidence that I see
21 happening around me within the administration.

22 RABBIE LEVY: Thank you.

23 MR. NGUNDUE: Mr. Franklin, it's good to see you
24 here. I have a two-part question. Currently there's some
25 structural changes going on in front of the State Capitol.

1 A questionable one is how committed is the Governor in
2 increasing the same accessibilities state-wide? And the
3 second part, is there any discussion at the cabinet level
4 to increase employment to disabled persons, or some
5 scholarship funds for higher education to increasing
6 disabled population?

7 MR. FRANKLIN: I certainly appreciate that question
8 and since I have some experience in working for the
9 Secretary of State, I had the opportunity early on in my
10 career in state government of working to ensure that the
11 State Capitol Building was made accessible to the disabled
12 in this state, and the Governor does not have jurisdiction
13 over the State Capitol Building. That is the jurisdiction
14 of the Secretary of State.

15 And I can just say, going back to 1987, there has
16 always been an effort made to make sure that that State
17 Capital Building is accessible to the disabled. I
18 remember participating early on in the -- not only the
19 drafting of legislation but the actual implementing of
20 policies and regulations to make sure we had curb cuts and
21 make sure that we had braille identification on elevators
22 at the Capitol. I can personally say that all that should
23 be done and needs to be done is being done at the Capitol
24 to make the building accessible and the surrounding areas
25 on Capitol ground.

1 We have made an effort not only to be inclusive of
2 the groups that I've been identified, but we have also
3 made an effort to be all inclusive of people who are
4 disabled. One of the Governor's cabinet members, Mr.
5 Grover Evans, is a disabled person, and he is one of the
6 Governor's main cabinet members that heads up a major
7 agency within state government, the Disability
8 Determination for Social Security Administration.

9 And we hope that by him being a cabinet member, he
10 will not only set the tone in his own agency, but show
11 other disabled people throughout the state that there are
12 opportunities in state government under this
13 administration for people who are disabled, and hopefully
14 that's trickling down to all of the other cabinet members.

15 DR. MITCHELL: Are there any other questions for Mr.
16 Franklin?

17 MS. STRICKMAN: I was going to follow up on the last
18 question in expressing my particular individual interest
19 in the whole area of disability. I was concerned recently
20 when I saw in the paper that a group of individuals who
21 wanted to discuss with the Governor personal assistance
22 services in the State of Arkansas for people with
23 disabilities, had difficulty in establishing such an
24 appointment, and eventually decided to sit in the
25 Governor's office until such communication could be

1 accomplished.

2 And so as liaison to minority affairs, what is the
3 protocol or what is the way in which a group of people
4 like the group of individuals with disabilities, even
5 though they have some avenues through the Governor's
6 Commission on People With Disabilities, that doesn't
7 necessarily focus in on the services. I'm not sure
8 exactly what their mission is right now, and their goals,
9 but I was really unhappy to see that it was difficult for
10 this group to make contact with the Governor, if he wants
11 to be inclusive -- is wanting to bring people to the
12 table.

13 MR. FRANKLIN: We all were unhappy to see that
14 happen that day at the Capitol, and there is a protocol.
15 There is a procedure for scheduling an appointment to see
16 the Governor, the Lieutenant Governor, any elected
17 official. And the members of that group did not follow
18 procedures, did not follow protocol to do that.

19 However, since that time we have had an opportunity
20 to sit down and meet. The Governor has met with members
21 of the group and we are at this very moment working on the
22 issues that they had concern over that day.

23 We had members of our Department of Human Services
24 agency and other agencies involved in discussing and
25 working on the issues that they are concerned about. We

1 all feel terrible about what happened that day. Hopefully
2 we'll never have to see that happen again at the Capitol,
3 but I can say to all of you all that the issues and
4 concerns that they had are being worked on, and hopefully
5 we will get cooperation on both sides.

6 I can't go into a lot of details because, as you
7 know, I think they were cited with a citation and there
8 may be a court proceeding coming up, but the issues that
9 they were concerned about are being worked on.

10 DR. MITCHELL: Joe, it's incidents like that that
11 makes the citizens of this state feel that perhaps the
12 Governor is not really interested in having these people
13 sit at the table, because that was the second time that he
14 had reacted to people who had -- who were interested in
15 talking to him about their rights, and so it just makes
16 people wonder if he really is sincere about efforts to
17 address the civil rights issues in this state.

18 MR. FRANKLIN: I don't want to so much characterize
19 it as the way he reacted. The Governor was never involved
20 in interaction with the members who sat in the reception
21 area in the Governor's office. I guess you could call it
22 fortunately or unfortunately, I had an opportunity to be
23 involved with negotiating with those members, and we tried
24 in every way I know how to be reasonable and try to
25 negotiate some kind of procedure to follow when they came

1 to the office, and it was all rejected and when people
2 reject you that way, I don't know what else you can do.

3 But like I say, since that time, we have made an
4 effort to reach out and schedule a meeting. The Governor
5 has met with them. He has openly said to them that look,
6 we all are concerned about the issues that you all care
7 about, we're not insensitive. We want to help work on the
8 issues that you are concerned about, and that is
9 happening.

10 I've been around for a long time, and I'm not
11 bragging about how long I've been around, but I've been
12 around for a while in state government, and if you have
13 people who are -- whether they are administration people
14 or people who are constituents across this state, if they
15 are willing to come together and sit down at a table --
16 they may not agree on everything. They may disagree on
17 everything, but if they're willing to come together and
18 sit down and share their ideas and work to solve some of
19 the issues and problems that we have in this state, and
20 that is the kind of environment I see happening within the
21 administration, and I see evidence of that. I would be
22 the first to say that I don't see it, if it were not
23 taking place.

24 So that's the only thing I can say is I can ask you
25 to at least look at actions and look at what's happening

1 from those actions.

2 DR. MITCHELL: Perhaps those things are not being
3 communicated, you know, as they should be perception gets
4 to be reality.

5 MR. FRANKLIN: Absolutely.

6 DR. MITCHELL: And it's the way that his reactions
7 are perceived by the people in this state, and so it gives
8 the impression that he doesn't care and that he doesn't
9 want to really address the issues, so as the minority
10 liaison, perhaps you should strongly communicate that to
11 him, because we really wish that it gets to the point
12 where we don't even have to have such a committee, you
13 know, that we don't have -- this committee is supposed to
14 be -- one of our tasks is to really be a quote, watch dog,
15 and see, you know, identify some things that are happening
16 in this state as it relates to the civil rights issues,
17 and we hope that at some point we don't have to do that,
18 because we will have an agency that will be enforcing
19 really a civil rights law that has some teeth, and
20 certainly there may be some things that are occurring in
21 city government -- I mean state government, as far as
22 employing people with disabilities and people of different
23 heritages, but there are a lot of things that are going on
24 in companies, where people work, in facilities where
25 people work, that are really against the law, period,

1 against human rights, not just civil, human rights.
2 People are being discriminated -- and they don't have
3 anywhere to reach out for help here in this state, and
4 somewhere they can without having to pay an attorney's
5 fee, and some of them can't afford it.

6 So you know, if we -- as we are really concerned, if
7 the Governor is really concerned, if he's really sincere
8 about the issue, then he needs to demonstrate that so
9 people will have faith in the fact and hope in the fact
10 that it will be addressed appropriately.

11 MR. FRANKLIN: Dr. Mitchell, I appreciate that. As
12 I said in my statement, in 1963 I learned a lesson about
13 civil rights from my grandmother, and I always talk about
14 my mother's mother, who raised me from a little baby up
15 until I was about six years old, and hopefully she's
16 smiling down on me from heaven right now, but here we are
17 since 1963, in 1998 still concerned about some of the
18 issues that she was concerned about when I was a young
19 child in Mississippi, and I guess the only -- one of the
20 real solace I have or one of the real satisfaction I have
21 is I'm involved in some of the things that she talked
22 about correcting when I was a little child.

23 And hopefully we will not be here ten years from now
24 with an Advisory Committee on civil rights or a Commission
25 that we're talking about setting up in state government.

1 So I share -- I share your concerns and I certainly will
2 take those back to the Governor.

3 DR. MITCHELL: Are there any other questions of Mr.
4 Franklin? We really do express our appreciation for your
5 coming and sharing with us this morning, and we know that
6 you cannot change the Governor, but we know you have
7 strong influence.

8 MR. FRANKLIN: Thank you.

9 DR. MITCHELL: I want to recognize our director, who
10 has just come in. We're glad that he was able to make it.
11 Mr. Jenkins, would you like to have some remarks now?

12 MR. JENKINS: As an old time lawyer, you never miss
13 an opportunity to address or to talk. First of all good
14 morning to the committee. I am very happy to be with you
15 this morning in Little Rock. You're in able hands with
16 Katherine and Jo Ann.

17 It's very satisfying to see this committee undertake
18 this particular issue. For a number of years I've worked
19 in the States of Mississippi, Alabama, and to some extent
20 Louisiana, in trying to develop a state civil rights
21 agency to handle complaints involving discrimination, fair
22 housing and public accommodations.

23 As you're well aware the State of Arkansas has
24 passed a law but we are here and you are here to
25 investigate why can't the state have an enforcement

1 agency. This is something that is sorely needed, not only
2 for Arkansas, but when I look at the southern states and
3 look at Mississippi and Alabama, it's unfortunate that
4 these states were the leaders in states' rights years ago,
5 why not push the issue of states' rights in terms of a
6 states' human rights agency slash civil rights agency to
7 enforce those various laws that we have on the books now.

8 I'm very happy that you will undertake this task,
9 and I'm looking forward to reading your report and I will
10 visit with you a little later during the meeting.

11 DR. MITCHELL: Thank you. I don't see Bill
12 Lewellen. Mr. Rogers. Mr. Rogers if the Past President
13 of the International Association of Official Human Rights
14 Agencies and the Former Director of the St. Louis,
15 Missouri, Civil Rights Enforcement Agency. Good morning,
16 Mr. Rogers, we're glad to have you.

17 MR. ROGERS: Good morning. You have to excuse me,
18 I'm fighting one of these allergy colds.

19 DR. MITCHELL: We're just glad that you're here.

20 MR. ROGERS: I'm very glad to be here. I always
21 enjoy coming to Little Rock. I had the opportunity a couple
22 years ago. I'm on the National Board for Civil Service -- I
23 was here for that conference and enjoyed it.

24 However, today as I understand my task, is to give
25 you some information, some history background of the State of

1 Missouri and City of St. Louis Civil Rights Enforcement Agency,
2 which I served as the director for 14 years, and in that
3 capacity I had the opportunity to be one of the principals who
4 rewrote that city ordinance, along with rewriting the state
5 ordinance.

6 In my capacity as president of the International
7 Association of Official Human Rights Agencies, I've had the
8 opportunity to work with over 200 local and state civil rights
9 agencies, provincial agencies in Canada, agencies in our West
10 Africa, Central Africa, Great Britain and Australia.

11 And believe me, they're sorely needed in all of
12 those areas.

13 By way of brief history, for the St. Louis Civil
14 Rights Enforcement Agency, in its first form was called the St.
15 Louis Council of Human Relations. It began in 1948, because of
16 a riot in one of its local neighborhood parks over a public
17 swimming facility that African Americans were not allowed to
18 attend or use.

19 And out of that riot grew a recommendation that
20 something be formed to deal with -- to watch activities
21 regarding minorities, especially African Americans in the St.
22 Louis area. Ergo, the Council on Human Relations.

23 The Council of Human Relations at that time did not
24 really have any enforcement authority. It was merely a group
25 of individuals appointed by the mayor to give him advice on

1 mattes of civil and human rights.

2 In 1976, however, it was renamed the St. Louis Civil
3 Rights Enforcement Agency, with enforcement authority and
4 subpoena power. However, in 1983 Yellow Freight versus the
5 Springfield Commission on Human Rights, threw another kink in
6 the local laws. The ruling out of Missouri Supreme Court said
7 that the state legislature did not specifically give authority
8 to local agencies to enforce their law, so therefore we had to
9 rewrite -- we went through a series of ordeals and had to
10 rewrite the state law, and the local law.

11 In 1990 that occurred in the City of St. Louis. I
12 rewrote that along with the state law, and at that time Sam
13 Clemmer, who was the state director for the Missouri Commission
14 on Civil Rights, and the new law -- the new state law
15 specifically gave the local localities in the State of Missouri
16 the authority to set up and enforce -- and the important word
17 there is enforce -- their law, because if you have a law and
18 you can't enforce it, you might as well not have it.

19 And so therefore those new ordinances were passed
20 and currently all of the locals in the State of Missouri have
21 the authority to enforce their law.

22 Now, getting to that point was not easy, because it
23 was seen as an opportunity to break the laws down, to tear them
24 apart, to take things out the individuals who were not
25 sympathetic or did not believe that individuals needed

1 protections, such as civil and human rights laws, and I use the
2 term -- we use civil and human rights, because we're not just
3 talking about what is traditionally known as civil rights. We
4 are talking about what's known as human rights.

5 And you know, it goes beyond race, sex. It covers
6 disability now, and all of those things are very important as I
7 was looking at what was being proposed for the State of
8 Arkansas Human Relations Act, which is a very good start. It
9 has all those components in there.

10 I think the most important thing is first of all,
11 you must get the governors, the mayors, and your law makers to
12 admit that there is a problem, and to get them to sit down and
13 identify those with particular areas where those problems
14 exist. But if they can't identify what those problems are, and
15 if they aren't willing to admit that the problem does exist,
16 then you have a problem, and that's where the community becomes
17 very important.

18 Every community organization that is about human
19 justice needs to be involved in help getting a law passed,
20 because no matter what a governor or mayor or politician says,
21 they're going to listen to the community, if the community is
22 strong and is united and cannot be divided, because there are
23 factors within government that will try to divide that
24 community. They will try to buy some individuals off, so
25 you've got to have strong individuals in the community

1 supporting a human -- a civil human rights law, and each of
2 those organizations have to be singing from the same page and
3 the same hymn book.

4 And when you start to talk to community
5 organizations, each organization has their specific point. So
6 there has -- there has to be a meeting of the minds. There has
7 to be some common ground between each of those organizations,
8 and those things should be worked out behind closed doors.
9 Those things should not be worked out in public. It's to be
10 worked out among each of those groups within themselves in a
11 setting that they're comfortable with, and they have to be
12 willing to give and take. There has to be some compromise
13 there in order to get a law passed that's for the common good
14 of the entire state, of the entire city.

15 Once you've identified that, then you need -- it's
16 important that you have key legislature. If you don't have the
17 support up front of the chief executive officer, the mayor, the
18 governor, or whoever runs the government, if you don't have
19 their support -- it's good if you have their support up front
20 because they can go -- they also have legislators within their
21 body that they work with. But if that's not the case, it's
22 very important that you have some key legislatures that support
23 you who can work behind the scenes to garner votes for this
24 thing, and this is not going to happen -- it may not happen the
25 first time out.

1 It may take two or three times to get it through to
2 get in a position to understand the importance of having a
3 particular law that gives protections, not only -- it gives
4 protections to the citizens of your state, the citizens of your
5 city, and that's what you're about. They're all taxpayers and
6 they all need the protections, particular in Arkansas.
7 Arkansas is constantly growing. Industries are locating here,
8 and the citizens need some protections.

9 We read the papers. We look at the news, and we see
10 that discrimination is occurring across the board, and if you
11 look at the statistics, many, many of the individuals who have
12 benefited from the civil and human rights laws throughout this
13 country are not African Americans. They're white females.
14 They are really receive -- and in my particular case, the
15 largest settlements and the most cases that I won have been for
16 white females.

17 So that's simply because a lot of your white
18 legislatures have white -- have daughters. They have sisters.
19 And they need those protections too. Sex discrimination -- and
20 I'm not talking about sexual harassment. I'm talking about sex
21 discrimination. Wage discrimination, as far as women are
22 concerned, how they're treated in the workplace. It's very
23 important, and it becomes important to those legislators who
24 are sitting there thinking about their families, so that's a
25 point that could very well drive home and help change some of

1 their thinking.

2 When people talk about diversity and talk about
3 fairness, as you all know, talk is cheap, and they'll sit back
4 and say well, yes, we believe we should have a human rights law
5 and we believe we need human rights -- but we have a civil
6 rights statute in the State of Arkansas. You have a civil
7 rights statute in the State of Arkansas, that most of the
8 citizens cannot access because most of them cannot afford to
9 pay the lawyers to defend them, and there are very few
10 attorneys in the United States of America or anywhere in the
11 world that I know that will take a civil rights case on
12 consignment unless it's a smoking gun.

13 And if it's a smoking gun, a lawyer is only needed
14 for formalities. So you need -- you need a local, a state
15 civil rights agency, an administrative agency that is there
16 working for the citizens, one that does not cost them anything,
17 that can do the investigations, could gather materials that are
18 needed.

19 The other question that you'll get -- well, we have
20 that. We have an EEOC. That's true, we have an EEOC. EEOC
21 has a backlog that you would not believe. And they're
22 constantly trying to reduce that backlog. Currently I believe
23 if you file a case with the EEOC, it will be 18 months before
24 it's assigned. Justice delayed is justice denied. Very
25 simple.

1 So a local and a state human rights agency not only
2 serves the purpose of being that avenue for a citizen who does
3 not have the funds to hire a private attorney, that they can go
4 to and they can receive justice, and they can receive justice
5 locally, immediately.

6 And if you talk -- in my dealings with a lot of
7 business people across the country, most of them feel that they
8 would rather have those type of things settled right at home in
9 the State of Arkansas, in the City of Little Rock, rather than
10 having the United States Government in their business.

11 And many times the individuals working in that
12 community know the business and those investigators can really
13 -- they have a better rapport with those individuals,
14 particularly in that community that they're working with. And
15 again, it keeps it out of the press. It keeps the federal
16 government from looking at other things once they go in in
17 their business, and I find that they're solved a lot quicker if
18 you have a local or a state entity that handles that, and I
19 keep saying state and local, because most state agencies are
20 also have large backlogs.

21 The only state that I know right now that does not
22 have a backlog is Michigan, so the states need the local
23 agencies to help them work through a lot of their cases so
24 again the individual citizens get some immediate attention and
25 some immediate action, and they don't feel that they're caught

1 up in the grind and they're just stuck spinning their wheels
2 because there's not enough staff to handle those cases. Again,
3 staffing is very important and that means that if you're
4 serious, if the legislature in a community is serious about
5 having a human rights agency, and a human rights commission,
6 civil rights commission, it has to be funded properly. You
7 have to have proper funding and proper staff and that is --
8 would basically be based on population and the area that the
9 state is going to serve.

10 For instance, the civil rights enforcement agency,
11 we had our staff went up and down depending on the
12 administration. We had -- sometimes I had to fight to keep the
13 budget alive. At one time we had to fight to keep the agency
14 alive, because the legislature again that wanted to close the
15 agency and send everything to EEOC, but in my fight to keep
16 that agency alive, I got help from business people in the
17 community, again because they wanted their problems handled
18 locally.

19 It was a lot faster and a lot cheaper. We normally
20 operated on a budget of around \$600,000, and that's local.
21 State budgets run about a million, million and a half,
22 depending on how many offices they have in the state and the
23 number of investigators. You have to have enough clerical
24 staff and you have to have enough investigators to handle your
25 cases, and your investigators need to be -- I like to see them

1 specialized.

2 You have a separate unit for employment and a
3 separate using for housing and public accommodations, depending
4 on how large a case volume of housing, generally merge housing
5 and public accommodations. Employment is usually very large
6 and it needs its own separate unit. Employment is probably
7 going to encompass your largest case load.

8 But by all means, housing discrimination is still
9 rampant in this country and you need a separate unit to handle
10 that, particularly because if your law is written as -- if your
11 law is written -- well, not a proper fashion, but in a
12 comprehensive fashion, that covers the 1988 Fair Housing
13 Amendments Act, you're going to have to have some parameters
14 that you're going to have to meet, and the advantage of having
15 that law written like that is so that, one, you're
16 substantially equivalent to both EEOC and HUD.

17 The advantage of being substantially equivalent to
18 those means that you're eligible for funding from those
19 agencies, but let me caution you. The first thing some
20 legislator is going to say, oh, you get funding from HUD, you
21 get funding from EEOC. Then they want to dump a lot of your
22 salaries into those federal grants.

23 The worst thing that you can do is rely on federal
24 grants to sustain your agencies and your commissions. Your
25 commissions should be able to operate without federal funding.

1 Federal funding should be there to enhance your agencies,
2 expand on what the services that your agencies can provide, but
3 however, EEOC, contracts with state and local agencies, who are
4 equivalent and can enforce the law, and so does HUD.

5 And in writing into the act the portion of fair
6 housing, I would advise you to mirror the 1988 Fair Housing
7 Amendments Act. If you mirror that act and your legislature
8 lets you do that and gives you that enforcement authority, you
9 will be guaranteed to receive funding from HUD, and that --
10 those funds from HUD will allow you to do many, many things as
11 far as educating the public and education and outreach is very
12 important in deterring discrimination, because when you have an
13 educated public, then they know what to look for and if the --
14 if the real estate agents or their employers know that they
15 have an educated consumer, then they're less likely to
16 discriminate against that consumer.

17 So that is very important that the law if very
18 comprehensive and it covers those things that will assure you
19 of getting grants, and don't limit yourself to HUD and EEOC.
20 The United States Department of Education, the Civil Rights
21 Division, has monies and they issue grants also. The United
22 States Department of Justice, so there are various offices of
23 civil rights within the federal government who also provide
24 some type of grants and funding to help do the other things
25 other than investigation of cases, hearings, because that's a

1 major part of it.

2 But education and outreach is so important. And
3 that's -- you would get the funds for education and outreach
4 from the federal government.

5 Timing. Timing is very important. I found timing
6 to be important in getting particularly a civil human rights
7 law passed. You know what your legislators are worried about.
8 You know what the particular season is. You can look and see -
9 - in particular what's going on in that particular session, and
10 you'll get help from the sponsor of your bill from that,
11 because they know the tenor of the legislature at any given
12 point in time, and that's very important.

13 Just to give you an example of what I did, I
14 introduced mine in July, two weeks before the legislature went
15 on recess. And asked for a suspension of the rules and went
16 straight to a vote, bypassed the second reading. There was a
17 whole lot of other things going on. There was an election
18 coming up in August. There was an election coming up in
19 November, so the press didn't pay any attention to it. Many of
20 the legislators knew that if they came out during the election
21 season against a civil and human rights law, that they were
22 definitely going to lose a percentage of votes, particularly
23 from a minority community and women, so you know, those things
24 help when you're looking at that.

25 As I said before, when I looked at the law, most of

1 the basic things are included in the law. But everything that
2 you intend to cover, every protection that you intend to render
3 in the law, should be put in your declaration of policy. That
4 should be put up front.

5 Then each of those should be included in each
6 section, in the employment section, in the housing section, in
7 the public accommodation section. Everything has to be in
8 there, race, religion, sex, age, national origin, marital
9 status, those things need to be there.

10 Familiar status would be one that you include, of
11 course, in the housing section and disability, and all of that
12 should be spelled out in your declarations, you know, mental,
13 physical disability, all of those should be very clear, because
14 if they're not clear, it can bog you down, if you have a
15 Commission that renders a finding -- a cause finding and
16 there's something that's vague or not clear in the law, it's
17 going to appeal, and they appeal that law. It's happened to
18 me, so I know about that.

19 There are some creative things that are in some
20 laws, and when I say creative, some laws cover sexual
21 orientation. Of course, sexual orientation is a hot potato,
22 and you know, that is going to a lot of debate; however, it did
23 not go into debate in my law. I wrote sexual orientation into
24 my law. The problem with much of the debate regarding sexual
25 orientation is a moral debate. And the civil and human rights

1 law is not a moral debate.

2 We're talking about basic human rights. We're
3 talking about the right to employment. We're talking about the
4 right to buy a home. We're talking about the right to eat in a
5 restaurant or go to a movie theater. Now, if the Christian
6 Coalition believes that because an individual is a homosexual
7 or a lesbian that he is not a human being, then maybe he does
8 not have these rights.

9 So that's -- but that's an issue, if you want to
10 include that, that's an issue that has to be debated and worked
11 out, you know, between yourselves and individuals in the state.

12 Two other creative things. One is height and
13 weight. I was not able to get passed in the state law, did not
14 put it in the local law, and the other one that I think is
15 important is legal source of income.

16 We have many individuals who may be on public
17 assistance, individuals who may be on fixed incomes, do not
18 have the traditional job, and there's a tendency in some
19 arenas, particularly in housing arenas, to discriminate against
20 individuals who cannot produce a paycheck stub. So you may
21 want to think about it, and that's what source of legal income
22 means. It means that you have -- you don't have drug money or
23 you're not fencing. You have a legal source of money coming
24 in, but it's not from the traditional job -- what we call the
25 traditional employment. So you may want to think about that.

1 Those are the three creative ones that we put in
2 those laws.

3 The other one that I did not see that I think should
4 be covered here, the other two is education and services. By
5 services I mean if it's local, city services, if it's state,
6 it's state services. Individuals are not discriminated with
7 having access to those services and also in education. I think
8 that's important, education is a big football, political
9 football today, and if you know anything about Missouri and
10 desegregation law -- we have -- there are potentials needed in
11 education and I've had several cases involving education. I've
12 worked with the regional Department of Education on several
13 cases of discrimination in the St. Louis area, related to the
14 desegregation program.

15 So those protections also are very important in your
16 law.

17 And by no means should you limit yourselves. It
18 should be broad enough to cover everything that you need to do.
19 The Commission should be able to accept grants and enter into
20 cooperative agreements with any federal government, listed here
21 to accept grants. But it does not mention entering into
22 cooperative agreements, and that's very important if you're
23 going to enter into agreements with EEOC and HUD.

24 I talked about -- there was one thing in looking at
25 this particular draft that I'm looking at that puzzled me. I

1 put a question mark by it, and it's no liability for good faith
2 reliance on human relations commission rules. I mean, I don't
3 know anybody that's going to say well, yeah, I did it. I mean,
4 if I've got something -- no, I did not intend to discriminate.

5 Well, that's very well and fine. The act occurred.
6 That's whether you intended for it to occur or not is
7 irrelevant. The act occurred and the act has to be remedied.
8 Under a provision with no liability for good faith reliance,
9 because I didn't intend -- really nullifies the whole law
10 because everybody is going to say -- unless you have direct
11 knowledge that a particular employer or particular real estate
12 agent did not discriminate or did not know, it means nothing
13 because I can say I didn't know and then the burden of proof
14 becomes on the agency to prove that I did know, and that's
15 going to be very difficult to do.

16 I would look very closely at striking that from this
17 particular law. That's almost like a carte blanche Ms. Murphy
18 law. And I don't know if you want to do that.

19 And then there was a separate section under powers
20 and duties of the Commission. You got another section under
21 3.02 and probably all of that needs to be merged together so
22 it's not confusing, so everybody knows exactly what the powers
23 and duties of the Commission is.

24 And there should be a provision that states under
25 remedies that you must make whole the individual who has been

1 discriminated against. That needs to be very clear.

2 And of course, you always have to give a right of
3 appeal. EEOC gives a right of appeal. The state and local
4 laws have to have a right of appeal also.

5 Any questions of me?

6 MR. COULTER: Mr. Rogers, let me ask you, how many
7 states have enforcement authorities, state enforcement
8 authorities now?

9 MR. ROGERS: In the United States? All of them
10 except Arkansas. Mississippi does not have one. Alabama
11 has theirs -- proposed.

12 MR. COULTER: So in excess of 45?

13 MR. ROGERS: Yeah, in excess of 45. The states and
14 cities, local.

15 MR. COULTER: Follow up on your commentary on that
16 draft section .08, no liability for good faith reliance on
17 human relations Commission rules. I read that to mean
18 that if an employer let's say acted in reliance upon a
19 rule or some opinion issued by the agency, that it would
20 then -- it says in any action or proceeding based on any
21 alleged unlawful employment practice -- liability arising
22 out of Commission of unlawful employment practice, if he
23 pleads and proves that the act or omission complained of
24 was in good faith and -- within the rights of any
25 interpretation or opinion -- in other words, you want to

1 encourage education and reform, remediative behavior, you
2 put out rules and regulations where you encourage
3 employers to write and ask what they should do in certain
4 circumstances, then you issue an opinion letter about what
5 they ought to do under those facts, and they do it, and
6 then they're complained against, it seemed to me that
7 provision simply gave a defense and encouraged them to
8 rely upon the recommendation or the opinion letter. Is
9 that practiced in other agencies or do you know?

10 MR. ROGERS: I've never seen that. That's the first
11 time I've ever seen this because part of the function of
12 any civil or human rights agency is to help educate and
13 talk about education and outreach is important and
14 somewhere in the ordinance it should talk about -- again,
15 under your declaration of policy, talk about the education
16 and outreach, but that provision could hurt you a lot.

17 RABBIE LEVY: I have a couple of questions. One is
18 the amount of time from a proposed agency -- I mean, we're
19 really on the ground level on that right now -- until one
20 actually, you know, takes place. In other words, what --
21 in terms of being disappointed or discouraged and saying
22 do we keep going, you know, we've been fighting this
23 battle already for five years? Two years, three years?
24 What's the amount of time that we can look at to say we
25 shouldn't be discouraged if it doesn't happen the first

1 time through the legislature?

2 MR. ROGERS: You keep going and you keep going and
3 keep going.

4 RABBIE LEVY: We have a state, and the history, both
5 under Democratic and Republican Governors, very anti-AIDS,
6 anti-sex -- I mean, AIDS, you know -- not anti-AIDS, that
7 doesn't make sense, but really anti --

8 MR. ROGERS: Homophobic.

9 RABBIE LEVY: -- protection of people living with
10 AIDs, sexual orientation issues have always been basically
11 voted down in legislatures, and it's a very rural-based
12 legislature, and I don't know how --

13 MR. ROGERS: Education.

14 RABBIE LEVY: And that's a real thing we have to
15 worry about.

16 MR. ROGERS: Education. Again, it's very important
17 that the community is involved. You have to have strong
18 community support. You have to have -- and they have to
19 be willing to fight, and while on one end you've got the
20 community out there fighting, throwing rocks and bricks,
21 you've got another faction over there's that's the voice
22 of reason who is educating these people over here, and
23 education -- I just can't stress how important it is
24 particularly since, you know, Arkansas is not the only one
25 that has a rural base. Missouri has a rural base also.

1 And education is very important and in every community
2 that's in the state -- I don't care if it's Arkansas or
3 Missouri, Tennessee, there are individuals that are
4 covered under -- that will be covered under this law.
5 There are community organizations, there are state-wide
6 organizations that will get behind you and help push these
7 issues, and you have to seek individuals out and you have
8 to keep pushing. You cannot give up.

9 The people who passed the Americans With
10 Disabilities Act did not give up. I sit on the board of
11 Paraguay in my city, which is an independent living
12 organization. We did not give up. I mean, one of the
13 tactics that we used -- we took hundred dollar checks and
14 made a great big ball and sent that ball to Washington,
15 and believe me, we were heard.

16 When the gay rights movement marched in Washington,
17 they were heard. The education process is still going on.
18 The education process is continuous, even after the law is
19 passed, the education process must continue. And at some
20 point, with some of the hard-nosed individuals, somebody
21 in the community, somebody in the legislature, has to sit
22 down and maybe drive a point home, and make it personal.
23 And when it becomes personal, education becomes very easy.

24 MS. STRICKMAN: I have to applaud you and thank you
25 for the information you provided us. It's tremendous

1 guidance, and I assume and hope that you'll continue to be
2 available to help us as the committee works through this
3 process of making its own decisions and representing the
4 people that we hear from, but also in really -- I mean,
5 I'm very concerned about having the best piece of proposed
6 legislation we can have, and I think that we need to learn
7 from your success.

8 I'm particularly interested in one aspect. Should
9 we -- is it your opinion that we should look to a piece of
10 legislation that in establishing the state organization,
11 the state commission, has its local offices so that you
12 don't have -- so that pulling the energies away from it by
13 having individual cities or towns and many don't and some
14 do and should that be in the original state legislation?

15 MR. ROGERS: In the individual legislation, it
16 should give specific authority to localities to enforce
17 locally and state-wide and through the state, if
18 necessary, their law. For instance, the City of St.
19 Louis, the City of Kansas City, City of Springfield, are
20 what we call substantially equivalent agencies, to the
21 State of Missouri, and they're granted authority through
22 the state legislature. And they can order remedies under
23 the state law.

24 For instance, in the City of St. Louis, in the State
25 of Missouri, municipal law will only allow you to grant 90

1 days imprisonment, \$500 fine. However, through the state
2 we can administer larger fines. Now, for instance, in
3 housing what I did in housing, realizing that the judge
4 may not give a 90-day imprisonment, he may fine you \$500,
5 but what I initiated there was to have that fine imposed
6 for each day that the act occurred. So this is
7 discrimination really within a week. You've got two weeks
8 of \$500 fines each day. So you know, there are ways to
9 work around that.

10 But if you're putting a new one together, you need
11 to give that specific authority to the local -- to the
12 City of Little Rock, to the City of Hope, if you want to,
13 Texarcana, if they have an agency. And, of course, each
14 state, each city would have to make their decision whether
15 or not it wanted to have its own. Of course, you know,
16 Hope wouldn't have one -- it's enforcement will be through
17 the state. The state will set -- you may have three, you
18 may have four offices throughout the state, and for
19 instance in the City of St. Louis, the state has an office
20 in the city and the city has its office. As a matter of
21 fact, they're located in the same building two floors
22 apart. You know, same thing in Kansas City. There's an
23 office in Kansas City, a state office in Kansas City and
24 there's a local office in Kansas City.

25 And what occurs is any infraction of the local law

1 that occurs, for instance, in the City of Little Rock, all
2 those cases would go to the local agency. The state
3 agency would only handle those outside of that, or if
4 there was something that was not jurisdictional to the
5 local, then the state would handle within that city.

6 That helps keep the state from getting bogged down
7 and having large backlogs. So that's why it's important
8 that that specific law be in there. And the other
9 question, of course I'll always be available, and so will
10 the International Association of Official Human Rights
11 Agencies. We as an organization help state and locals.
12 We provide seminars. We provide training for
13 commissioners, we provide training for investigators.
14 And, of course, there's a cost but we provide -- we do it
15 throughout the state, throughout the country.

16 DR. MITCHELL: We thank you so much for sharing with
17 us. You've given us some very valuable information and
18 we're trying to adhere to our time line. If no one else
19 has a pressing question?

20 MR. NGUNDUE: Just a quick question.

21 DR. MITCHELL: Okay.

22 MR. NGUNDUE: You touched on a very important point
23 when you started on admission from state and local
24 officials. What did you use in St. Louis to go beyond lip
25 service from state and local officials to get their total

1 commitment?

2 MR. ROGERS: I used everybody I could. There are
3 various things you do politically to get individuals --
4 well, let me give you one example. There was a particular
5 alderman who was not in favor of sexual orientation being
6 put in the St. Louis law, and I found out that 70 percent
7 of the voters in his district were gays and lesbians, so
8 that got me his vote. You have to talk to them. I mean,
9 and this process took -- it took me a year and a half of
10 either I talked to them or I found other individuals who
11 knew them, had some interest with them, because most of
12 your politicians deal in interests, you know, no permanent
13 friends, no permanent enemies, only interests. So you
14 have to do your research. You have to know your
15 legislators and you have to know where to go and some will
16 be very easy because they'll be reasonable, they'll give
17 you the support, and you use individuals, you know, that
18 you have to go to them.

19 Some I could not go to and talk to, so I did not do
20 that. In getting -- I was told that state -- that the
21 state ordinance would not come before the legislature that
22 year. I knew differently because I gave it to the floor
23 majority leader. He sponsored the bill, so I knew it
24 would come to the floor. I didn't have to worry about
25 that. So you know, those are some of the things -- you

1 have to get those key people who have influence to have
2 those individuals.

3 DR. MITCHELL: Thank you very much. At this time
4 we're going to take a ten-minute break. We're going to
5 decrease our break so we can stay on schedule.

6 (Break.)

7 DR. MITCHELL: We will reconvene from our break.
8 This section will focus majorly on legal perspectives and
9 we have one our renowned attorneys who has done a lot of
10 civil rights litigation with us today. It's Phil Kaplan.
11 Mr. Kaplan, you can either stand at the podium or you can
12 sit at the table.

13 MR. KAPLAN: It doesn't make any difference.

14 DR. MITCHELL: Whichever you prefer.

15 MR. KAPLAN: I'll try standing. I won't be here
16 that long. Thank you, Dr. Mitchell. In an interview a few
17 weeks ago I was asked about the possibility of creating some
18 kind of human relations commission, some kind of general
19 overview Human Relations Act, and I had an initial negative
20 reaction to that, and then when I saw the draft legislation, I
21 had an even greater negative reaction to it, and let me tell
22 you why.

23 One, in those states in which there have been civil
24 rights commissions, human rights commissions, other deferral
25 agencies to the EEOC, there has been a coalition of political

1 forces that have enabled such legislation to pass. Usually
2 you've got a large labor constituency, women's groups and other
3 groups that have been able to mobilize to effectively to gather
4 the kind of legislative impetus that you need. That just
5 doesn't exist here.

6 I think that realistically we know what it took to
7 get the civil rights legislation we now have, as poor as it is,
8 at least it is something that can be enforced, albeit by
9 private litigation, by individuals going to court to enforce
10 it. That's not unlike what it takes on the federal scene also.
11 I mean, the same situation exists on the federal scene. It is
12 largely an effort of private citizens with their private
13 lawyers that have been able to enforce the existing
14 legislation.

15 The thought that the legislature would pass and then
16 even more remote, the thought that the legislature would fund
17 an agency adequate to do the kinds of things that are in this
18 draft piece of legislation, I think are beyond any hope or any
19 realistic possibility in this century and for several years
20 into the next.

21 And in some areas I'm not sure that it's needed.
22 That is, for example, in housing we now know that the federal
23 law covers four units and above. Do we really want to go down
24 to somebody who owns a duplex and is renting a duplex, living
25 in owner-occupied duplex, and be required to rent to anybody

1 under any condition.

2 Well, now that I have reached this ripe old age that
3 I have and have grandchildren instead of children at home, I'm
4 not sure that if I lived in a duplex that I'd want to have to
5 rent to somebody with children. I know that that may sound
6 boorish on my part and have some degree of hostility attached
7 to it, but my wife and I, now having embarked on our 60's,
8 think that peace and comfort is about the only thing that's
9 important in our lives, and I don't want to have a whole bunch
10 of kids around except my children, and they come and they go,
11 and they don't stay.

12 So I don't know that anybody ought to be forced to
13 do that. I don't know that given the nature of people's human
14 dynamic, that forcing somebody to rent to someone in a duplex,
15 in an attached house, or on a parcel of land -- somebody's got
16 a piece of home property and there's two houses on it, is what
17 we really want to do.

18 If somebody is in the business of managing real
19 estate or selling real estate, four units and above, I agree
20 that that is something that needs to be remediated, if there is
21 discrimination of any kind, in that kind of a situation, and
22 the federal law adequately takes care of that.

23 Yes, it has to be enforced civilly if HUD cannot
24 effectuate a remedy. But that's true of all of these statutes.
25 They have to be enforced with private action. As it turns out,

1 there are very few of those lawsuits filed. There were a group
2 of those lawsuits filed by ACORN not too long ago, at least one
3 I know of has been dismissed.

4 But they were against real estate agents, dealers,
5 brokers, and the kind of action in small, even in large
6 developments, has by and large evaporated. That is, most of
7 those things are either mediated and handled at an
8 administrative level at HUD, or there just aren't that many of
9 them.

10 The same is true with public accommodations. I
11 can't tell you, I probably get three, four, five calls a day on
12 employment matters, plaintiff's employment matters, but I
13 rarely, rarely, if ever, get a call regarding public
14 accommodations. And my feeling is that if there were a
15 problem, I'd get a call. I'd hear from somebody if there were
16 a major problem.

17 It is true that on occasion I'll get a call that --
18 and I did last week -- somebody was complaining that they were
19 mal-treated, ill-treated at a Sears department store. Well,
20 those things do happen occasionally. Now, we know that Sears
21 is not treating somebody who is a customer badly on account of
22 race or on account of sexual preference or on account of
23 gender. That kind of thing with major department stores, with
24 major stores, just doesn't happen.

25 For one thing, although they may not be the best

1 paying jobs in the world, large numbers of the people who now
2 work in those stores are people of color or women, and if it
3 went on, I think we'd know about it on a much more pervasive
4 level, that is, we'd have heard about it much more extensively
5 than we have heard about it.

6 There is no doubt in my mind that the area in which
7 there is the greatest need and in which the problem is the
8 greatest is in employment. That still does exist. The
9 problems are much more sophisticated, however. It is much
10 harder to be able to prove discrimination. On the federal
11 level, given the history of 12 years of judicial appointments
12 by the Reagan-Bush administration, we had a significant turn-
13 around in the way that laws were interpreted. If sometime
14 before 1980, the burdens on the plaintiff litigants were
15 nowhere near as great as they are now, and the way that the
16 Court looked at these statutes is nowhere near the way it is
17 now.

18 But we have had that history, and the law has
19 developed significantly. Some of the development was
20 apparently and obviously a reaction to the feeling that the
21 marketplace had shifted so in the ability of employers to carry
22 on business, that there was some need to write a balance that
23 had become, at least in the view of some, overly friendly
24 toward the plaintiff litigants.

25 But some of it, and perhaps most of it, was also a

1 reaction to the way these judges that were appointed viewed the
2 law and viewed the necessity for employment discrimination law.
3 Now, if one is going to try and do something, if this agency is
4 going to try to be a catalyst for some change, and to be a
5 change agent in some way, I do think that that needs to be
6 narrowly focused on a realistic goal that has some realistic
7 possibility of success, and to look where it can be as an
8 agency and as a voice and as a change agent, most effective in
9 bringing about that change. Doesn't necessarily have to be in
10 employment, but in some area where change can be realistically
11 possible, and where the voice needs to be heard, whether it be
12 in the area of moral suasion or whether it be in the area of
13 litigation.

14 My feeling is, quite frankly, there's enough law
15 now. The Arkansas Civil Rights Statute, while it is not self-
16 effectuating, is a very broad and comprehensive statute. And
17 if only it were universally loved and adopted, it would make a
18 difference, but you know, I think that there is some -- there
19 are many places where it could be more effectively, I suppose
20 more effectively enforced and where education might make a
21 difference, where having some discussion in the nature of
22 dialogue on race, that the President has tried to develop,
23 might have some considerable impact. Just don't think that
24 additional legislation is going to have that much impact,
25 because the laws as they exist now are sufficient, if enforced,

1 to -- or if adopted in one's heart.

2 I mean, litigating these things isn't ultimately
3 going to be whatever is going to bring about the change. I
4 mean, you can't have enough lawsuits to change the way -- what
5 is in people's hearts. You just have to change their minds and
6 hearts in order to change the way they react toward people that
7 are different from them, and we've come a long way.

8 When I first started litigating here in civil rights
9 in 1968 and '69, what we see now, the picture of the work force
10 and the diversity that exists in residence, in employment, in
11 schools, just was unthinkable.

12 And when I came in '69, what existed in '68, what
13 existed then was unthinkable ten years before that. This is
14 not something that changes overnight. It's a dynamic that's
15 ongoing, that's evolutionary, and I just don't think that
16 another piece of comprehensive legislation, which will arouse
17 incredible hostility and will mobilize a significant group of
18 opponents to this.

19 I mean, when you think of what employers did
20 essentially to tear the heart out of the workman's compensation
21 law, one discrete statute. And now there's a claim that an
22 administrative law judge has been removed from her position
23 because she is too friendly toward claimants' interests. If
24 you think of that with one discrete, narrow statute, although
25 it has a direct impact on the pocketbook, this would have such

1 a far-reaching impact on employers' pocketbooks and the state
2 treasury too, because there is no way that this thing can be
3 adopted the way it is without very, very significant funds. I
4 mean, nine people are not going to hear the kinds of cases that
5 are going to be brought. There'd have to be a huge staff of
6 Administrative Law Judges to hear all of this and a huge
7 mechanism and court system to hear all of this, and what you've
8 got is a developed bureaucracy that's even greater and more
9 significant than the EEOC, which is in and of itself
10 ineffective.

11 So I just don't see that that arousing, that kind of
12 hostility and that kind of coality against a statute is
13 productive of anything. I think a more narrowly tailored and
14 more focused realistic possibility -- I mean, realistic
15 assessment of what is possible in engaging a coalition that
16 could come together around some meaningful anti-discrimination
17 proposals would be much more effective and much more
18 meaningful.

19 I said my piece.

20 DR. MITCHELL: The committee has questions.

21 MS. STRICKMAN: How could we focus a proposal,
22 particularly to effect some change in the lives of people
23 who cannot afford and cannot access private attorneys?
24 The lack of civil rights attorneys even willing to take
25 the cases, and also the cost they assume it will take, and

1 you're talking about people who ordinarily do not have
2 access to those resources.

3 MR. KAPLAN: Well, I don't think that that's again a
4 realistic possibility to be able to develop. One, the
5 numbers of lawyers that it would take to effectuate this
6 kind of change that you're talking about. It is too
7 difficult to make a living. I mean, there are some
8 lawyers who got into this because they said well, it's
9 really going to be possible to make a very significant fee
10 here. What they haven't realized is it's very hard to
11 make any kind of significant fee, and they are up against
12 lawyers who have been doing this for many years and were
13 well trained and can do that, and so I think that as we
14 have learned in the -- since the enactment of the '64
15 Civil Rights Act, while general frameworks can be
16 accomplished -- changes in general frameworks can be
17 accomplished through the law and through litigation, the
18 more meaningful change, the more meaningful desire of
19 employers to have diversity programs, where they realize
20 that it is in their best interests to hire people of
21 diverse backgrounds, to hire the people who have some kind
22 of disability, that's the only way it's going to change.
23 It's not going to change through litigation. I mean, in
24 meaningful numbers.

25 And most lawyers going to law schools are not

1 interested in handling this kind of litigation. It takes
2 significant start-up money. And the one lawyer who is
3 handling a significant number of ADA cases here in town
4 has an independent resource, in which he was able to
5 significantly to mount a number of these cases, because he
6 didn't have the need for immediate income.

7 Now he's made a living, I think, handling these
8 cases, and he's learned something about it, but the fact
9 is that you're not going to get that many lawyers to
10 handle it. It just isn't going to happen. I mean, I've
11 watched the development of the number of lawyers who
12 handle these cases with any kind of dexterity and with any
13 kind of ability, and there just aren't that many, and
14 those who handle them now are exceedingly selective about
15 the cases that they handle, because it's so hard to win
16 them.

17 I mean, if you look at the Eighth Circuit advance
18 sheets every day, as I do, you see that the overwhelming
19 number of cases that are brought are adjudicated. They
20 terminate on motions for summary judgment on behalf of the
21 employer. I mean, that's just the way it is.

22 And this Commission isn't going to be able to change
23 that, isn't going to be able to affect that litigation
24 posture.

25 Now, you could say and one could make an argument

1 that well, if you resorted to the state system, that that
2 would be different. There would be a different body of
3 law in there. The fact is, however, in many cases, in
4 most cases, once a body of law has been developed, a state
5 looks to that other body of law. I mean, you either look
6 to another state or you look to the federal body of law
7 for guidance in how to interpret a statute and how best to
8 handle the various problems that come up under a statute.

9 So whatever happens, judges would look to federal
10 law anyway, and why we would think that our judges would
11 be any more hospitable to claims, particularly in areas
12 outside the metropolitan area, than our federal judges, I
13 can't imagine why we would think that.

14 DR. MITCHELL: It's pretty discouraging.

15 MR. KAPLAN: Well, it is discouraging, but there are
16 other areas where it is very encouraging. That is, you
17 know, I represent a couple of fairly large employers, and
18 those employers are exceedingly hospitable toward
19 diversity. I mean, I've got a case where I'm defending
20 now where a fellow is claiming that he was retaliated
21 against by a group of women who were hostile to men. And
22 it turns out that this is a fairly large, female-dominated
23 work force, and as you would hope, the overwhelming number
24 of supervisors, including the highest level supervisors,
25 are women, as it ought to be.

1 And you know, I don't think that the fellow was
2 discriminated against because he's a male. He thinks so.
3 But this employer has been aggressive in pursuit of
4 diversity in the workplace, studies the numbers all of the
5 time, and it has been beneficial to them. They have
6 realized that it has been of benefit to them in both the
7 short and long-term run to create a work force of this
8 kind.

9 Now, they're not without litigation. It happens
10 occasionally. Thankfully for lawyers it happens
11 occasionally, but on balance they believe that this has
12 been a good thing for them and the communities in which
13 they operate, and I think convincing employers on an
14 increasing basis that it is good for them, as many
15 employers have come to understand and realize, is where
16 we're going to achieve our real hope.

17 I heard a report yesterday on MPR, there has been,
18 as you know, some real controversy about affirmative
19 action in higher education, and there's a new study by a
20 group of researchers at Harvard, as it turns out, saying
21 that there has been a very significant, positive effect,
22 contrary to some of those studies, that have said that
23 there really is either a negative or a zero effect that
24 this has had -- that affirmative action would have a very
25 positive effect, that without it you would see a very

1 significant decreased in minority enrolment in both
2 undergraduate and graduate schools, that those minorities,
3 African Americans primarily, who have gone on to graduate,
4 while they haven't been at the top of their class, have
5 far exceeded their white cohorts in the number of graduate
6 degrees and the number of law degrees and the number of
7 medical degrees. That's a very positive thing and it's
8 something that needs to be encouraged.

9 And the fact is that there has been a great deal of
10 disparagement of affirmative action, which needs to be
11 counteracted and we need to educate folks on the great
12 benefits that it has had and what benefit it will have
13 into the future for the nature and complexion of this
14 society.

15 DR. MITCHELL: Any other questions?

16 RABBIE LEVY: Very sobering report. And I'm
17 wondering if we can deal with a both/and rather than an
18 either/or, and you talked about convincing employers, but
19 we're still where the redress of grievances by employees,
20 and those who have been discriminated against. What --
21 you have great suggestions about the employer part. What
22 about the employee part, considering such a backlog and --

23 MR. KAPLAN: If one is going to try to do something
24 in that area, and I don't think that looking at litigation
25 is where you need to be, but I think that something in the

1 nature of what lawyers call ADR or alternative dispute
2 resolution, is a fertile area. That is there's a whole
3 lot more that can be done bringing together people through
4 medication of disputes, remediating in that way, than
5 there is through litigation, and encouraging ADR
6 possibilities, it seems to me is -- even in the small
7 employer setting, instead of setting up a bureaucracy that
8 has zero chance of being funded.

9 Starting on a less ambitious program where people
10 would then have -- aggrieved individuals would have better
11 access to mediation -- now to go through mediation you
12 really still need a lawyer. You've got to bring a lawsuit
13 essentially, and the two sides have to agree on mediation.
14 It works quite well in those situations in which we have
15 mediated both for plaintiffs and defendants. It has
16 worked very well.

17 The fact that there is no compulsion, the fact that
18 it is voluntary, the fact that you can with a trained
19 mediator see through some of the externals, the problems
20 or the matters that really aren't there, that raised as
21 red herrings, and get down to the essentials, is quite
22 beneficial.

23 I think that encouraging in that area, Rabbie Levy,
24 would be much, much more beneficial than another layer of
25 litigation bureaucracy.

1 DR. MITCHELL: Any other questions?

2 MR. COULTER: I don't know whether this is a
3 question -- I guess it does have questions component to
4 it. It seems to me there has to be some impetus for the
5 employer -- from my standpoint there are two reasons why
6 employers -- perhaps those are the ones you represent --
7 are more enlightened, and that is there's a market-driven
8 calculation, a diverse workplace, diverse work force,
9 enables the employer to deliver product or services to a
10 diverse market. And those who are figuring that out are
11 doing better at the box office. They're making more
12 money.

13 But it also says there are a number of employers and
14 other people in the market who are going to do that only
15 because someone brings them to it through some threat or
16 some impetus, and I think it may not still be the case
17 that litigation is going to advance that goal, but it
18 surely was the case when you were doing it in the 60's and
19 others were doing it, that it brought a lot of people to
20 that educated, enlightened position, either you did it or
21 other people did it, to help them realize -- but there had
22 to be some threat out there of adverse result.

23 And I think what you're saying -- I guess I'm
24 asking, are you saying that the problem is not so much
25 that litigation is an ineffective tool to start that

1 millennium toward enlightenment, as is that now the
2 results are so skewed against the employee, the result
3 will be discouraging to the employee, to the advocate and
4 --

5 MR. KAPLAN: Well, I think there are still some
6 incentives.

7 MR. COULTER: There's no longer a disincentive for
8 bad behavior.

9 MR. KAPLAN: I think that there are still
10 incentives, because the existing law is -- has some teeth.
11 That is, the primary fear on the part of the employer, the
12 primary incentive would be still would be cost, because
13 even if they're successful, to take a case through even a
14 summary judgment stage is going to be many thousands of
15 dollars for them. To take a case through medication is
16 hundreds of dollars. I mean, you're talking something
17 5,000 and below as opposed to \$50,000, and so there is
18 some incentive there.

19 There is no doubt that the kind of incentive that
20 existed when this litigation first began, major class
21 action lawsuit, is gone. It is --

22 MR. COULTER: And so too are the major violations --

23 MR. KAPLAN: And so too are the major violations,
24 that's exactly right. The violations are much, much more
25 subtle now. And it is virtually impossible to win an age

1 case, a-g-e, in the Eighth Circuit Court of Appeals. You
2 can win them all day in front of a jury. Juries are
3 exceedingly hospitable towards age cases, if you can get
4 to the jury, if you can survive a motion for summary
5 judgment.

6 There are so many reversals at the Eighth Circuit,
7 there's so many age case summary judgments, that are
8 upheld at the Eighth Circuit. I mean, you'd think that
9 this was some aberrational statute that was passed some
10 years ago in complete folly. Obviously it wasn't. It was
11 to address a very specific problem that still exists.

12 I think there is still incentive. I think that the
13 incentive of the existing litigation is still there, the
14 possibility of existing litigation, the statutes are still
15 there. And they are effective if somebody can get a good
16 lawyer and bring the action, and even if you get a good
17 lawyer, it's tough to win.

18 I mean, I've lost plaintiff cases in front of juries
19 that I thought that, you know, I should have won, and
20 maybe in another time I might have won. So -- and I don't
21 think it was because of particularly bad lawyering on my
22 part that I lost them. It's just that given the state of
23 the law, given what the instructions are to the juries,
24 it's tough to win those cases, but those cases cost a
25 bunch of money to those employers. We didn't bring them -

1 - we brought them to remediate a wrong, not to cost the
2 employer any money, but that kind of incentive to try and
3 resolve a matter -- it may not ever resolve, but at least
4 there's a mechanism there.

5 There are lots of -- I suppose that 90 percent of
6 the calls that I get, and I get a lot of them, are people
7 who think that an employer can't be arbitrary. You know,
8 what do you mean he discharged me because -- well,
9 whatever, whatever the reason was. You can discharge an
10 employee and it isn't only in Arkansas, because we're an
11 at-will state, almost virtually every state in the country
12 is an at-will state, an at-will employment state. You can
13 discharge an employee because you don't like the way they
14 looked when they came in that morning. They had a bad
15 hair day and you don't like bad hair days. It doesn't
16 make any difference.

17 That's just the way it is, and the reverse of that
18 is an employee, as needed as they are, as valued as they
19 are to that employee, can walk out any day and say, the
20 heck with you and the horse you rode in on, I'm not
21 working here any more, I got a better deal.

22 And you know, I talked to a client this morning.
23 We've got a non-compete clause in our contract, and lots
24 of our people are leaving because they're being offered by
25 competitors \$15,000 more. It's a slightly different

1 operation that pays better in the marketplace. The
2 marketplace pays better for this. They're not really
3 competing with us, but close.

4 The employer says to me, well, I mean, can I really
5 blame them for getting \$15,000 more? These are people who
6 are living not on \$150,000 where loyalty might make some
7 difference, but it's the difference between \$25,000 and
8 \$40,000. That's a big difference in disposable income.

9 So you know, the employer says well, you know, I
10 trained them. They're valuable to me. I was the one who
11 invested all the money. Well, that's too bad.

12 MR. COULTER: Pay them for it.

13 MR. KAPLAN: Pay them for it. The marketplace won't
14 warrant it, it doesn't warrant it.

15 DR. MITCHELL: Any other questions for Mr. Kaplan?

16 MS. STRICKMAN: One more brief one. Do you really
17 think that there aren't a lot of public accommodation
18 cases or incidences of discrimination, or it's just that
19 the same theme applies, which is that people don't have
20 much opportunity to redress that?

21 MR. KAPLAN: I just don't think that there's a lot
22 of it. I think that I'd hear about it. I mean, of these
23 calls that I get, surely some would be mixed in with
24 public accommodations. You know, every once in a while
25 I'll get a call on a motel, that -- and this is the

1 typical call. Frankly, I've had two or three of these
2 over the last years, and that's the only reason I can
3 remember.

4 They won't rent to me because I live in the town and
5 they say they won't -- some hotels won't rent if you live
6 in the same town. I've learned now what the situation is.
7 You know, if you went to The Excelsior you could rent a
8 room if you lived in Little Rock. If you go to Motel 6,
9 they're a little bit more leery of it, because they've had
10 lots of drug problems. The drug problems tend not to be
11 at The Excelsior. They tend to be, you know, deliveries
12 and weigh stations --

13 DR. MITCHELL: They don't catch them at The
14 Excelsior.

15 MR. KAPLAN: Well, that may be. Dr. Mitchell, you
16 may be right. But the others are -- I think that that's
17 the primary motivation in a number of those. I don't
18 think that it's race. I think that it's more public
19 safety issue. But I think that I'd hear if there were
20 more problems, and I think you'd hear about it, you know,
21 in the papers and letters, whatever, you'd hear about some
22 of those things. People, now that they've heard about the
23 Denny's thing, you know, and the lawsuit on Denny's, you'd
24 think you'd hear a lot more about that. People understand
25 what their rights are.

1 MS. STRICKMAN: But in disability, I think it's
2 different and I think there's significant problems within
3 public accommodations, people with disabilities.

4 MR. KAPLAN: You know, there was a case decided in
5 the Eighth Circuit two days ago, three days ago. It was
6 Friday of last week on a chain that kept somebody out with
7 a dog. It wasn't even a seeing-eye dog. It was a dog
8 that helped with some disability function, can't remember
9 now what it was.

10 And the -- a case like that went up to the Eighth
11 Circuit and I think that you're right, that there are from
12 time to time those cases with either access or refusal to
13 serve on disability issues.

14 MR. COULTER: Let me ask one more question. What do
15 you think the incentive mechanism is to get employers to
16 participate in ADR's?

17 MR. KAPLAN: I think the major incentive is money.
18 It's so much more --

19 MR. COULTER: But somebody has got to bring a threat
20 of lawsuit.

21 MR. KAPLAN: Well --

22 MR. COULTER: What I hear you -- if I was going back
23 to my clients, I'd say, Phil Kaplan believes there's a
24 snowball's chance in hell that you're going to lose on an
25 ADA case in the Eighth Circuit, so if you got people who

1 are in their early or mid-50's and you want to hire
2 somebody who is 36 to replace them, you've probably got a
3 good chance of getting away with it.

4 MR. KAPLAN: You know, I confess that I haven't
5 really thought this through. I mean, I thought through
6 ADR, but the mechanism for how a state could deal with ADR
7 at either an agency or in some manner effectuating the ADR
8 type resolutions, whether it needs to be an agency that
9 promotes ADR, and that may be the best way to start it. I
10 mean, the best way to start it may be by encouraging state
11 agencies to use ADR, because you know, I don't think
12 there's any doubt but that we get as many calls from state
13 employees as we do from private employment sector
14 situations, to encourage that kind of resolution in that
15 kind of captive unit, state agency employee, and maybe
16 beginning there, and what I'd like to see you focus on is
17 to come up with a -- some device, some mechanism that has
18 a realistic possibility of success and that around which
19 you could build a coalition, and I think that it's
20 possible -- it's much more possible, much more likely to
21 build a coalition around something like ADR as a
22 reasonable cost effective, society effective way of
23 dealing with a problem, than it would be with litigation.

24 DR. MITCHELL: Thank you very much.

25 MR. KAPLAN: Thank you.

1 DR. MITCHELL: For that perspective. Thank you. We
2 have another committee to join us, Bob Friend. Our next
3 presenter is Willyerd Collier, who is an attorney by
4 training and some practice. He serves presently as
5 Director of Affirmative Action at the University of
6 Arkansas. Mr. Collier.

7 MR. COLLIER: Good morning. First of all I'd like
8 to thank you for the opportunity to come here and speak, and as
9 I listened to Attorney Kaplan as he spoke before me, several
10 things I agreed with and some of the things I didn't agree
11 with.

12 So I think that it might be most helpful for those
13 of you -- most of you don't know me, to tell you why I come at
14 this thing as a kind of three-headed monster.

15 When I got out of law school from the University of
16 Arkansas in 1978, I moved immediately to Savannah, Georgia, and
17 had the privilege of practicing law first in a small firm and
18 later as a solo practitioner for a period of ten years. During
19 that time as an attorney I represented a number of people who
20 had employment type disputes, Georgia Fair Employment Practices
21 Commission, which is kind of analogous to what I think you're
22 proposing here.

23 After my wife got tired of managing my legal office
24 and wanted to go back and get her doctorate, we returned to
25 Iowa City, where I got my law degree, and she went into her

1 doctoral program, and after I finished all of my obligations
2 back in Georgia and needed a job, I wound up working in the
3 Office of Affirmative Action at the University of Iowa, and
4 laughingly thinking that I was getting paid for doing things
5 that I probably would have done for free in another life.

6 And when my wife finished her Ph.D., and we began to
7 look for a job and we lived down south in Savannah for ten
8 years, and up south in Iowa City for another six, we decided we
9 wanted to move back south and a job came open at the University
10 of Arkansas, and that's how I got in Fayetteville.

11 Well, Iowa has a state civil rights commission,
12 which I worked with in my previous job as a compliance officer
13 at the University of Iowa, so I had an opportunity as in the
14 affirmative action office with the State of Iowa to watch the
15 interplay between the local civil rights or human rights
16 organization, a state civil rights organization, and then the
17 federal organization, be the EEOC or the others, that handle
18 discrimination complaints, and then I came to Arkansas where
19 you've got state law, the federal agencies, and kind of nothing
20 in between.

21 And I guess my feeling is that while I agree that
22 necessarily focusing yourself towards litigation is not going
23 to be an answer and it's not going to be popular, and although
24 I don't purport to understand all of the Arkansas -- I'm still
25 trying to get the distinction between up the hill and down the

1 hill. But I do think -- but I do think in my job as the
2 director of affirmative action at the University of Arkansas in
3 Fayetteville, with 12,000 students, about a thousand faculty
4 members, maybe another 6,000 employees, I get an awful lot of
5 calls from people outside of the University of Arkansas, from
6 small and sometimes from some of the large companies that have
7 ineffective HR representatives who don't take them seriously,
8 not knowing what their rights are, not knowing about what is
9 though imperfect and not self-actuating, a statute that
10 nonetheless if people knew existed, and were able to find an
11 attorney to go out and take these cases and knew the law, could
12 address some real serious situations that come up.

13 Just yesterday I got a call from a faculty woman, a
14 very astute faculty woman, a woman who knew what her rights
15 were, a woman who was negotiating the tenure mine and tenure
16 field very well at the university, and probably in another
17 couple years is going to be tenured and be a very promising
18 academician.

19 But she was furious. She went to a meeting with a
20 departmental chair. The chair was late to the meeting. The
21 chair went over the time of the meeting, and she got a call
22 from the school indicating that school was out and her daughter
23 needed to be picked up, and she asked the chair could they
24 table the meeting, could they do something else, that she
25 needed to pick up her daughter, and the chair looked at her in

1 a very hardy way and told her do what's in your best interest.

2 Now, fortunately she was politically sophisticated
3 enough to get a pause for two minutes and had relatives and
4 other things where she could address the issue in another way
5 and do what was in her best interest and return to that
6 meeting, but that's the kind of blatant insensitivity that
7 you've got to gender issues by people who don't have small kids
8 or don't have the responsibility of tending for that, and if
9 it's hitting a professionally educated, doctorally educated,
10 trained, sophisticated smooth woman, what's happening to
11 somebody else out there at a ten or twelve thousand dollar a
12 year job that doesn't have a clue about what their rights are?
13 So I think that one of the things that this -- and I don't
14 particularly like the draft and somebody didn't check -- I know
15 I'm in Arkansas and I know this thing says Alabama, but I do
16 think that if you look at what's going on with the -- if you
17 look at what's going on with the EEOC and some of the other
18 federal agencies that are handling these kinds of things,
19 there's a real move towards alternative dispute resolution, and
20 I think from my perspective and from listening to the people
21 outside of the University of Arkansas who call me and -- I
22 mean, my office is a small office. There are three people. We
23 have an administrative secretary. I have an assistant and it's
24 me, it's the three of us, and we're responsible for receiving
25 complaints of discrimination, for whatever matter, on the

1 university campus. We're responsible for responding to
2 external inquiries, Department of Labor and other places, and
3 sometimes people feel, you know, we see that you work in -- to
4 protect the university's interests, when the Office of Federal
5 Contract Compliance -- can we really believe that you will
6 aggressively pursue some of these cases that we have and some
7 of the things that are going on? I think the existence of a
8 state commission, even if it focused solely on education and
9 maybe alternative dispute resolution, would fill in a huge
10 missing block in this state, because discrimination is going
11 on.

12 And I also think that as a practical matter a lot of
13 what's going on in employment area is much more sophisticated
14 than what went on in years past, and I think that the hot
15 buttons at least as I see higher education, are going to be in
16 the area of employment and hiring, because the standards aren't
17 really as well defined and as evenly applied across disciplines
18 or across colleges as people who are unfamiliar with higher
19 education might think.

20 And I think that if we don't take the time to have
21 something short of filing a lawsuit, it's kind of like the oil
22 filter commercial, you know, you can pay me now or you can pay
23 me later.

24 And I suspect that in many of our mid-size and
25 smaller companies, we've got a time bomb going on, because

1 lawyers won't take some of these cases at this point, because
2 they don't see how they can make a living. They're looking at
3 the judges and they're seeming very hostile, but there are some
4 awful things that are happening.

5 And some people believe that all of this is
6 fruitless and this is nonsense, who would say that the young
7 woman who called me yesterday, those things don't happen.

8 The absence of noise is not peace. And I think that
9 this thing needs to be scaled down frankly, from what I saw
10 there. I think there ought to be more emphasis, if you will,
11 on mediation and alternative dispute -- and education, because
12 oftentimes when I sit and I audit hiring at the university,
13 when you apply for a job at the University of Arkansas, as soon
14 as you apply and your application is acknowledge, they send you
15 what we call protected class data form.

16 You may return it if you choose. You may not. We
17 can't make you do it, but if you return it, my office has to
18 collect the data and has to keep the data, and has to review
19 the faculty and non-classified positions to make sure that our
20 departments are in fact complying with what they say they were
21 looking for.

22 Oftentimes I will call a department and I will start
23 a particular job that's going on, and I will ask for a resume
24 or additional information or explanation as to why an
25 individual was not included within a short list, and

1 predictably -- it happens three or four times a day to me --
2 I'll get a call from someone saying what do you mean, you're
3 stopping this because you just want to favor a black person in
4 this job or we're not going for quality, this is unnecessary,
5 this is delaying the process.

6 And basically I turn it over the same day it comes
7 in. I don't know where all this stuff about delay comes from.
8 But it's stuff that's been fair to people politically, and I'll
9 stop it and I'll say I didn't tell you that I stopped this
10 because there were no black people in this pool.

11 If you really want to know, I'm looking at this
12 position and everybody has been picked on the short list here,
13 is already employed within this university, and there are
14 people over here who have applied for the position who have
15 seen this who seem to match the things that you have advertised
16 better than some of these people that you have here, and in
17 fact if you really must know, one of the people I'm interested
18 in is a white male, disabled Vietnam veteran. That's the
19 reason I called, because I have a responsibility not just to
20 look out for blacks or women, but to make sure that these
21 things are fairly applied across the board, and then I get a
22 response something like oh, you mean I'm included.

23 The point being, we've got a lot of education that
24 we need to do, of people who are against diversity, who are
25 against inclusion, who want to maintain the unfair advantage

1 that they've had, who will vilify this effort, I don't care how
2 much you scale it down, will vilify me, and office of
3 affirmative action. They'll vilify any lawyer that goes out.
4 They'll say it's unnecessary, it's time for -- it's not going
5 on. It is going on.

6 And I think the creation of a state agency with
7 local things where you can get at some of these things and talk
8 to people about why they shouldn't do some of these policies.
9 Talk to people about the fact that if you want to have a system
10 where you close opportunities for people to apply for jobs, to
11 people who are inside the company before you go outside, that
12 is incumbent to you as an employee to make sure that some
13 people who are different by gender and by race and by other
14 things, that you can see, are getting into the mainstream on
15 the front end.

16 Those kinds of things I think that this Commission
17 could do a good job of doing, and so I think there are some
18 things to sort out. I don't purport to understand all of the
19 politics. I don't know -- I've only been here four years.
20 Like I say, I'm still dealing with up the hill and down the
21 hill, okay, but that's my view of it and I'd be happy to
22 entertain any questions anybody might have.

23 DR. MITCHELL: Any questions from the committee
24 members? You must -- okay, Mr. Coleman.

25 MR. COLEMAN: I mean lawyers --

1 DR. MITCHELL: Mr. Coleman.

2 RABBIE LEVY: You're basically agreeing with Mr.
3 Kaplan. You were here when he --

4 MR. COLLIER: I'm not quite as pessimistic as he is.
5 I think that --

6 MR. COLEMAN: Well, in terms of the alternative
7 dispute resolution?

8 MR. COLLIER: Yes, I do.

9 MR. COLEMAN: As opposed to the civil rights
10 enforcement?

11 MR. COLLIER: Yes, I do. I just think that when the
12 federal agencies that you would have to look to are
13 moving, EEOC, OFCCP, they're all moving to encouraging
14 alternative dispute resolution. They're all moving to do
15 that. They're all moving to do that at this point in
16 time. You know, I think you need to give some of those
17 people out there who are having this stuff happen to them,
18 they're not making this stuff up.

19 They've got to have a step in between going --
20 plunking down three or four thousand dollars to an
21 attorney, if they can find one that's competent to handle
22 these kinds of things, and then go through all of the
23 rounds of summary judgments and all of the other things.
24 You're talking about people -- if you're talking about
25 plunking down \$4,000, you're talking about plunking down

1 30 percent of what they're making. And so it doesn't mean
2 that these things aren't happening.

3 Like it means that people don't feel they have
4 anywhere to go and so they suffer and it builds up, and
5 I'm just afraid in some little -- in some areas where
6 people are particularly callous and insensitive to these
7 things, they're going to keep messing around long enough
8 and they're going to build up enough of this stuff,
9 feeling that they're impervious, and then they're going to
10 have something like happened Mazda, and then maybe you'll
11 get their attention, but hopefully you could talk to
12 people, because when people feel that they can't do their
13 work -- we have a supervisor at the university, lost a
14 good employee, turned in a resignation just yesterday.

15 Supervisor went up to this woman and said what kind
16 of thinker are you? You don't have sense enough to
17 understand that you need to do something this way or that
18 way? Now, was that sexual harassment? No. All right. I
19 don't think so. Did it demoralize the employee to the
20 point that she had it and took another job outside of the
21 university? Yes.

22 Does the supervisor have a big turnover in the
23 department and have to be constantly retraining people
24 because of these kind of little imponemomic kind of
25 complexes that he has about management? Yes. I mean, you

1 can pull the files at the university and see how many
2 people are leaving.

3 One of the reason why you can't accuse him of gender
4 based discrimination is he's just an equal opportunity
5 abuser. He's lost as many men and women and blacks and
6 whites as anything else at this point in time. And you've
7 got bad management that tends to skirt away from dealing
8 these kind of issues and trivializes them, and that's one
9 of the things that I think a state commission could do in
10 the informational area to say listen, you know, we don't
11 necessarily find, even though this person may have said
12 that this was gender-based discrimination, but why is it
13 that this department has this many people over here and
14 the turnover in this department is 15 people over the last
15 three years that this person has been here, and we've got
16 a similarly situated department over here that's the same
17 size where people like coming to work.

18 Why is it that people over here don't have high
19 absenteeism? Why is it people over here don't take all
20 their vacation days, they get forced to go and take
21 vacation days before they lose them, and everybody up here
22 is taking up all their vacation days over here? Why are
23 these things going on?

24 If you don't have the kind of sensitivity to -- many
25 of these kinds of issues with regard to disability and

1 gender and race, where people are indepth and skilled at
2 the HR level of dealing with them within the company,
3 those folks have absolutely nowhere to turn, and the
4 people above them think everything is going on fine,
5 because they're not hearing anything, and so it kind of
6 builds and festers. That's my view.

7 I think that scaled back, this agency could be a
8 powerful entity to train and to sensitize and to show
9 that, you know, you might want to trivialize this person
10 over here. Well, what do you mean do with these other six
11 people who are left? And frankly, we have some of that at
12 the university. Anyway, I --

13 MR. NGUNDUE: With your vast experience in civil
14 rights matters and as director of the affirmative action
15 at UOA, would you be willing to give your full and
16 undivided support in convincing the government and some of
17 the leadership up in the northwest corner to pass this
18 bill with substantial teeth?

19 MR. COLLIER: I honestly, I only read the bill --
20 I've got the letter and I looked at the letter. I read
21 the letter, but I didn't actually read the bill until last
22 night when I got here. This bill, this draft that we've
23 got here, my recommendation would be that it needs to be
24 rethought and it needs to be drafted down.

25 If you ask me could I enthusiastically support this

1 draft, I would honestly say no, but I do think that
2 there's some modifications that need to be made that I
3 could support, because I believe that there is a need for
4 something between the statute, which is not self-
5 actuating, which allows people to hire private attorney
6 and sue if they can get a lawyer and if it's egregious
7 enough and they think they can find a pocket, and what's
8 available in terms of filing complaints with the federal
9 agencies that handle this.

10 MR. NGUNDUE: Mr. Collier, my understanding, you can
11 say that you would add on educative statutes to this -- of
12 the statute?

13 MR. COLLIER: Whether you add it on directly or
14 whether you make it part of the admissions, I think to
15 talk about educating and bring it in that way is going to
16 make it a lot easier to sell to people, because some
17 people don't believe that this stuff is going on. Some
18 people don't believe that we have discrimination going on.
19 They don't believe. They believe it's over with, it
20 doesn't exist any more, and you're going to have to figure
21 out a way to educate them that it is still happening.

22 MR. COLEMAN: In the field of academia, could some
23 of this be avoided -- I mean, on the supervisor level, if
24 we did not have any place unbreakable kind of -- you know,
25 I take it -- when I was there in '54, trying to do a

1 degree, the instructors who were kind and didn't see why
2 they wouldn't permit us to go to the football games unless
3 we sit on the track, those professors were somehow kinder
4 -- you know what days I'm talking about. And somebody was
5 quick to recommend they need to leave here, and they been
6 there for 25 years and cannot -- anybody, let alone the
7 kids. I'm just wondering is academia so entrenched that -
8 - it will take an other generation to get something --

9 MR. COLLIER: I hear what you're saying. I think in
10 the case of academic institutions, if our problems were
11 confined to our tenured faculty only, it would be a fairly
12 -- much more manageable situation than we have right now.
13 It's not -- tenure does not -- tenure is a lifetime
14 contract unless extraordinary context would happen to have
15 a person to be fired, but I really think that in terms of
16 these issues, I can't honestly say, having been at
17 Arkansas and four, going on five years, and having spent
18 six years in doing this work at the University of Iowa,
19 that the tenured folks are any worse with these issues
20 than anybody else, and in fact it's often the folks who
21 aren't tenured who have the greatest access to the
22 students, that cause the greatest problems.

23 Often -- for instance, we did a survey recently at
24 the University of Arkansas with the chancellors -- he
25 wanted to see what was happening with his increased

1 admission standards that you people have been reading
2 about. One of the things that we found when we looked at
3 the data is that we have ten courses that are absolutely
4 killers for black kids and white kids at the University of
5 Arkansas. Kids wind up on probation or get nailed in
6 these ten courses. And a vast majority of those courses
7 are being taught not by the tenured faculty, but by
8 graduate assistants.

9 And the things that are being said to those students
10 that are turning them off are not being said necessarily
11 by tenured faculty members. They're being said by other
12 people in the system. I don't think that these kinds of
13 issues are confined -- you know, tenured people may stand
14 out a little more when they do it, but I don't think it's
15 confined there. It's a much deeper problem than that, in
16 my view.

17 DR. MITCHELL: Thank you very much, Mr. Collier. Is
18 Ms. Shelia Gomez here? Thank you. Ms. Gomez serves as
19 Director for the Catholic Immigration Services. We are
20 pleased that you are joining us to provide us with this
21 information.

22 MS. GOMEZ: Thank you and I appreciate your
23 invitation. Before I start, I'd just like to say two things.
24 Number one, I realize I'm the last speaker before lunch. And
25 number two is you're in luck, because I'm not an attorney.

1 However, since I do like to talk, I did prepare my remarks, and
2 if you are visual, you could just go along with me.

3 This is to help me keep to my time limit. Catholic
4 Immigration Service is a program, a nonprofit program, which is
5 the only nonprofit program in the State of Arkansas that is
6 recognized by the Board of Immigration Appeals, and by the
7 Immigration and Naturalization Service. And we are certified
8 to provide immigration assistance to immigrants at or near the
9 poverty income level in Arkansas.

10 So if you'd like to read along with me, historically
11 newly arrived immigrants are vulnerable to civil rights
12 violations. And today in Arkansas history is repeating itself.
13 Within the past eight years Arkansas has experienced a dramatic
14 increase in its immigrant population.

15 The May 11th, 1998, issue of U.S. News and World
16 Report in an article about Latino growth patterns showed
17 Arkansas to be among the states in which the hispanic growth
18 rate has more than double since 1990. According to Arkansas
19 Democrat-Gazette (September 4, '98), the hispanic population
20 has risen 127 percent since 1990. Although this growth is most
21 evident in the northwest area of the state, immigrants reside
22 throughout the state. In fact, during the last fiscal year,
23 our program had 21,898 contacts with immigrants living in 35
24 different counties in Arkansas.

25 While immigrants come from many different countries,

1 manent resident from Mexico, if he or she wanted to immigrate
2 their spouse and minor children, the wait is about six years.
3 If they want to immigrate a brother or sister, that citizens
4 wants to immigrate a brother or sister, the wait is about 14
5 years. So it's not unusual for an immigrant family to have
6 different legal status within the same family.

7 You may have a legal citizen, a permanent resident,
8 and somebody who does not have documents, within the same
9 family.

10 Over the past few years we have witnessed a rise in
11 anti-immigrant sentiment from within the United States. This
12 is evidenced by the unduly restrictive immigration reform act
13 passed by Congress in 1996. The reactionary "immigrant
14 bashing" that started in California with Proposition 187, has
15 infected this land from coast to coast. The social climate is
16 now such that it is not only acceptable to discriminate against
17 immigrants, but in some circles this is considered almost
18 patriotic. The group AIM has organized in Rogers for the sole
19 purpose of keeping immigrants out of the United States and
20 specifically out of Northwest Arkansas. In this type of social
21 climate, one can envision how national origin discrimination
22 will be and is tolerated and promoted.

23 Clients have complained to our office about national
24 origin discrimination and document abuse concerning treatment
25 by law enforcement agencies (local police and border patrol),

1 government agencies, employers and private citizens.

2 We have heard complaints about legal immigrants
3 being refused ID cards, and Social Security cards in the
4 northwest area of Arkansas. Persons have been refused marriage
5 certificates because of their national origin in the northwest,
6 central and north central area of the state.

7 Immigrants from throughout the state have complained
8 being stopped by police because of (they felt), their national
9 origin. When stopped they have been asked to show documents to
10 prove legal status. These complaints have generally come from
11 clients living in southwest and southeast Arkansas.

12 In Pulaski County a hispanic immigrant female with
13 two young children was refused the opportunity to rent an
14 apartment because the landlord said that the immigrants did not
15 speak English.. We were also informed about a Pulaski County
16 apartment complex manager who is charging hispanics more rent
17 than other renters and asking them to pay in cash.

18 We were made aware of an Ashley County store owner
19 who told a hispanic gentleman to leave his store because he
20 didn't want any hispanics in his store. Another Ashley County
21 store owner told an employee to follow all hispanic and black
22 people who enter the store, because according to him, they come
23 only to steal. The employee quit her job.

24 During the past year our office has documents
25 complaints from clients who suffered national origin

1 discrimination and document abuse from employers in Siloam
2 Springs, Texarkana, Fort Smith, Springdale, Grannis, Rogers,
3 Hope, and Warren. (There are 12 examples attached for your
4 reference.) Those are in your packet. I'm not going to read
5 all of your packet, don't worry.

6 Immigrants are sometimes refused job applications
7 until they can produce proof of legal status, which is a
8 violation of the law. An employer must first, according to
9 law, they must interview a potential applicant and then they
10 have three days to produce papers, INI -- they can choose one
11 document from list A or one from B and one from C to prove
12 status to work. But the employer cannot ask from the start to
13 see their documents or cannot ask for specific documents. In
14 other words, if I come to work and I look Asian and I speak
15 with an accent, they can't say show me your green card and then
16 I'll give you a job application, which is what is happening.

17 Okay. Immigrants are sometimes refused job
18 applications until they can produce proof of legal status,
19 which is a violation of the law. One immigrant was refused a
20 job application with the excuse that immigrants don't stay.
21 They are refused job applications in certain locations because
22 of their national origin. Clients have also related incidents
23 of being intimidated by employers so they would not file
24 workman's compensation.

25 In the agriculture industry immigrants are sometimes

1 not paid for one or two months. Some employers are in the
2 habit of employing undocumented aliens, allowing them to work
3 during picking season and then not paying the employee. The
4 employee is often too afraid to complain. We have spoken to
5 agricultural employees who were living in chicken coops in the
6 southwest area of the state.

7 Undocumented persons are particularly vulnerable for
8 civil rights abuse. Our office was contacted by the Department
9 of Human Services and the Benton County Sheriff's Office about
10 a minor Salvadoran, 15 years old, who was contracted in
11 Houston, Texas, to work in a restaurant in Benton. The boy was
12 forced to work up to 16 hours per day, seven days a week. We
13 referred to sheriff and the DHS representative to the Office of
14 Special Counsel. I do not believe that this is an isolated
15 case.

16 Our office is part of a grant program from the
17 Department of Justice-Office of Special Counsel. We receive
18 funding to provide educational information on immigration-
19 related unfair employment practices to immigrant employees and
20 to employers around the state. We therefore understand the
21 extent of civil rights abuse in the employment field, and the
22 vulnerability of the immigrant employee.

23 These seminars provide us with an opportunity to
24 speak to many immigrants throughout the state and listen to
25 their stories. We hear about many areas and situations

1 involving civil rights abuse. I believe that the abuse and
2 discrimination of immigrants is at a level which necessitates a
3 local office to investigate complaints. Thank you.

4 DR. MITCHELL: Thank you very much, Ms. Gomez. Are
5 there any questions from the committee?

6 MS. STRICKMAN: Although you haven't had time to
7 think about what was posed or discussed by the previous
8 two presenters, what would be your response to the basic
9 question of the direction that we were considering going
10 based on the testimony that we hear from everyone,
11 regarding the need for a human rights commission with
12 investigative authority in the State of Arkansas?

13 MS. GOMEZ: If I understand the question correctly,
14 do I believe that the necessity is here?

15 MS. STRICKMAN: Right.

16 MS. GOMEZ: Very much, yes. We refer people -- we
17 give them the 1-800 number in Washington, D.C. to contact
18 Office of Special Counsel. Washington, D.C. is far and
19 away another planet sometimes, and they have a lot of
20 complaints from all over. And I think because of the
21 nature of immigration in Arkansas, and the fact that it's
22 been so much so soon, you know, in such a short time, and
23 that the people who have lived here a long time are
24 getting used to something that is very different, and when
25 you have that struggle, there's going to be problems, and

1 in Arkansas we have our special struggles.

2 So I think having an office here where someone would
3 be here and could understand where we are in our
4 immigration -- we're not California. We're not Texas.
5 We're not New York. This is something very different in
6 Arkansas and we do need someone who can understand where
7 we're coming from here.

8 MS. STRICKMAN: And do you think that that office
9 should have an emphasis on alternative dispute resolution
10 and education programming?

11 MS. GOMEZ: What else do you think -- what else are
12 some of the possibilities? Of course, I do but --

13 MS. STRICKMAN: Well, actually enforcement to
14 investigate hearings and --

15 MS. GOMEZ: To investigate and to bring hearings?
16 I'd have to think about that -- if I can let you know
17 later, I'd have to think about that. For the first part,
18 yes, definitely.

19 MR. COULTER: You might have answered -- when
20 someone calls and tells you or you get word of a reported
21 violation of some employer asked the applicant to see
22 their identification or their paperwork before or asks for
23 a specific document that's not available perhaps, and
24 doesn't give the employer the range of options, what do
25 you do for that person?

1 MS. GOMEZ: For that individual? What we do is
2 first of all we give them the number of the Office of
3 Special Counsel in Washington to make a complaint. We
4 fill out a complaint for our records. And we also, if we
5 can, try and talk to the employer. We give an employers'
6 seminar once a year and where we educate employers,
7 because employers don't know the law, and sometimes it's
8 just a case of they don't understand what they're doing.

9 MR. COULTER: When you talk to employers, what
10 happens generally? Do they talk to you?

11 MS. GOMEZ: Sometimes, yes and sometimes -- depends
12 on the employer. There are some who -- some employers who
13 are known for better -- you can tell them until you're
14 blue in the face and those are the employers that an
15 office like this could get in touch with and you know, if
16 it takes a lawsuit, it takes a lawsuit. And sometimes
17 that's the only way people listen.

18 MR. COULTER: I think that was the point that some
19 of us were trying to make with Phil, that it's not a
20 preferred --

21 MS. GOMEZ: Don't want to do that.

22 MR. COULTER: -- or even an ideal or optimal way,
23 but ultimately for some people who are not amenable to
24 education and reason, that may be the only course.

25 MS. GOMEZ: And also an office here, when you think

1 about who are the people you're dealing with who would be
2 making complaints -- now, in our case I'm thinking about
3 immigrants who are dealing -- immigrants come to the
4 United States speaking another language. Well, they
5 should learn English. Well, okay. Can you speak Chinese,
6 you know? Learn it, right now. They will if they can, it
7 depends on if they're gifted or not. But their children
8 will.

9 But we're talking about the immigrant. And when
10 they come here, they're dealing in another language.
11 They're dealing in another system that they're not used
12 to, because they're coming from a system where it's not
13 the same as here. The tools that one needs to get along
14 in that system is different than it is here, so we --

15 MR. COULTER: So they shouldn't have come here --

16 MS. GOMEZ: So we put these people into our system
17 and say okay, breathe, swim. Well, if we had an office
18 here -- okay, these are people who are very humble people
19 who will be coming, and they need that personal contact,
20 and you know, so I think to have them go and talk to
21 attorneys in Washington would be -- might as well send
22 them to Mars.

23 MS. ROBINSON: I have a question which brings us
24 right back to that issue regarding accessing legal
25 counsel. Does your agency have a listing of attorneys

1 that may consider representing some of your clients or
2 cases you feel like warrant -- you do refer them to
3 Washington but what about Arkansas? Are there a list of
4 attorneys who -- what happens? What's the nature of --

5 MS. GOMEZ: Usually we refer people to Central
6 Arkansas Legal Services here in Arkansas. Most of the
7 people cannot pay attorneys. We don't have a list of pro
8 bono attorneys, and there's a language barrier often.

9 MR. COULTER: But they do. At one point I was on
10 the board of -- legal services in a prior guise. It was
11 divided in two organizations. One of them was called
12 Legal Services of Arkansas and it had 26 non-contiguous
13 counties, which included a number of places where there is
14 an immigrant population, and they obtained, several years
15 ago and I don't know if it's still in place, the funding,
16 but they had obtained grants for specifically dealing with
17 the legal problems of immigrants. So that would be a
18 place to go if they still have that.

19 MS. GOMEZ: There is one hitch to that, one problem
20 that they don't represent anything -- of course, they
21 don't represent immigrants in immigration matters. And
22 they do not represent undocumented persons.

23 MR. COULTER: So they only represent immigrants in
24 other legal matters.

25 MS. GOMEZ: If you have somebody who is living in a

1 chicken coop and is not getting paid, they can't be
2 represented, if they don't have documents.

3 RABBIE LEVY: Beyond the legalities of whether
4 there's an agency or not, isn't there just a mindset near
5 where you are, a theological and sociological mindset that
6 just says that immigrants are inferior people and it
7 doesn't matter what the law is going to be, we're going to
8 do everything we can to keep them out, as part of the
9 religious groups that are there? You mentioned in here
10 not necessarily religious groups.

11 MS. GOMEZ: I don't think AIM is a religious group.

12 RABBIE LEVY: But we know of religious groups in
13 that part of the state, political and religious groups
14 whose aims, whether they are stated or subtle, are very
15 anti-immigrant.

16 MS. GOMEZ: Mm-hmm.

17 RABBIE LEVY: How do you deal with that aspect of
18 your work?

19 MS. GOMEZ: Okay. And the problem is when that
20 anti-immigrant sentiment --

21 RABBIE LEVY: Yeah.

22 MS. GOMEZ: Receives a voice, okay, and gains power.
23 Then it's a fight. Then it's a battle. It is, and how do
24 we deal with that? Let me tell you, when we had that wave
25 a couple weeks ago or I guess it's already a month ago, of

1 anti-immigrant -- immigration moratorium and it was in the
2 newspaper and it was on the radio and it was here, there
3 and the other place, our office received a number of calls
4 from immigrants who were afraid, and they said what is
5 going on? You know, are people going to come and take us
6 away?

7 They themselves are feeling, you know, they're
8 feeling that unwelcome -- not welcome. I have a legal
9 green card. I can vote -- I cannot vote but I pay taxes
10 and I have to have a selective service number and do
11 everything else, but I'm not welcome here. I'm not
12 welcome. And yeah, this is very difficult, something we
13 deal with every day. And as I see it, it's not going
14 away. It's just getting worse and worse. We try and
15 educate, educate as much as we can. We put on workshops
16 and seminars.

17 FATHER FRIEND: Shiela, I have a question for you.
18 In terms of agricultural and since Arkansas is an
19 agricultural state and I'm not even sure how many folks --
20 that we know how many folks are being employed with that
21 industry, but my question is what are you able to do for
22 folks who are saying living in chicken coops, and I have
23 noticed this myself, a lot of abuse in terms of that.
24 What can you all do for them, because mostly those folks
25 are individual persons who get away with hiding those

1 folks out and that's why they're living in a place for
2 farm animals, because no one would look there. Is there
3 any recourse for those folks who suffer that?

4 MS. GOMEZ: Legal recourse? If the person is
5 undocumented, because as you were saying before there's an
6 attitude of looking at people as less than we are,
7 especially the undocumented person is probably the most
8 victimized person that we have. Legally, you know, that
9 person is not going to be able to afford an attorney.
10 That person is pretty much vulnerable to the victimization
11 of the employer.

12 What we can do is just on a person-to-person basis -
13 - we can talk to the person, see if we can find him
14 alternative housing, talk to the employer, but really
15 something legally needs to be done. In a case like that,
16 that's where the Commission, the office that you're
17 talking about here would be helpful, because that needs to
18 be -- it needs to -- the darkness needs to be brought to
19 light is the only way to handle it.

20 DR. MITCHELL: Thank you very much.

21 MS. GOMEZ: Thank you.

22 DR. MITCHELL: Is Bill Cain in the house? Mr. Cain
23 is the General Counsel for Disability Rights Center, and
24 we are pleased that you have come to share with us.

25 MR. CAIN: I appreciate the invitation. Disability

1 Rights Center is a federally authorized and federally funded
2 organization authorized by Congress to protect the civil rights
3 of persons with disabilities.

4 I have read the proposed legislation, and I must say
5 I can be a little bit brief here, because my proposed remarks
6 would mirror those of Phil Kaplan and Mr. Collier, with respect
7 to the density, if you will, of the proposed legislation.

8 It apparently comes from Alabama. We checked with
9 our counterparts in Alabama and were told that this was on a
10 wish list of sorts, that it was incapable of passing, and was
11 then reintroduced.

12 And let me give you a little background in Arkansas.
13 In 1991 then newly elected State Senators Dick Schneider and
14 John Pegan called me and asked me to come to the Capitol and
15 begin discussions of a proposed civil rights act for the State
16 of Arkansas.

17 We were -- I think at that time we were the only --
18 one of the other two states in the Union, and the other is
19 Alabama, without some sort of state civil rights act. During
20 our discussions, as we looked at other states' civil rights
21 acts, we would -- especially northern states, would run across
22 the provisions for civil rights commissions, state civil rights
23 commissions, or human relations commissions.

24 We floated that idea, or it was floated by the
25 Senators, and were told in no uncertain terms, if that were --

1 if that provision were in the civil rights act proposal, it
2 would not get out of committee, even if it got to committee.

3 We verified that. It was drafted without that
4 provision, by compromise and promise to bring it up in the next
5 session. The bill was allowed to die or go to an interim
6 committee. In 1993, of course, it was passed and, as Phil
7 said, it is a rather comprehensive civil rights statute, if you
8 want to use it.

9 And by the way, in the package I received was a copy
10 of the 1993 Civil Rights Act in Arkansas, just so the committee
11 knows, it has been restricted. It was restricted by
12 codification in 1994, and amended thereafter also, to conform
13 more to such in 1993. As a matter of fact, I testified with
14 respect to that particular amendment, and the act itself is
15 really all right, except it's rarely used.

16 As a lawyer, I want a federal forum, always. Two
17 cases under the state Civil Rights Act have reached the Supreme
18 Court, the Arkansas Supreme Court to my knowledge, either
19 particularly substantive, as I recall.

20 The proposed legislation, which would take advantage
21 of the Arkansas Civil Rights Act is frankly more regulatory
22 than it is statutory. It is too wordy. I won't go through it,
23 but for example, speaking of wordy, the definition of
24 disability is about a paragraph too long. You can do that in -
25 - well, one-twentieth of the words, and it would be more

1 effective, but that's true of the proposed legislation
2 throughout.

3 Secondly, it doesn't have a chance of passage
4 realistically. This year, this session, fully one-half or very
5 nearly one-half of the House of Representatives will be new.
6 About one-third of the State Senate will be new. The hot item
7 is Department of Human Services, especially with respect to
8 youth services, and by the way, as that legislation moves
9 through the legislature, this proposal would scare people to
10 death.

11 It would give -- they would know it would give
12 persons and we've all read about the abuse, and we've
13 investigated much of it, our organization. In the past few
14 months no one, I don't think, would be willing -- I'm not sure
15 you can find a sponsor for it, first. But I don't think
16 anybody would be willing to set up another forum. They are too
17 worried about people like me anyhow who will take them to a
18 federal forum.

19 It is unwieldy. It would cost too much money. If
20 you're going to set up a separate entity that is too large, too
21 expensive, and this is not capable of passage, but I agree with
22 both of the other lawyers that I heard. Yes, we need some sort
23 of mechanism in this state for mediation and alternative speed
24 resolution.

25 You can do it with less staff -- oh, I do want to

1 say I agree with Mr. Collier about education. That's part of
2 our job. We try to get the word out throughout the state.
3 Yes, there are laws. Yes, these things are happening, but that
4 agency -- I wouldn't suggest it be a part of DHS, but --

5 MR. COULTER: Someone else might.

6 MR. CAIN: Yes, I think so. And I'm not sure the
7 Governor would be wild about it, but I think that's a very good
8 idea, because it's not just taking this proposed legislation
9 and modifying it and honing it and focusing more. It's a
10 different concept really, but you're aiming at exactly the same
11 thing, it seems to me.

12 And by the way, just a couple of things that I heard
13 earlier. With respect to public accommodations, and I what
14 member Strickman raised -- we do get public accommodations
15 complaints, of course, persons with disabilities. But in line
16 with my suggestion and the other suggestions about a different
17 kind of state agency, we went out, especially my senior staff
18 attorney, with a paralegal, and we just picked out the fast
19 food industry, for example.

20 And we began to investigate just in Little Rock so
21 far, various fast food outlets, restaurants. And determined
22 what ones were accessible and what ones were not.
23 Coincidentally, we received a call complaining about a Wendy's.
24 We said ah-hah. So we became proactive. We did not threaten
25 suit. Did take our investigation papers to the owners of 29

1 Wendy's and they said fine, let's talk about it.

2 They are in the process, and it's mostly completed,
3 of making 29 Wendy's in Arkansas, not just in Little Rock, but
4 in Arkansas, accessible. We not only didn't sue them. We gave
5 them an award at a press conference. I think that's the sort
6 of thing you're probably looking at.

7 This proposed legislation is just going to -- it's
8 another layer. It's going to foment litigation, and I don't
9 know why really you want to take a civil rights case generally
10 to a state court, and this is all state. You're going to go to
11 federal court. You have the laws in place. You have the
12 possibility or the probability, if you've got the right case,
13 of litigation.

14 Our legal services, of course, are free but we only
15 have two lawyers and so we can't do an awful lot of it. We
16 have to do very systemic things.

17 But the Wendy's suggestion is I think a good one.
18 That was systemic. We reached a lot of people there. That, of
19 course, is only in the disability field.

20 I thought there was -- oh, the employment cases.
21 That was the thing Phil brought up. He said he gets the Eighth
22 Circuit opinions. He rarely sees an employment case won, civil
23 rights employment case. Well, in the disability field I get
24 the opinions from all over the country for those with
25 disabilities. I've never made a study of them but just reading

1 them daily, I would guess 80 to 85 percent are won by the
2 employer, and usually, as Phil said, on summary judgment
3 grounds.

4 But we say this, generally speaking, inexperienced
5 lawyers bring those cases, and most of the summary judgment
6 grants are on the basis of the word "disability." They haven't
7 -- the lawyer hasn't figured out that his client does not have
8 a disability as defined by the ADA or Section 504 of the
9 Rehabilitation Act.

10 It's mostly poor lawyering and a way to make money,
11 some lawyers think, I suppose. That's why most of them are
12 lost and just not good cases. The law is not bad in the
13 employment area. The federal law, it's there for our use. You
14 can under the Civil Rights Act in Arkansas, by the way, unlike
15 the federal law, you do not necessarily have to go to the EEOC
16 and take a year and wait for a right to sue letter. You've got
17 a one-year statute of limitations and you can go ahead and sue
18 during that period, so in that sense the Arkansas law is
19 better.

20 I believe that's it.

21 DR. MITCHELL: Okay. Thank you, Mr. Cain. Any
22 questions for Mr. Cain? Thank you very much.

23 MR. CAIN: Thank you.

24 DR. MITCHELL: We're going to break for lunch now.
25 Our agenda calls now for a lunch break, and we will resume

1 our meeting here at 1:20. Thank you.

2 (Lunch break.)

3 DR. MITCHELL: The session this afternoon will focus
4 on comments from persons from various organizations and
5 agencies that could give us some idea from their
6 organization's point of view on the status of the civil
7 rights enforcement in our state. And first we should hear
8 from Gary Sweeney. Is Gary Sweeney present? No. Dan
9 Pless. Mitch Kline. Augustus Taylor? I know he's here
10 somewhere. I saw him eating lunch.

11 MR. JENKINS: We do not have the other participants
12 here at the present time until Gus comes back from lunch.
13 I would suggest the committee do one of two things, take
14 another break or you can continue to dialogue among
15 yourselves off the record on some of the things that you
16 heard this morning. It's totally up to the Chair.

17 DR. MITCHELL: Mr. Jenkins, we're going to wait a
18 few minutes. I know Mr. Taylor was wrapping up.

19 (Off the record.)

20 DR. MITCHELL: Our presenters are now present. First
21 I want to share with you the revised agenda for this
22 afternoon. We understand that Gary Sweeney won't be here,
23 so Dan Pless will be speaking on behalf of Gary Sweeney
24 and himself. He represents the Arkansas Fair Housing
25 Council. Gary Sweeney is Chief Program Operations Branch

1 for Fair Housing, U.S. Department of Housing and Urban
2 Development, Region Six, out of Dallas, Texas, so Mr.
3 Pless -- his comments will reflect both.

4 Then we'll hear from Mr. Taylor, who is the Deputy
5 Regional Director, U.S. Department of Justice, with the
6 Community Relations Service out of Dallas, Texas. And Ms.
7 Lida Jo Anthony's name is not on our agenda, but we will
8 hear from her as a representative of one of our community
9 agencies, the Leadership Round Table here in Little Rock.
10 She serves as president.

11 So first we will hear Mr. Pless and then from Mr.
12 Taylor, and then finally from Mr. Anthony and also from
13 Mitch Kline, who represents ACORN. Mr. Pless, we're
14 ready.

15 MR. PLESS: Did you all have copies of the Arkansas
16 Civil Rights Act -- the Arkansas Fair Housing Act? Gary asked
17 me to speak to -- I mean, what he asked me to speak to were the
18 deficiencies in the Arkansas Fair Housing Act. The Arkansas
19 Fair Housing Act, which I've just given you a copy of, was
20 passed as an amendment to the Arkansas Civil Rights Act, in the
21 session following the passage of the Arkansas Civil Rights Act.

22 We frankly -- part of the reason for the
23 deficiencies, by way of explanation, we didn't -- after all of
24 the trouble it took to get a Civil Rights Act in Arkansas, we
25 didn't expect the Fair Housing Act to pass so quickly. We

1 anticipated that there would be some time, then argument in the
2 legislative session, before we actually had a Fair Housing Act.

3 So the act didn't cover everything that we would
4 have liked to see it cover. It wasn't as well thought out or
5 as well -- various things that happened, it actually passed the
6 Arkansas legislature as an agreed upon bill. The Arkansas Real
7 Estate Association and others -- there was no opposition to it,
8 so it went straight through, and it was quite frankly against
9 what we expected.

10 So there was no discussion. There wasn't a lot of
11 give and take. There weren't the arguments that usually happen
12 in the legislation process, which produce a law. The law in
13 one article that was done in the Arkansas Law Review, they
14 pointed out that this law does -- it puts enforcement of the
15 Arkansas Fair Housing Act in Circuit Courts, but by
16 constitution in the State of Arkansas, the enforcement of
17 equity issues, and civil rights is certainly an equity issue,
18 rightfully belong in the Chancery Court.

19 So we may have a deficiency there. I'm not sure if
20 it has been tested yet in the courts. But the Arkansas Fair
21 Housing Act says that the Circuit Court is to administer the
22 Fair Housing Act, and there may be a constitutional problem,
23 because -- but again -- I believe there's a separability clause
24 there, so that maybe that particular portion could be thrown
25 out without throwing out the entire pack.

1 We have discovered that there is a problem in the
2 law in definitions, because we don't have a clear definition of
3 just exactly what family status is. I'm sorry, we don't have a
4 clear definition of family status. So I suppose to a certain
5 extent we were relying on federal precedents to establish the
6 definition for what is family status.

7 So that may or may not be a deficiency. Again,
8 that's something the courts are going to have to determine, but
9 that may be a problem. The biggest problem in terms of HUD is
10 that there is no enforcement mechanism for the Arkansas Fair
11 Housing Act. It's strictly it's up to the individual to file
12 their case in the court and they have to pursue it with a
13 private attorney. There is no mechanism for investigation and
14 enforcement that's set up on a state level, which is something
15 that's required by the feds to do a substantially equivalent
16 ordinance or substantially equivalent law.

17 So I think probably at least in terms of the Alabama
18 statute that was in the packet that I received, that a lot of
19 those issues would be addressed, because there is a definition
20 there of family status. There is an enforcement mechanism for
21 the process, so I think probably if that ordinance were able to
22 pass, that probably most of those things would be addressed, or
23 at least the deficiencies in the Arkansas Fair Housing Act
24 might be addressed by that Alabama statute that you all have
25 sent out with the packet.

1 And I think if I can take questions on that part,
2 and then I'll go to the next piece.

3 DR. MITCHELL: Any questions regarding the
4 deficiencies that Mr. Pless has listed that's in the Fair
5 Housing Act? Are there any questions about those
6 deficiencies?

7 MS. STRICKMAN: I have a question.

8 DR. MITCHELL: Okay.

9 MS. STRICKMAN: And I'm not sure that you can answer
10 this for Mr. Sweeney or more for yourself.

11 MR. PLESS: I'll have to answer for myself.

12 MS. STRICKMAN: Have you seen application of this
13 law and what could you tell us about what the response in
14 the already existing Circuit Court system --

15 MR. PLESS: To my knowledge there has only been one
16 case brought in the Circuit Courts in Arkansas under the
17 Arkansas Fair Housing Act. We brought it. It was a
18 family status case, and that was where we discovered the
19 deficiencies in terms of family status, in terms of the
20 definition. We did not argue the case in court. It was
21 conciliated before we went to trial, so how the court
22 would have ruled, I can't say.

23 We would have -- I mean, at that point our strategy
24 would have been to rely upon the definitions established
25 in federal law to define family status in Arkansas. And

1 the legislatures in Arkansas clearly understood when they
2 passed the law that we were trying to pass something that
3 to some extent mirrored federal legislation.

4 So I don't know how the court would have ruled,
5 because it never came to trial.

6 MS. ROBINSON: Madam Chair, for the issues and
7 public hearing -- could we speak up a little bit or for
8 purposes of the public, and then we can get all the
9 information, so speak loudly.

10 MR. PLESS: I'm trying.

11 MS. ROBINSON: Thank you.

12 DR. MITCHELL: Any other questions for Mr. Pless
13 regarding the deficiencies of the Fair Housing Act? Okay.

14 MR. PLESS: Now I'm going to switch to Arkansas Fair
15 Housing Council. The Arkansas Fair Housing Council began in
16 1994. We have in the course of our operation received
17 approximately 350 complaints, and most of those complaints,
18 probably 120 of those complaints, a fairly large -- as more
19 people know about us, and because we don't have a large
20 advertising budget -- we don't have any advertising budget, the
21 complaints we receive are simply because people learn about us
22 from one source or another by word of mouth.

23 Last year we probably received 80 complaints over
24 the entire year. This year in the first eight months we
25 probably received 120, and this is all simply because people

1 are beginning to learn that we're out there, and they didn't
2 know that these avenues were available before.

3 My belief is that there's a serious fair housing
4 problem in Arkansas, and that there's a tremendous amount of
5 discrimination against people for all of the reasons in the
6 protected classes. We have the rather odd distinction of being
7 one of the few fair housing councils that has had occasion to
8 file complaints on religious discrimination, which is fairly
9 rare in the world anymore, but -- and it's rare for the
10 Arkansas Fair Housing Council, but we still get complaints
11 about people who are being discriminated against because of
12 their religion.

13 We're seeing a tremendous amount of complaints in
14 Northwest Arkansas and in Western Arkansas, because of the
15 increase in the number of hispanics. Western Arkansas,
16 Northwestern Arkansas, traditionally have been a predominantly
17 white area of the state, and they didn't particularly adjust
18 well to having African Americans there, and they're doing even
19 less well with adjusting to having hispanics in the area.

20 And added to that is the opportunity for some people
21 to make money because a lot of the hispanics don't speak
22 English and because they don't speak English and they don't
23 understand the laws in this country, they're unable to
24 understand the contracts and to a certain extent they're not
25 even able to have the contracts explained to them.

1 So that there are serious advantage being taken of
2 these folks. We have an increasing Asian population, which
3 unfortunately we haven't been able to make contact with.
4 Everything we hear is hearsay. And apparently, I'm not sure
5 whether it's because of their culture or for whatever reason,
6 the Asian population is not making the complaints, although I
7 understand their conditions are just as bad as anyone else's
8 conditions, or worse.

9 And then we get into even larger language barriers
10 because while I have three people on my staff that speak
11 Spanish, I don't have anybody who speaks Laotian or Vietnamese
12 or Chinese or even French, which in some countries is a common
13 language.

14 So we've got difficulties and deficiencies on the
15 part of our organization, and being able to address those, and
16 some things we didn't plan for, because I live in South
17 Arkansas, and we don't have a large oriental population there,
18 but it does exist in Western Arkansas and it is a problem
19 there.

20 Political pressures in Arkansas? It's very
21 difficult because people tend to see our name, the Arkansas
22 Fair Housing Council, and they assume that we're supposed to
23 deal with fairness in everything regarding housing, and we only
24 deal with the discrimination, and the possibilities for people
25 treating people unfairly in real estate in Arkansas go well

1 beyond discrimination. So we probably sort out -- out of the
2 350 complaints we probably received another hundred complaints
3 that we don't even bother to record, because they're patently
4 landlord-tenant disputes. They may be unfair, but it's not
5 illegal to be unfair in Arkansas.

6 You can treat your tenants badly. You can give them
7 rotten places to live. You can allow the houses to fall down
8 around their heads, and that's permitted by Arkansas law, and
9 as long as you do it to everybody equally, then it is not a
10 discrimination problem with the Arkansas Fair Housing Council
11 has jurisdiction to deal with.

12 So I mean, outside of the time that it takes, it's
13 almost an emotional drain on my staff to have to deal with
14 people that we simply cannot help, that the resources are
15 simply not there, because under Arkansas law a landlord can
16 rent you whatever a landlord wants to rent you. There is no
17 warranty of habitability. There is nothing that requires that
18 landlord to keep that property in decent, safe, sanitary,
19 habitable conditions and if you don't pay rent, if you withhold
20 your rent because the landlord hasn't done what he's promised,
21 then he can charge you with a misdemeanor offense and you can
22 have to post bond and have your belongings thrown out in a
23 five-day span.

24 That's the reality that faces tenants in Arkansas
25 and it's not necessarily a discrimination problem, but I

1 believe and one of these days I'll have the resources or the
2 time to put the research together to prove it, but I believe
3 that this particular set of laws in Arkansas disproportionately
4 affects minorities, single females with children, the
5 handicapped, and the other protected classes, because it's not
6 normally going to be your rich white guy who is thrown out on
7 the street because he doesn't pay his rent and the landlord is
8 not taking care of the plumbing.

9 So there is a tremendous problem in housing in
10 Arkansas. And we've made some efforts to address it and
11 there's still a lot of work to be done. And I think I can take
12 questions, but that's about all I can say.

13 DR. MITCHELL: Questions from any committee members
14 to Mr. Pless? How is your organization funded?

15 MR. PLESS: We're funded by private donations, and
16 we're also funded by the -- the major source of our
17 funding is U.S. Department of Housing and Urban
18 Development through the fair housing initiatives program.
19 We have to provide approximately 30 to 40 percent of our
20 funding from other sources, which some of it comes through
21 contracts which we may make with the Justice Department or
22 the Agriculture Department on the property they own, or
23 from private donations, or in some instances we receive
24 monies from the people that we file complaints against.

25 MS. ROBINSON: I have three questions. For the

1 purposes of background, would you describe to me your
2 staffing and the geographic area that you cover in
3 Arkansas? The resources that you have in terms of
4 staffing, funding, that kind of thing?

5 MR. PLESS: Including myself we have five staff
6 members. Myself, a secretary, intake person, office
7 manager, combined, that's one person combined, and an
8 investigator in Arkadelphia, Arkansas. We have another
9 staff member in Fort Smith, who is responsible for Western
10 Arkansas.

11 We're in the process of moving a staff member from
12 Fayetteville to Little Rock. The area we cover is the
13 State of Arkansas, with the exception of Central City,
14 Arkansas, the central area of the City of Little Rock, and
15 the City of Pine Bluff, and more or less a corridor going
16 down to Lake Village. Other than that area in the center
17 part of the state, going down to Lake Village, we cover
18 the rest of the state.

19 MS. ROBINSON: So essentially you have two people in
20 the field?

21 MR. PLESS: Actually there are four people in the
22 field. I'm in the field. I just came back from Fort
23 Smith this morning. I have to communicate with my staff a
24 lot my mobile phone.

25 Then we have the investigator in Arkadelphia, who

1 works -- I mean, he works Little Rock and South Arkansas.
2 We have -- and El Dorado, Texarcana, those areas.

3 MS. ROBINSON: Okay.

4 MR. PLESS: We have a person in Fort Smith, who then
5 covers from probably the De Queen area up to Fayetteville,
6 and then we're in the process of moving a person from
7 Fayetteville to Little Rock, that will cover the northern
8 part of Little Rock, the western part of Little Rock,
9 north Little Rock, and then the Jonesboro, Blytheville,
10 that part of the state.

11 MS. ROBINSON: Okay.

12 MR. PLESS: And then I go all over the state.

13 MS. ROBINSON: My next question is in terms of
14 education and outreach, do you have a component for that
15 in your program, and if not, why, because there are HUD
16 funds available for that?

17 MR. PLESS: We do as much as we can in terms of
18 trying -- I mean, we'd prefer to do our work by meeting
19 with real estate organizations, with landlords. We do a
20 lot of trainings. We -- you know, we speak to real estate
21 organizations. We meet with groups that represent the
22 affected classes in various parts -- well, all over the
23 state. We try as much as possible, try to inform people
24 of what their rights and obligations are under the Fair
25 Housing Act.

1 We did not apply this last time for the education
2 component of the FIP simply because -- well, we've had
3 over the years our funding has like one year we will be
4 funded, the next year we won't be funded, so when we're in
5 a start-up period and we're like almost starting brand new
6 with staff again, we don't have a staff -- we haven't
7 finished training the staff we've got, and taking on an
8 additional component for education was just a bit too much
9 -- I mean, if we're able to keep our funding on some kind
10 of a steady level for a couple, three years, then we might
11 be able to take on the education components, in addition
12 to what we're already doing.

13 MS. ROBINSON: Okay. We had a lot of information
14 this morning from Mr. Claude Rogers, who has a lot of
15 expertise in establishing state agencies such as this, and
16 one of the issues he addressed is that you should have
17 more funding than federal funding. What are your other
18 outside funding sources other than HUD funding?

19 MR. PLESS: We have very few. I mean, I realize the
20 importance and we've always realized the importance of
21 having other funding outside of federal funding. Most
22 states, the real estate associations, the bankers
23 associations, are willing to participate in trying to fund
24 fair housing.

25 In Arkansas they are not willing at all. The

1 Rockerfeller Foundation, the only major foundation in the
2 State of Arkansas, and they are not willing to fund fair
3 housing either. We don't have the resources in Arkansas
4 to fund fair housing that are available to people in other
5 states.

6 MS. ROBINSON: Okay. And my last question is this:
7 What type of legislative support do you have for fair
8 housing in the State of Arkansas at this time? I
9 understand there's going to be a major turnover shortly,
10 but what type of legislature?

11 MR. PLESS: Well, currently -- I don't know. I
12 mean, as you pointed out, we're going to have a large
13 number of new legislators and turnover in this coming
14 session. But Senator Bill Lewellen is one of the founders
15 of the Arkansas Fair Housing Council and a member of our
16 Board of Directors. Representative Michael Booker is one
17 of our cooperating attorneys. Representative Judy Smith,
18 who won't be coming back, but she's running for Fourth
19 District, and she may be our Congressional representative,
20 is a former board member of the Arkansas Fair Housing
21 Council.

22 You know, I think at least as well as we could be at
23 this point, we do have friends in the legislature who want
24 to pursue fair housing. Now, it's anybody's guess as to
25 what that might mean or not mean, because I think anybody

1 I've ever talked to about what the next legislative
2 session is going to be about, it's really kind of up for
3 grabs.

4 DR. MITCHELL: Any other questions from committee
5 members for Mr. Pless?

6 MS. STRICKMAN: Earlier today we heard from some
7 attorneys that raised the major question of what type of
8 state agency do we think would ever be established in
9 Arkansas, and there was a lot of discussion about looking
10 at alternatives such as alternative dispute resolution,
11 ADR, medication centers, and I think that really caught
12 some of our interest in terms of desire to establish
13 something that one can be successful with.

14 Have you in fair housing -- I know you mentioned the
15 one case that was mediated or settled before it went to
16 trial earlier -- what type of an emphasis is HUD bringing
17 down in the programs that they're funding or you as a
18 separate entity willing to propose?

19 MR. PLESS: Okay. Anything the Arkansas Fair
20 Housing Council is involved in -- well, I can't say
21 anything. There are some cases that we don't, but for the
22 most part we attempt some sort of medication before we
23 ever even file a complaint with the Department of Housing
24 and Urban Development.

25 And then once we file a complaint with HUD FHEO,

1 they are required by statute to attempt conciliation
2 again. Now, generally our attempts to mediate fail,
3 because we are not perceived as mean enough, I guess. The
4 HUD's conciliation attempts, when HUD actually finally
5 gets around to pursuing it, generally succeed.

6 So I mean, I'm not opposed to the idea of mediation,
7 but it's been my experience that mediation on a local
8 level is not particularly effective, that it takes that
9 federal pressure and the perception of the strength of the
10 federal government behind something before somebody is
11 willing to mediate.

12 I mean, I just had a meeting this morning at Fort
13 Smith with a gentleman who owns a large amount of real
14 estate around the state, and I really doubt that he's
15 going to be willing to conciliate with the Fair Housing
16 Council, that it's going to take -- I mean, first of all
17 we haven't even determined whether there's a case there,
18 so this may be unfair of me, but even if we did have a
19 solid case, he's not willing to conciliate with us. I
20 suspect that this person has enough political power in the
21 State of Arkansas to where a state agency would not be
22 particularly effective either, because enough people would
23 owe him and he would be a large enough donor and have a
24 large enough history here, and friendships are very
25 important in Arkansas politics.

1 I suspect that he wouldn't be willing to mediate
2 with a state agency either. I mean, there's going to have
3 to be a large -- I mean, if there's going to be an
4 effective state mediating agency, it's going to have to be
5 very independent, some kind of structure that makes it
6 very independent, and not totally susceptible to political
7 power, otherwise it simply won't function.

8 DR. MITCHELL: Any other questions? Okay. Thank
9 you very much, Mr. Pless.

10 MR. PLESS: Thank you.

11 DR. MITCHELL: I believe that Ms. Kline is here from
12 ACORN. Mr. Kline serves as Director of ACORN.

13 MR. KLINE: I did prepare packets for you,
14 statistical analysis that we've done on fair housing, as well
15 as 15 or 20 recommendations that I've had for how to deal with
16 this, so that I didn't have to sit here all day.

17 Let me just say good morning. This is Edna
18 Whitehead, one of our ACORN leaders, who was nice enough to
19 come down today off work and give you about a five-minute
20 introduction right now of just sort of the personal side of
21 this problem.

22 I'm actually -- I guess I was unclear, because when
23 I read the packet, I didn't bring our fair housing director.
24 We also run a fair housing agency in the state, but I'm very
25 familiar with the fair housing issues that we deal with, so if

1 you want to talk about that, I think that's great, but I'd
2 actually like to talk about what I think a lot of other
3 problems that we have, that in many ways are much more
4 problematic and systemic, some related to housing, some not.

5 So but go ahead, Edna.

6 MS. WHITEHEAD: Some of the things that I would like
7 to talk about that we are dealing with or have been dealing
8 with as far as race relations in Arkansas -- now, incidentally
9 I'd like to say also we have an ACORN, The People Speak and The
10 People United talk show, and on that talk show we have had
11 call-ins, because we did cover this subject, race relations in
12 Arkansas, and it was overwhelming the response that we got from
13 various people concerning some of the things that they are
14 dealing with as concerning the racial problems and issues that
15 are occurring here.

16 Some of them are dealing with housing, fair housing,
17 from a personal experience. I recall a few years, a couple
18 years ago, before I became an ACORN member. Had I been an
19 ACORN member I would have known what to do at that time.

20 I went to a particular -- and I did read your
21 article, Ms. Mitchell, and I will adhere to it -- I did go to a
22 particular organization, because she said don't defame, okay,
23 an organization, and I was looking for a house and this guy --
24 I knew where to find the house in my neighborhood. Where would
25 I always tell the children when I'm talking to them -- the

1 ghetto, in other words, let me use that term if I may.

2 And when I got there, he took me to a neighborhood
3 where he thought that I should be, if you understand what I
4 mean. So I looked around the neighborhood and looked at the
5 house. I said no, this is not my intentions for my children,
6 nor has it ever been. They have never been raised in this
7 environment, and I don't intend to begin.

8 Now, had I wanted to find this neighborhood, I would
9 have found it on my own. But that's not where I want to be.
10 I'd like you to find me a place in the good neighborhood, okay.

11 So that was one of the personal experiences that I
12 experienced. I also have a son -- Ms. Mitchell was his dean at
13 the time -- who has gone through two colleges. Okay, two
14 colleges. And he's still working labor, just as we are. You
15 see what I'm saying? I didn't send him to school for that. I
16 want him to rise above that, and those are some of the issues
17 that we're dealing with.

18 In my community in Jacksonville, we're not
19 acknowledging that it's there, but man, it's there. I think we
20 only have one African American that's in politics there, and
21 that's Mr. Reterey, who has been there for years.

22 We don't have any involvement, any participation, so
23 I think this discourages people from getting out, getting
24 registered and getting voters. So yes, there is -- and just a
25 few notes from the call-ins on our show, yes, there is a

1 serious problem and the thing that I'd like for us to do is sit
2 down and figure out how we can recognize, acknowledge, and
3 receive the fact that there is. Let's all come to the table
4 together and work it out.

5 That's my opinion. There are many others, but I
6 know that we have a limited time.

7 DR. MITCHELL: Would you state your name again?

8 MS. WHITEHEAD: My name is Edna Whitehead. I'm with
9 ACORN. I'm an ALAC leader, political leader, talk show host
10 and producer for a radio and TV show, and we meet a lot of
11 discrimination even in handicaps. They feel that they are
12 still being discriminated.

13 So by us having the talk show, we get a lot of call-
14 ins and yes, there is -- there is some serious problems that
15 needs to be addressed and we really do need to figure out how
16 to work them out. And I do think that there should be some
17 changes made.

18 DR. MITCHELL: Thank you.

19 MR. KLINE: Maybe you can guide me on what you want
20 to hear about, since I'm trying to hold this to ten minutes.
21 Are you interested in the housing aspect, or are you interested
22 in just generally what we think about a civil rights law and
23 the problems with getting one? What is it that you're
24 interested --

25 DR. MITCHELL: We're interested in both very

1 succinctly.

2 MR. KLINE: Okay. Well, just to give you a brief
3 history of ACORN, ACORN is a 28-year-old organization, a poor
4 people's organization that was founded here in Little Rock,
5 Arkansas, by a group of 12 welfare moms in 1970. It started
6 and had its roots in welfare rights, which is one of the topics
7 that I really want to touch on. I think there's a serious
8 discrimination problem in many of the state agencies that
9 serves people.

10 And I would like to talk about that, because I think
11 that talking about having a Civil Rights Commission is kind of
12 ludicrous when your day-to-day state agencies discriminate
13 against people. I think that's problematic.

14 The organization has 16 different neighborhood
15 groups throughout the state with primary concentrations in
16 Little Rock, North Little Rock, Jacksonville, Pine Bluff,
17 Dumas, Altheimer, Wabbaseka, mostly either low and moderate
18 income neighborhoods. It also has 8500 family members of one
19 type or another.

20 And we've had over obviously the last 28 years had a
21 lot of struggles, many of which are related to civil rights,
22 because when you talk about economic discrimination, of course,
23 civil rights becomes sort of a paramount problem.

24 I just would like to talk about like the first thing
25 is to talk about the voting rights stuff. The reason our state

1 chair, couldn't be here today is she is actually doing a press
2 conference at Central High right now, about a study that we're
3 releasing which shows the influence of campaign contributions
4 in low income and African American neighborhoods, as opposed to
5 the influence that people in white neighborhoods have in
6 Arkansas. It's broken down by ZIP code, and I passed this out
7 to everyone on the committee.

8 If you go to the map, you'll see that you know, in
9 the Greater Little Rock area it actually maps out the ZIP code
10 and how much money was given to political candidates in that
11 ZIP code, and then I think that if you were able to then tour
12 the conditions in that ZIP code, you might find some
13 correlation between neighborhood conditions, political
14 influence, and the reason that people do or do not vote and
15 feel powerless.

16 And I think ACORN was instrumental in passing a
17 campaign finance law, which was opposed by our current
18 governor, and taken to court by the Chamber of Commerce, and
19 much of it has been thrown out at the appeals court, and it's
20 now gone its way to the Supreme Court.

21 But you know, I think this whole sort of voting
22 rights trend is not just about campaign contributions. It's
23 about the fact that in Holly Grove, Arkansas, I'm working with
24 a group there where, you know, they have several wards in town.
25 They have approximately three-fourths African Americans and

1 they have one-fourth white people that live in the town.

2 But yet white people are given two extra seats on
3 the city council, and which are then drawn around their
4 neighborhoods, so that there can never be a city council
5 composition that actually has a majority black constituency,
6 and there are all sorts of these voting rights act violations
7 going on all over Arkansas.

8 Little Rock was probably one of the biggest examples
9 of this up till five years ago when ACORN ran an initiative to
10 get rid of at-large elections, which primarily zoned out
11 African Americans or most African Americans from being eligible
12 to hold office, and it was real disempowerment.

13 And we ran a petition drive, which collected several
14 thousand signatures and put on the ballot a proposed plan for
15 ward election, and it actually failed by a narrow margin and a
16 compromise was cut.

17 In the compromise there were supposed to be three
18 black wards. Well, what's happened is there's two black wards.
19 The first time there was an election there was actually only
20 one black ward, a white guy won, because they went with a
21 plurality. Part of the compromise was plurality instead of
22 majority, to get the thing through with the city leaders, and
23 the result of that plurality decision was if two black people
24 competed in a ward that was then one-third white, the white
25 person won.

1 So the first year of ward elections, Carl Shivner, a
2 white guy from Broadmore, represented Central Little Rock.
3 Even though a very small piece of his neighborhood was in that
4 area, which was very disturbing.

5 So I think you know, it's questionable whether or
6 not even the system that we have now works, but Linda Joyce,
7 who is in the third black ward, a white person, who has been
8 representing a proudly majority black ward for the last eight
9 years, and this is the first time that opposition has actually
10 broken against her, where there's not two whites in the race,
11 there's actually a chance that a black could then win this
12 race.

13 Before they had several blacks in the race and what
14 ended up happening is that she ended up knocking them out,
15 because they split the vote, and that was what the plurality
16 system has done. It's made it difficult for black candidates
17 to hold office in Little Rock.

18 In Pine Bluff up until ten years ago, I think there
19 had been very few, if ever, black city council people. And
20 ACORN actually sponsored a whole campaign to draw wards in Pine
21 Bluff, and even though Pine Bluff is 51 percent black, they've
22 never had a black mayor. And the reason is is that the mayor
23 has always been an at-large election and in the last election
24 where they thought that maybe there was a chance that he might
25 lose, that maybe there was this much of a chance that he might

1 lose, what did they do? They canceled most of the black voting
2 polling places and they put them in one big polling place, and
3 then they opened up and expanded the white voting places, and
4 so people who do not have transportation could not go to the
5 polls and were of course confused, and of course the black
6 candidate for mayor lost.

7 And unfortunately we just don't have the resources
8 to challenge these things every time this type of thing
9 happens, because it's either political or illegal and it takes
10 a tremendous amount of both financial and person resources.

11 But I think that when you talk about having a civil
12 rights law in Arkansas, that maybe we need to start looking at
13 some of the institutions that actually run this state and run
14 some of the jurisdictions in this state and whether or not
15 they're set up for people to actually participate.

16 Another thing, we recently in the last couple years
17 we did testing at the DHS offices to see if they were actually
18 following the motor voter law. And it turned out that people
19 would go in, fill out their food stamps, and never get offered
20 a voter registration card.

21 We have a group of 2500 welfare recipients who are
22 part of our ACORN welfare rights organization. Now, all of
23 them should be registered, but they're not, because many of
24 them never got registered through the state, so even the laws
25 that are on the books are not well-enforced.

1 I'm just pointing these things out, because I think
2 that, you know, they add some additional context to this, that
3 you know, when we have actual jurisdictions operating in ways
4 that limit people's influence and interest in being involved,
5 then what we see is a disempowerment of people not wanting to
6 be active, and then we also see -- I mean, I would actually
7 disagree with Dan Pless on this -- I don't think there's a
8 movement at all to get a fair housing law in this state. I
9 don't think they'll ever be a real state-wide equivalent fair
10 housing law. I think the best hope we have, which I've written
11 this out in the problems and solutions part, is actually
12 getting the state to allow cities to adopt their own ordinance
13 and do away with home rule on this issue.

14 I don't think that there's a real chance that
15 they'll pass a substantial equivalent legislation set up in the
16 enforcement mechanism that will ever deal with this. I think
17 it is for the reasons that he said, that having a good friend
18 in Arkansas and being a friend of someone who is powerful and
19 important is more important than justice.

20 I guess, you know, one of the other things I wanted
21 to point out that you probably haven't heard about is this
22 whole sort of police accountability problem that I think is a
23 problem in terms of how people operate in their everyday lives.
24 ACORN ran a campaign a couple years ago here in town after a
25 series of shootings, and we -- Lida Anthony and NAA and other

1 folks were very vocal about this too, that we really needed to
2 have a citizen review board in Little Rock. There really
3 needed to be some kind of accountability for police officers.

4 And people were being beaten up. They still are
5 being beaten up. It's still apparently a problem.

6 I mean, the city door just -- even though they
7 acknowledged there was a problem, they refused to enact one,
8 because the chief stood and said I'm not having this. They did
9 enact something called a citizen review report card, but of
10 course after one quarter of the report card reporting, they
11 decided that they didn't need the report any more, because it
12 wasn't a problem any more, because no one was complaining any
13 more.

14 Well, I then went to -- a woman came into my office
15 -- I'll just give you this short story -- that a woman came
16 into my office a couple months ago and said to me that she was
17 sitting in her house with her two-year-old child and her four-
18 year-old in the other room, and her husband was outside in the
19 Westgate Apartments, which is in the Southwest Little Rock.

20 And the police drove up and they were looking for
21 someone. Her husband was standing outside and I guess he was a
22 black man, and he fit the description. So he said look, I have
23 children in the house, don't go in my house with your guns
24 drawn. I have a two-year-old.

25 So apparently they charged in the house anyway,

1 pulled out their guns with the two-year-old in the room. So we
2 went down to City Hall to make a complaint and, of course, one
3 of the compromises that we won, and I won't say there hasn't
4 ever been any progress -- I will say that I think there has
5 been progress on these issues -- was that Internal Affairs
6 should maybe move themselves out of being in the police
7 station, so that it wasn't like the cops investigating
8 themselves right next door.

9 So we went down to the new Internal Affairs, which
10 was two blocks away from the police station, which we thought
11 was somewhat of an improvement, and we sat down and started to
12 tell the story and the woman said -- the man who interviewed me
13 -- the woman started telling the story. The man started
14 explaining what the police officer said and why he had done
15 that and rushed in the house and why that was legitimate.

16 And I said that's not your job to explain, when
17 someone is making a complaint, you should investigate it and
18 then make that determination. You're not supposed to explain
19 things for the police department when they do things that
20 violate people's civil rights.

21 Of course, they then escorted me out and they said I
22 couldn't be there because people had to tell their stories
23 privately, and they had to deal with them privately. We then,
24 of course, got our lawyer and we've been dealing with it since,
25 but you know, the point is that there's still a lot of problems

1 in this area, and I don't think that -- I think that it's
2 probably better in Little Rock than it is in most other cities
3 in Arkansas.

4 I think some of the stories we hear from some of the
5 smaller towns are more egregious. And I think we're a long way
6 from dealing with that.

7 On progress, I think we have made substantial
8 progress in the housing department particularly, in banking,
9 and insurance red lining to some degree. ACORN has had long-
10 standing campaigns against major banking institutions,
11 challenging mergers, doing CRA challenges. I think we've done
12 five or six major CRA challenges in Arkansas, and of course
13 we've done actions and demonstrations too, and we've forced --
14 and some lawsuits.

15 We've forced several banks to actually create new
16 lending products that outreached to a lot of moderate income
17 community and African American community that created
18 liberalized underwriting standards around credit, that create
19 ways for people who don't have perfect credit to see themselves
20 becoming a homeowner down the road.

21 And we have done literally hundreds of these loans,
22 and I think it's been a really good thing, and I will say
23 there's progress there. Now, the reason I bring this up is I
24 want to mention why I think there's been progress.

25 The reason there's been progress is because our

1 members have dragged these bank presidents around the lowest
2 income neighborhoods they can find and said this is what you
3 did to us by disinvesting here, and this is what your racist
4 policies are doing, and we don't want to live like this any
5 more.

6 And there's been a personal connection and relations
7 built over years, and understanding, and yeah, I think in some
8 cases we ever consider some of these bankers, particularly
9 folks at like say Nations Bank on a national level, our
10 friends. They're in Congress now standing up for CRA and fair
11 housing, when some people in Congress don't think we should
12 have any of those type of laws.

13 So I think that there are good things that can
14 happen when people work together. You know, and I would say
15 that's true of Regions and Nations and many of the other banks
16 that have improved their records.

17 On the other hand, the smaller banks and many of the
18 insurance companies, and we still don't have an insurance
19 disclosure policy in Arkansas, actually on a federal level
20 either, which would be something -- a step that we could take
21 which allows us to see whether or not companies are
22 underwriting with the state insurance commissioner, whether
23 they're actually underwriting in low income areas or not, or
24 African American areas or not, or -- you know, I think this is
25 kind of a -- you know, the smaller banks have been, you know,

1 they've dug their heels in.

2 One bank that we actually came to an agreement with,
3 Pulaski Bank, was after they sued us and we sued them and it
4 was a very, very sort of -- it was a very sort of, you know,
5 vicious battle actually, very personal, but I tell you the
6 breakthrough meeting was the meeting with the bank president
7 who owned 92 percent of the shares. Well, he was the Chairman
8 of the Board, who the members said well, this is a problem for
9 us. We don't think that Pulaski Bank should only make loans in
10 rich neighborhoods, and we're tired of it.

11 And he said well, gee, you know, I never thought
12 about it but I might be able to make money. And I think that
13 was sort of where the breakthrough was is he realized he could
14 make money, because we explained to him that we had done 200
15 loans, and we showed him the loans, and that we had never had a
16 default, and that people were paying these mortgages, and that
17 maybe this made sense to do this kind of business.

18 And I think my point on that is that discrimination
19 actually costs communities money, costs everyone money. It
20 costs institutions money that obviously don't do business, and
21 it costs people in the community money because their
22 neighborhoods continue to be victims of disinvestment.

23 And I think those kind of things where we can show
24 real public-private partnerships, not arenas, real public-
25 private partnerships with people in communities who actually go

1 out and negotiate agreements with banks, or even, for example,
2 the City of Little Rock is now funding our housing program, as
3 is the county.

4 These are real relationships that have developed
5 over time, and they've taken a lot of time but I think they're
6 worth it, and I think they're making progress, and I think
7 that's the good news.

8 The only other thing that I would bring up is what I
9 perceive is probably the biggest problem in Arkansas is the
10 wage disparity gap between African Americans and white people
11 in Arkansas. And I'm sure that from time to time you all see
12 these numbers pass by but we have too many people living in
13 communities where we have companies that get huge tax breaks to
14 come in and then pay 5.15 or six bucks an hour. I point to
15 Deluxe Video, North Little Rock, Rank Video, which is a company
16 that employees mostly minorities to do factory work on 12-hour
17 shifts. They're all temps, okay, for the most part. They're
18 all making 5.80 an hour. They do not receive benefits. And
19 they receive millions and millions and millions of dollars in
20 tax breaks to come into the community.

21 And see now, this is I think something that's a
22 different piece of legislation than the Civil Rights Act. It's
23 a living wage law, but the impact that it would have on sort of
24 the economic vitality of the community would be immense. I
25 mean, we shouldn't allow companies to come in and just take

1 advantage of money to build their factory and cheap labor.

2 We shouldn't have state agencies like AIDC putting
3 ads in newspapers saying come to Arkansas, we pay low wages and
4 we have bad workers' benefits and workers' comp packages.

5 I mean, what that does is it invites discrimination,
6 invites treating people badly. It invites economic
7 disinvestment, and it's something that should be changed, and
8 it should be changed at the highest levels, and I think this is
9 where I think we really struggle with these issues, because I
10 think the truth starts to hurt after a while.

11 I think when you look at these issues, it hurts. The
12 truth is that many of the people who are running political
13 institutions in our communities in Arkansas are not terribly
14 interested in whether or not there is economic vitality in
15 African American neighborhoods, whether or not there's
16 investment in African American neighborhoods, and whether or
17 not there are voting rights or whether or not there is fair
18 housing.

19 And I think that our challenge is really around
20 saying where we can build those relationships that then change
21 the prevailing attitudes of both decision makers and where we
22 can open up to opportunities for people to be politically
23 involved and be a part of the process.

24 That's all of my comments.

25 DR. MITCHELL: Thank you very much, Mr. Kline. I

1 think that everything was really extensive. We probably
2 don't have any questions. Are there any questions from
3 the committee? Are there any questions from the committee
4 members?

5 MR. COLEMAN: My question of mine probably be unfair
6 and somewhat prejudice. I've known ACORN since its
7 beginning years ago -- and watched the kind of programs
8 that we started with, seems to me to diminish. Now, I'm
9 using ACORN as we talk about economics in the black
10 community. When I was a member of ACORN, by virtue of the
11 fact it was born in the office -- we had black leadership
12 in the community to do whatever they was going to do.

13 And they had to go at that time to the white
14 community to get baptized, you know. ACORN say that's
15 wrong, it's all wrong. And what we got to do is just
16 start at the grassroots -- most black people at the
17 grassroots, but we developed a theory in the black
18 community that if you had gotten out of the ghetto, you
19 were not fit to do any kind of leadership any more, and
20 I've seen that -- for example, the last day I belonged to
21 ACORN I gave them \$50 and went to the meeting to give them
22 another \$50. And the guy just almost directly told me in
23 Pine Bluff is where I was from, and the way -- save your
24 money, we don't need you.

25 Now, one guy said this but I'm talking to guys who

1 were at the time in dental school, medical school, and
2 other kinds of things. And they kind of grew away from
3 us, that could have given, to me, the kind of direction
4 that -- like I said -- so when they left, they left us
5 kind of in a vacuum. We're ready to loan some money, but
6 how do we loan it? We haven't loaned you all this kind of
7 money before. We haven't loaned sixty, seventy, eighty
8 thousand dollars. But where do we start? How do you
9 think we ought to do it?

10 The young people like yourself and others who could
11 have helped those people who are on the verge of doing
12 whatever needed to be done, kind of drifted away from us,
13 and so we kind of got spooky, you know, on one another.
14 So consequently all you have in ACORN, that I know about,
15 are the ones who can't provide the kind of leadership to
16 keep a black school board together, can't -- well, go
17 ahead. I mean, I'm kind of disgusted the way we do it,
18 and it's part of -- bankers don't lend any money who can't
19 --

20 MR. KLINE: I think that -- yeah, I mean, I don't
21 know the particulars of this situation that you're talking
22 about. It's hard for me to defend something that happened
23 I don't know how many years ago, but I can say this. I
24 mean, that like in Pine Bluff our office is run by the
25 head organizer there is a person who joined as a member.

1 She runs that office. There are four ACORN members on the
2 city board. They've walked out when they were not
3 consulted about the hiring of a white police chief, who is
4 the mayor's friend, for four weeks. I mean, they provided
5 some excellent leadership in cutting a deal that actually
6 provided some resources for the community.

7 Now, do I defend everything that a 20-year-old
8 organization has done that's been active in the community
9 and had people ticked off about this or that or a
10 disagreement with an organizer at a meeting or a fund
11 raising venture or whatever? No, I don't.

12 But I would say this. Like in Little Rock -- and
13 remember, ACORN is not exclusively African American
14 organization. It's an organization for everybody, but I
15 mean in Little Rock when you look at people who are now
16 running for the City Board and talking about the issues of
17 fair housing, living wage, discrimination, and fairness,
18 Johnny Pior, our state chair, is running in ward one and
19 is trying to provide that type of leadership, and I think
20 Jenaby Stewart has made a very, very viable bid in ward
21 six.

22 Now, all I can say to you is I don't know about the
23 particulars. I mean, it sounds like this is before my
24 time, because I don't know you, but I mean, all I can say
25 is that, you know, any organization that tries to build

1 some type of mass base has disagreements and they have
2 good things and bad things that have happened over the
3 years.

4 For example, we didn't endorse Ms. Mitchell and we
5 ran one of our members for a school board. And we had a
6 disagreement about that. She may too be mad at acorn.

7 MR. COLEMAN: You don't understand my point.

8 MR. KLINE: But I think it's all about --

9 MR. COLEMAN: You don't understand my point. You
10 don't understand my point. Let me give you as an example.
11 I'll bet you today that we had more whites in ACORN than
12 we had -- and we'll say if we're going to make any
13 permanent progress, we're going to have to blacks and
14 whites work together. You get a black thing, you got a
15 white thing -- and you started off doing it real well and
16 it was real effective.

17 What I'm trying to figure is what has happened since
18 that time that you got a hundred black people at ACORN and
19 you've got three whites?

20 MR. KLINE: Well, I mean, I think -- you want to
21 discuss that, I think that's an interesting issue. When I
22 showed up at ACORN in Arkansas, very much perceived as
23 quote, unquote, black organization in many parts of the
24 state. Now, what -- I mean, what's driven this? I think,
25 you know, this is a long organizational history. There

1 are books written on this now. What happened is that we
2 moved to largely urban organizing, what could sustain our
3 offices. We moved an expansion plan to get to 31 cities.
4 We realized that certain communities had to be
5 reorganized. We've had very difficult time -- one of the
6 things that happened in Little Rock is that we've had --
7 we had communities around Central High which were largely
8 white 28 years ago. They are now largely black.

9 So our neighborhoods of low income people in Little
10 Rock are black neighborhoods. Low income white people
11 either live in Southwest Little Rock, or moderate income
12 white people have taken themselves to Benton to get out of
13 the school district.

14 I mean, this is a phenomenon that is much larger
15 than ACORN. This is a phenomenon that's about changing
16 race relations in our country, changing race relations in
17 our state, changing perceptions of what an organization
18 should be and how it should build power. And I think that
19 those things are, you know, I mean, you could ask the same
20 kind of questions about many, many community
21 organizations, and I think it's an interesting discussion.
22 I'm just not sure that it's for here at the panel. I'll
23 be happy to discuss it with you any time.

24 DR. MITCHELL: Thank you very much. Mr. Augustus
25 Taylor, who is Deputy Regional Director for the U.S.

1 Department of justice.

2 MR. TAYLOR: Let me tell you what I think are some
3 of the issues in Little Rock now. I want to start off by
4 saying that I've heard a lot of comments this morning about --
5 and this afternoon about the fact that you don't need any
6 additional legislation or laws.

7 And one of things that disturbs me with that is the
8 history of mankind is that Newton was right. Nothing moves
9 without a prevailing force, and if people did everything just
10 because it was right, I would be in a different business. We
11 wouldn't need a police department. We wouldn't need
12 government. We wouldn't need any of these things.

13 So when I hear people suggesting that we don't need
14 any more laws, it reminds me of 40 plus years ago or longer,
15 when I was in school and somebody said we didn't need the
16 courts to rule on desegregation because people would take care
17 of it.

18 Well, 40 years later we are still working with the
19 Little Rock school cases. So to me those who suggest that we
20 don't need laws and that people can sit down and reason
21 together, I would suggest to him, and I'm calling on my own
22 theology now, that it appears that even God thought we needed
23 some commandments, because we just didn't seem to have the
24 wherewithal to do it on our own.

25 It was also suggested that well, we could mediate.

1 Well, I'm a mediator, and it was only suggested that only
2 lawyers could mediate. That's erroneous. Many of our
3 mediators are now lawyers.

4 I prefer to mediate when there has been an action
5 filed in court, because the parties have a reason to try to
6 settle this now. I think the problems that we experience in
7 Little Rock or throughout the State of Arkansas -- so what I'm
8 really saying is I think you do need to try to put forth some
9 type of legislation at the state level to do the things you
10 want to do, because in this country we have a bad habit of
11 looking toward Washington for everything.

12 Well, the reason the constitution set up local
13 governments is so you would have a first line. And state
14 government is your second line. Washington really should be
15 your last resort. And we keep looking to Washington, passing
16 up, and by doing that, by constantly asking the federal
17 government to pass laws, what you're really saying to your
18 local law enforcement officials, your local city council, your
19 county governments and your state governments is that we are
20 not going to hold you accountable. We're only going to hold
21 Washington accountable.

22 We're only going to hold Washington accountable,
23 where you happen to pay taxes. And the City of Little Rock and
24 the State of Arkansas. So why aren't you holding them
25 accountable for the actions that sometimes demean you and

1 dehumanize you?

2 Now, we deal in perceptions. You have numerous
3 perceptions on your state. I've heard some of them today. You
4 have a perception of police misconduct. You have a perception
5 of lack of inclusion in government. And you have a perception
6 that government is not spending its money on an equal
7 opportunity basis.

8 Now, the reason I say you have a perception is
9 because none of this has been proven in a court of law, but you
10 have these perceptions. One of the things that concerns me and
11 why maybe you do need to come up with a mechanism for the State
12 of Arkansas, as you have had speakers this morning I've gone to
13 other people and said have you ever worked with them?

14 And what I find out, nobody is working with anybody.
15 So you have a group of solo people doing things, and anyone
16 knows who has been hunting, it's easy to pick off a lone duck.
17 It's a little more difficult sometimes when -- so you don't get
18 anywhere because nobody -- everybody is suffering from the same
19 thing, and they're covering the same grounds.

20 So you have the perception of inadequate housing.
21 You have the perception that there's no access there, economic
22 opportunity for minorities, i.e., women, blacks, hispanics,
23 anybody that it operate the same way most cities operate. Them
24 that got, get.

25 And it's very difficult for the disenfranchised to

1 get into the system. But what we don't have here is a
2 coalition. The closest thing that comes to it is the
3 leadership round table, but I know Dale Charles works with Lida
4 Anthony, but all our organizations aren't coming together.

5 And sometimes when I'm dealing with an issue in
6 Little Rock, I have to find out who else might be dealing with
7 it, because when we say well, maybe we need to go into court
8 with this, then you find out somebody over here, that little
9 organization, they're already trying to get somebody to file a
10 lawsuit.

11 And we even saw this at your commemoration for the
12 40th anniversary of the Little Rock. We had all kinds of
13 complaints and for as many complaints as we had, we had that
14 many organizations, and we kept saying, well, why don't you all
15 get together?

16 Well, nobody got together. So what I'm suggesting
17 to you is yes, if you think there is some legislation you can
18 put before the state, because I as a citizen of this country,
19 or even if I was just a resident of this country, I should not
20 have to look to Washington to cure an illness that I have in
21 Little Rock, because I live in Little Rock. I pay taxes in
22 Little Rock. I elect people in Little Rock, and in the State
23 of Arkansas, so they should be answerable to me.

24 And that's why you sometimes need to come up with
25 local initiatives or state-wide initiative, so that the people

1 in this state can look to the state first. And that failing,
2 they can look to the federal government, and it makes a good
3 court case when you look to your local authorities to do
4 something and nothing was done.

5 So push for it and I'm not going to suggest what
6 should be changed in here, because that's your business. But
7 there's a need for local initiatives. If you have any
8 questions?

9 DR. MITCHELL: Thank you, Mr. Taylor. Any committee
10 members have any questions?

11 MR. NGUNDUE: I do appreciate what you mentioned,
12 Mr. Taylor. From your standpoint with the Department of
13 Justice, and since we are studying this process here, is
14 there any commitment in terms of support from your agency
15 to help us get over this hurdle in terms of, i.e.,
16 bringing some of this agency -- you could talk to the
17 different local initiatives to support --

18 MR. TAYLOR: We can work with you on local
19 initiatives. We can't lobby for anything, not even a pay
20 raise.

21 MR. COLEMAN: Ms. Chairman, excuse me, I guess.
22 I've been black too long, about 75 years. I'm probably
23 the oldest person in here. But I've been hearing the same
24 things for 50 of those years about black folk need to do
25 this and they need to do that. And one of our populists

1 used to say, once we can get white folks and black folks
2 to come together and talk about these things -- our
3 interests are basically the same -- and look like to me
4 every year we get further away from that. When do we come
5 together and say look -- go ahead, I'm sorry.

6 MR. TAYLOR: As far as I'm concerned, communities
7 get further apart and they come together. You find an
8 issue that both parties can agree on. Now, there's some
9 issues, even though you and I are black, we may not agree
10 on. But it's not because it's your black and she's white,
11 it's that, you know, it's like my buddy says, I don't
12 dislike you because you're white, I just dislike you. It
13 has nothing to do with the fact that you're white. I just
14 don't get along with you.

15 And I think one of the things that we need to
16 realize and this may sound like a reactionary view, is
17 when we handled the Little Rock school case, one of the
18 things I said is that every time a white kid and a black
19 kid gets in a fight, let's not call it a racial incident,
20 because they just didn't like each other that day.

21 You know, I've been married 38 years. There are
22 days my wife and I didn't like each other. You know, and
23 it had nothing to do with the fact that she was a female
24 and I was a male. It was that we didn't agree. That
25 didn't mean the marriage was breaking up. Because if we

1 had agreed on everything for 38 years, one of us is a very
2 skillful liar.

3 You know, we have to understand that. There are
4 going to be issues that the white and black community are
5 not going to agree on. But what we have to determine is
6 there's not a racial issue. No, it may not be. Now, if
7 you disagree with the fact that I have equal access to the
8 bank, then I got a problem with you, especially since my
9 income is better than yours and my credit is better than
10 yours. Then we got a problem.

11 But we have to start looking at things, issue-
12 oriented also. You know, one of the issues somebody asked
13 me in Baton Rouge a few years ago was that did I think
14 that we could resolve the problem of police misconduct
15 with more black policemen? And I said no. And he said
16 why? I said we need to resolve the problem of police
17 misconduct, because in Detroit they will tell you you
18 haven't had your butt kicked until it was by a black
19 policeman.

20 I had -- now, we have to resolve the issue of
21 excessive use of force, and prosecute, because black
22 policeman can be just as vicious. I spent nine months on
23 the board dealing with the border patrol for that
24 insensitivity to hispanics.

25 And 23 of the border patrolmen I was dealing with

1 were hispanic. It was misuse of power. This wasn't one
2 hispanic who hated another hispanic. He had power and he
3 didn't know how to use it. So we provided him some
4 accommodations in one of our federal houses.

5 So what I'm saying to you is be careful how we label
6 everything, because I would imagine, and I don't know so
7 don't anybody quote me, you have some black police
8 officers in Little Rock, who somebody can name as using
9 excessive force. It's the power they use wrong, and all
10 I'm suggesting here this afternoon is that you make these
11 coalitions, and that you come up with local initiatives.

12 Washington is going to be Washington. But why
13 always go to Washington? Make them pass the laws, but you
14 get some passed here, because I'm under the whim of
15 Congress, and Congress can say next year you all don't
16 have any money to service Little Rock.

17 But if you push that initiative through this state,
18 you control a few legislators.

19 MR. COLEMAN: Yeah, but see in Arkansas we believe
20 that -- I don't care if you say partisan, nonpartisan, I'm
21 about ready to go home anyway. My statement shouldn't be
22 taken as being political. We've been saying in this
23 country we could solve our problems through the vote. And
24 we chose to do one party and just one party told us we
25 could solve all of them through welfare.

1 Then they come back and showed us some things that
2 you can't have our compensation unless you give us our
3 votes, regardless if you got to eat -- right now we find
4 ourselves in the quandary because of a one-party system in
5 the State of Arkansas, that we shouldn't have ever been
6 in.

7 Everything was tied to -- was tied to one thing, the
8 power in Little Rock. And if you were running for
9 alderman, I don't care what color -- you were black or
10 white -- if you're not tied in with the power in Little
11 Rock, you're still in bad shape, whether you're in NAACP
12 or any other thing. You got to be a Democrat -- excuse
13 me, Democrats -- how come? We dealt with a one-party
14 system so long, and when we knew we were going in the
15 hole, I mean, morally and what have you -- because of
16 what? Because you had to vote -- didn't go that way.

17 MR. TAYLOR: Sir, I'll say this. It's what my
18 parents taught me. Is that no one can control you without
19 your help.

20 MR. COLEMAN: And we helped, and I agree with you.

21 MR. TAYLOR: That's my concluding statement.

22 MR. COLEMAN: Some of these problems we're not going
23 to solve until we get an equal thing --

24 DR. MITCHELL: Any other questions? Thank you, Mr.
25 Taylor. Now we're going -- before we take a break we're

1 going to listen to Lida Jo Anthony, President of the
2 Leadership Round Table.

3 MS. ANTHONY: Good afternoon.

4 DR. MITCHELL: Good afternoon.

5 MS. ANTHONY: I appreciate being included on this
6 agenda to speak just briefly from a community based
7 organization on problems on civil rights.

8 The Leadership Round Table is an organization that
9 was founded in 1966 by three men who are now all deceased. The
10 late Bill Pierce, the late T. E. Patterson, and the late Jessie
11 Mason, Sr.

12 It was an organization at one time that did not even
13 afford the opportunity for women to be involved, because of the
14 riff that was involved in making the change that was necessary
15 at that time for African Americans.

16 It is an African American community based
17 organization. And our membership has individuals from every
18 walk of life, every component of our community.

19 We have committed in this calendar year to focus on
20 the issues and policies of local and state government, because
21 as we look at what really impacts our lives, it is the
22 ordinances of the city, the county and the state that really
23 impacts of the lives of African Americans.

24 Civil rights is almost nonexistent to those
25 individuals at the grassroots, whether it be housing, whether

1 it be in economic development, whether it be in education, or
2 just the procurement of health care.

3 We have looked at this issue since 1996 and we are
4 responsible for writing a publication called State of Black
5 Arkansas, which every two years we set the publication, to talk
6 about where we are in comparison with our peers, the white
7 community.

8 There's enough blame for our problems to go around,
9 from the real estate agent to the educator, to the bank
10 examiner. Just this last week I spent some time with some
11 members of the FDIC, who were examining some bank records here,
12 who found that our ability to even secure loans from our banks
13 was almost nonexistent.

14 And if you think there's nothing wrong in Pulaski
15 County, I suggest you just ride west. If you ride west you see
16 that the part of the city is doing exceptionally well compared
17 to the rest of the city. And that speaks to a level of
18 discrimination and some violations of civil rights.

19 As we began to look at what's going on with civil
20 rights, we understand that a lot of it falls to the hands of
21 those who are in elected positions, but there is an amendment
22 or a law that deals with them. It's called Under Color of Law,
23 which is an issue that we'll begin to investigate to see just
24 the fact that elected officials are bonded to treating all of
25 their constituents fairly.

1 And it is almost impossible to talk about civil
2 rights without talking about our role in how sometimes we as
3 African Americans hamper our own civil rights, and our own
4 accessibility to civil rights.

5 As I looked at the question of whether or not there
6 needs to be an Arkansas civil rights enforcement authority, I
7 say yes. But I say yes with a caution. I would hope that
8 whatever this agency is made up of, that it not be just simply
9 window dressing, that it not be something we just point to to
10 say that we have it.

11 Civil rights is a role for activists, not just
12 people who sit around tables and talk about the issues, but
13 people who are inclined to impact the issues. I would hope
14 that we would put people into this agency that would have some
15 background as to what it is to have your civil rights violated,
16 have some background in actually fighting for the rights of
17 others, as well as themselves, because too often we find people
18 with single-minded agendas. I'm only concerned about my ZIP
19 code where I live and how this piece impacts me. I'm really
20 not concerned -- no matter how bad this is, as long as I'm
21 protected, that is me and mine, the rest of the world can die
22 and go to hell tomorrow.

23 And that has been one of the major roles as we as
24 African Americans have played into how our civil rights have
25 just been so degenerated and gone away. But I would hope that

1 if this agency comes to pass, because certainly we have enough
2 laws on the books, it seems that laws are passed, taxes are
3 passed, but when it comes down to the implementation, then the
4 implementation is more how to keep it out of the access of
5 African Americans and other minorities rather than to create it
6 for our benefit.

7 I'm always concerned about the dollars that are
8 spent on consultants, and on meetings to have a meeting, and
9 not enough dollars that are spent on the actual implementation
10 of making things better.

11 I would hope that if this agency comes to pass that
12 it is created with the force to deal with policies, procedures
13 and time frames. Those are the murderers of individuals who
14 choose to access their civil rights. Try getting your rights
15 dealt with by any agency in government, in private sector,
16 corporate sector. Try getting those -- your needs met. You're
17 talking about a year in some cases.

18 Just recently in dealing with city government we're
19 dealing with an employee of city government who had to deal
20 with racial slurs within the work place where the policy is
21 quite clear. And the steps should have been quite swiftly.

22 But it has taken more than eight weeks to get almost
23 a non-existence, disposition on this issue. And these are the
24 types of issues that we in the Leadership Round Table are
25 involved in, because we do not operate any program, we do not

1 accept any grant, we are completely unbought and unbossed.

2 We are free to go about our business of looking at
3 any agency, any government entity, any corporation, because we
4 have no loyalty to anyone who would mistreat or injure the
5 least of us. Somehow that's how I feel God would have had it
6 to be.

7 As you go about creating the civil rights agency, I
8 would hope that it would be met with legislation that gives it
9 to teeth to actually do the job that is so long overdue in our
10 community. I would hope that this Advisory Committee will go
11 about the business of creating a directory of groups like mine
12 and like others in this room who have been in the business of
13 doing this kind of work for a very long time, just as a point
14 of reference for those people who may feel that this committee
15 is out of their reach.

16 Some might just be a little more comfortable. We're
17 talking to someone who is just a part of their neighborhood.

18 I would hope that this committee would go about an
19 indepth role of educating the community of its existence. For
20 many of us it has been almost to our own devastation as we work
21 on issues of what we feel is community interest, such as what
22 is done with city government dollars, police brutality, housing
23 issues, education issues, that someone from this committee
24 would be available or be a part of some of those meetings.

25 I know we all wear different hats, depending on

1 where you are and what you're doing at the time. But sometimes
2 it would just be nice to have someone there as a part of the
3 Arkansas Civil Rights Commission.

4 We do believe that a lot of the resolution is going
5 to be in the hands of elected officials as well as in the hands
6 of African Americans, as they begin to educate themselves and
7 begin to access those things which have been denied to us.

8 We often asked about economic dollars. The economic
9 dollars are always there, but so are the barriers that keep
10 them from becoming a part of our community that will make our
11 situations better.

12 I do believe that litigation is going to be a
13 necessary role if we are to get to the true civil rights.
14 Litigation must have some type of time frame in there, and it
15 must come with strong penalties. The little slaps on the hand
16 that come after litigation is almost a deterrent to individuals
17 to get into litigation in order to get their needs met.

18 Part of the role that the African American community
19 has played in their own demise of their civil rights has been
20 our failure to come together. It has been our failure to
21 educate our brothers and our sisters, and to teach our kids
22 that they are governed under the same articles of law as every
23 other man and woman, and it is their right to demand an
24 education, an opportunity to go into a bank and to receive fair
25 treatment.

1 And sometimes I think that's the reasons why we have
2 so many other of our products within our community, such as
3 violence, drive-by shootings, and sometimes that hopelessness
4 that seems to be among our African American children.

5 I was told when I came into this meeting, as I'm
6 always frustrated when it's just another meeting, that this is
7 a new beginning. I would suggest to you since 1964 we've had
8 several new beginnings.

9 It's time to get on from a new beginning and down to
10 the work that's necessary to make civil rights a reality, not
11 just a law that exists on paper, when it comes to housing,
12 employment, and if you go through any corporation or any state
13 agency, they have that article, that piece of paper pinned up
14 on a bulletin board, following the instructions of law, just as
15 they have been instructed to, but that's usually as far as it
16 goes. I work for a large corporation. And I know how often
17 civil rights are violated within that corporation on a day-to-
18 day basis.

19 Unfortunately it does have to do with the color of
20 your skin. And when you're African American, it's an
21 announcement that you make as soon as you walk into the room.
22 There is no ifs, ands or but about who you are or what you are,
23 and sometimes that's how soon discrimination begins for you,
24 and when you're a woman, you're twice guilty.

25 I would hope that as this committee moves on through

1 this work that more dialogue is necessary, but it is moved to
2 action, action that will need the support of a lot of our
3 professionals from around the community, who are beginning to
4 feel some of the brunt of discrimination, as they become sole
5 owners, they rights are being violated, as they're being denied
6 the opportunity to practice in different places, whether
7 they're doctors or lawyers.

8 I would suggest also that we become creative.
9 Discrimination has always been creative. Each day people wake
10 up, whoever decided to deny people's right, they find a new way
11 to do it. So I would suggest strongly that we also become
12 creative in making it possible for people to access their
13 rights.

14 Again, I came in late and I do appreciate the
15 opportunity for being able to address this body. Thank you.

16 DR. MITCHELL: Thank you. Ms. Anthony, someone may
17 want to ask you a question. Is there a question from any
18 committee member?

19 MS. STRICKMAN: I was really struck by a lot of your
20 comments, but particularly when you talked about the fact
21 that you were unbought and unbossed. How -- do you have
22 any ideas at this point or would you think about them and
23 share them with us later as to how we could establish
24 whatever it is we work toward, how can you really ensure
25 that kind of independence, and if you have independence as

1 you described with the Leadership Round Table, how then do
2 others welcome you or allow you to be in there to
3 negotiate or to mediate or to discuss?

4 MS. ANTHONY: We are political activists. We have
5 our own endorsement procedure. We're quite vocal in what
6 we do and we do a reasonable amount of research behind any
7 issue that we are going to discuss with the general public
8 or with any private entity.

9 Sometimes facts are enough. The fact that African
10 Americans will go through the steps of getting the facts,
11 and a lot of time using their own documentation is enough
12 of an intimidation weapon, if you will, to get the
13 attention of those who choose not to change.

14 It is very hard for entities who receive a grant or
15 community dollars or state or federal grants to take their
16 money with one hand and hit them over the head with the
17 other. So we've stayed clear of that type of funding.
18 Our funding comes from us, the membership, in order to do
19 the kind of work, not only the funding, but our energies,
20 our commitment -- the research got to be done, then we
21 find the time to do it. If a meeting needs to be made,
22 someone loses time from their job because it takes that
23 type of commitment to get back to those issues, because
24 once they pay you on the front end, they don't owe you
25 once they get in.

1 We would hope again that this be accomplished, if
2 it's going to be a part of the State of Arkansas,
3 unfortunately it's going to be enforced by whoever sits in
4 the Governor's office at that time. If the Governor is
5 strong and that's the way that trickle down theory
6 happens, if the Governor is strong on civil rights, then
7 guess what? Everybody else is going to step to that same
8 drummer.

9 So it does behoove all of us to impress upon the
10 Governor and to the different legislators and to make our
11 issues known as we go to the ballot box, that this is an
12 issue that is important enough to us. You would think
13 with all the talk about faith and religion in our
14 community, that people would be morally moved to do the
15 right thing, because as we talk about civil rights, that's
16 all we're talking about. People's will to do the right
17 thing, by all people.

18 But again, that's just not the structure that this
19 America or this state that we live in -- our history, the
20 history of the State of Arkansas plays a lot in the role
21 of how things get done here. The city fathers are just
22 not about to give up the status quo and share the wealth
23 or the opportunity with all.

24 You know that several years ago we went from the
25 state slogan of "The Land of Opportunity" to the "Natural

1 State." That was not by coincidence, because we knew that
2 we were stopping opportunity for a reasonable amount of
3 individuals within our state. So how do we do that? We
4 start educating. We start making committees like this
5 visible, and we start moving forth from just the meeting
6 tables to the community to let them know that these issues
7 are important, and they're simply right.

8 DR. MITCHELL: Thank you, Ms. Anthony. We're going
9 to really stay on schedule, so we're going to break until
10 3:40.

11 (Break.)

12 DR. MITCHELL: Our first presenter for this second
13 part afternoon session is from the Arkansas Realtors
14 Association, Mr. Bob Balhorn serves as Director, and then
15 Mr. Balhorn, you can present or introduce the staff chief.

16 MR. BALHORN: I have with me our staff person for
17 equal opportunity, Micky Bass, and then our equal opportunity
18 committee chairperson for the Arkansas Realtors Association,
19 Patsy Shaddox, and Patsy is going to help me with the
20 presentation. Patsy, why don't you come up here?

21 We're extremely pleased to have the opportunity to
22 talk to you folks. When Farella contacted me about this
23 meeting, I guess I didn't know that this Advisory Committee
24 existed, so it was kind of a surprise to me, but I'm glad you
25 are here because it takes input from a lot of folks to get

1 things right and to make sure that everybody is speaking from
2 the same hymnal.

3 What I wanted to do is to just kind of go over a few
4 things that we have done to show some of the things we've done
5 in support of fair housing. And the U.S. Department of Housing
6 and Urban Development, oh, some 20 years ago had put together a
7 voluntary affirmative marketing agreement to which our national
8 association subscribed and then our state association did and
9 our local boards of realtors in the individual towns subscribed
10 to that also.

11 And under that we had some various things that we
12 did, affirmatively and such as some ads in papers, touting
13 equal opportunity in housing, and education processes, and
14 working with HUD in order to promote fair housing, and we did a
15 number of things, including some seminars and we had extensive
16 training sessions for our members. And that's been an ongoing
17 situation, like I say, for over 20 years.

18 I didn't come here until 1986, so I don't know
19 exactly how much was done before that time, but I do know that
20 since 1986 we have been heavily involved.

21 I brought along some of the things that we have
22 done, like in our statement of policy, this is something that
23 we have -- and I believe that's on Page 10 where we talk about
24 fair housing. And we have made a commitment to fair housing to
25 make sure that everyone is treated equally, and we've changed

1 it from time to time, and you'll notice this is a 1986 document
2 and I believe our first one was in 1989, so that we have
3 pledged to promote fair housing and equal opportunity in
4 housing.

5 And I think that making that commitment says
6 something for our members. And this is something that all of
7 our members subscribe to. In our real estate contracts, we are
8 the de facto supplier of real estate contracts in Arkansas for
9 real estate brokers.

10 And I've got four of them here that we use, a
11 permission to show contract, real estate contract for sale of
12 residential property, an exclusive buyer agency contract, and
13 exclusive listing contract. And I know Nate Coulter would be
14 very familiar with those, and he's probably seen each one of
15 these, and we won't sell them to attorneys though, but I'm sure
16 that he will recognize it as something he's seen a lot of.

17 And we do have a fair housing statement in each of
18 those contracts, so that the buyer and the seller understand
19 that they are committed to fair housing when they sign these
20 contracts. When we go out and list a house, the seller has to
21 sign our exclusive listing agreement, if we're going to work
22 for him. And in there it says that we're not going to
23 discriminate, and it says that we're going to promote fair
24 housing, and anyone who wants to see that property, we're going
25 to show it to them.

1 And so we let them know up front. And then the same
2 way with even a permission to show. There are some houses that
3 aren't listed with the realtor that are just available, and we
4 have a permission to show form, and even in there it's just
5 like can I show your property for one time, and if I sell it,
6 you agree to pay me a commission, if I sell it for a certain
7 price.

8 And we have a fair housing statement in there. So
9 we've been doing this quite a long time and our members are
10 very familiar with these, so that we've been promoting -- and
11 you'll notice we've got the equal opportunity, equal housing
12 opportunity logo, on each of those forms, and have had for as
13 long as I can remember.

14 We've had occasion to battle in the state
15 legislature over landlord-tenant laws, and I noticed one of
16 your speakers is going to be Senator Lewellen, and he and I got
17 to know each other real well doing those battles, because we
18 were on opposite sides of the fence on those. But we've become
19 good friends because of it.

20 And because of the battle that we had, we felt that
21 we wanted to do some education of the public, if it was at all
22 possible, so we developed this landlord tenant handbook, which
23 also has a fair housing section in it, and we make these
24 available to the public. It's a little difficult to get them
25 out. I know our last printing we had them available at the

1 First Commercial Banks in their system.

2 We're trying to -- we offered them to the
3 prosecutor's association recently, so that they could be
4 distributed in each of the counties, and we're not certain just
5 how that's going to come out, because this is our latest issue
6 was just printed this year.

7 But we're trying to get it out state-wide if we can,
8 and we don't charge for this. And we're happy to do it as a
9 public service. And the reason we did it was because we want
10 everybody to know what the laws are. We want to landlords to
11 know what they are and we want the tenants to know what they
12 are. And this is written in layman's language so it isn't all
13 that difficult to understand, and Nate can probably shoot it
14 full of holes, but I think that it does help to have this and
15 help promote understanding between landlords and tenants, and
16 like I say, fair housing is a part of that.

17 We have -- we've long had fair housing incorporated
18 into our training plans for our new agents. We have something
19 we call a realtor's institute, and it's a series of courses
20 whereby the agent learns a lot about property and selling
21 houses and such.

22 And part of that training has to do with fair
23 housing. We want to make sure they get off to a good start, so
24 that they don't stub their toe when they're out showing
25 property.

1 And that -- it all goes in line with our national
2 association's code of ethics. We have article Number 10 under
3 Duties to the Public, we have a statement in there concerning
4 fair housing and equal opportunity. So not only are we
5 committed, our national association is committed, and we've had
6 tons and tons of educational opportunities because of this.

7 So we think that education is the way to go, and we
8 feel that our members have done a good job of it.

9 We work with the Arkansas Real Estate Commission
10 also in their fair housing participation. They have included a
11 summary of the fair housing laws into their regulations.

12 Anyone who -- well, any new agent, of course, gets a copy of
13 those that they're presented to them. And they do this as a
14 matter of their prelicensing education. They have an outline
15 that they give to each of the instructors who train the new
16 agents or those who are studying for preparation for the exam.

17 And part of that is a section on fair housing, so
18 they are taught from the beginning about fair housing. And
19 that is also incorporated or at least they're supposed to, if
20 they follow the outline that the Commission gives them, and I'm
21 sure that most of the instructors do.

22 The real estate exam also contains questions on fair
23 housing, so that they're exposed to it there.

24 Last year the mandatory continuing education that we
25 have included fair housing as a topic. And I know that the

1 Real Estate Commission presented a fair housing train the
2 trainers seminars where they brought the instructors in to
3 teach them the proper way to train agents on fair housing, and
4 they had people from out of state come in and put together
5 those seminars.

6 And they've done some other fair housing seminars on
7 their own. And they've also told me that a violation of the
8 fair housing laws is a basis for their license being revoked,
9 and so that is another piece of enforcement that is there, and
10 that is available.

11 That kind of brings us up to date on what we've done
12 and I'm going to let Patsy Shaddox tell you a little bit about
13 what we're doing right now and where we're going and some of
14 the training that we have for agents currently. And Patsy, if
15 you would, please.

16 MS. SHADDOX: I would like to start by just saying
17 how pleased our Arkansas Realtors members are to have a
18 wonderful working relationship with the state office of the
19 U.S. Department of Housing and Urban Development, within our
20 committee, which I have served on for four, maybe five years.
21 We have always had two of the people from the HUD office as ex
22 officio members, and they are always invited to each of our
23 committee meetings.

24 With the winding up of the VAMA agreement and
25 starting with the new partnership, last year in 1997 a great

1 deal of our committee time with the state and with the HUD
2 office was the development of our partnership agreement. That
3 was actually formally signed on November the 5th, I believe it
4 was, and within that agreement that has kind of been our
5 guidelines for this year's effort for the committee for our
6 members, as well as for the public.

7 Within that partnership agreement -- just let me
8 read one thing, which under our job description of which our
9 state association, with Micky's assistance, each committee has
10 specific job descriptions. One in particular is implements
11 training at the association level, as well as provide training
12 aid to the local boards within the state.

13 And so part of our committee in being able to help
14 certainly is the advocate of helping realtors know if they are
15 unintentionally perhaps violating some of the laws.

16 Certainly this year in being able to get the word
17 out to our members, which are in excess of 5,000, each of our
18 local boards, of which we have I think 38 throughout the State
19 of Arkansas, each of those boards have a copy of our HUD
20 partnership agreement and each of those local boards has an
21 equal opportunity committee also.

22 So the transition from the information from national
23 to state to the local boards, and then to that local committee
24 -- outreach to -- and this year we have focused on being able
25 to have some open seminars that are available to any of the

1 housing providers within our immediate area.

2 In my home town, which is Harrison, which is
3 District 2 of the Arkansas Realtors, we had close to a hundred
4 people that had registered for an all-day workshop, and at that
5 workshop we were able to have speakers pertaining to fair
6 housing enforcement that come to us from Texas from the HUD
7 office. We have had those involved and actually did follow
8 through on the cases where there were allegations, and so we
9 had some of the top-notch speakers being able to come in and
10 talk to our members.

11 We had apartment owners there. We had made a
12 special effort to get with our housing agencies, and get the
13 invitation, some of them by telephone, some of them in writing,
14 but those that we could call, we had a local committee to
15 invite attorneys, anybody to do with housing in that area, and
16 I was extremely pleased with the turnout that we had, and the
17 comments after that session.

18 Since the Harrison workshop there was a second one
19 that was held in Russellville. We had a terrific turnout from
20 there. Our Commission, our Real Estate Commissioners, the
21 executive director and the deputy has been in attendance at all
22 of the workshops we've had, as well as our equal opportunity
23 committee meetings.

24 We have another one that is schedule in is it
25 Paraguay, Micky? Jonesboro, yes, that we're excited about,

1 because again this is a paid speaker that we have coming in to
2 speak to the members that has been extremely involved in all
3 phases, even to the level of the cities having their own
4 regulations and things, ordinances, to do with the fair
5 housing.

6 So we're extremely excited about our partnership
7 agreement, the working relationship we have with HUD, the
8 response we have from our own members, and knowing how the
9 expertise and with our members continues to rise, simply
10 because of the education that our state is helping all of our
11 members with.

12 If there's any questions or things, I'm excited
13 about what our committee is doing, and certainly we've still
14 got a lot more work to do, so I'm pleased that it's not a
15 committee where people don't show up. We've had every member
16 in attendance with the exception of two at the most that had
17 excused absences. So I think that's speaking wonderfully for
18 equal opportunity.

19 MR. BALHORN: Part of the committee meetings we've
20 had in '98, as part of it we've had people from the fair
21 housing testers groups come in. The Arkansas Fair Housing
22 Council and ACORN, we've asked them to be speakers in our
23 February meeting, so that we're trying to work with them to
24 make sure that everybody has a fair shake.

25 And we have made our equal opportunity committees

1 available to our local boards of realtors to help with their
2 programs and so that they can have everybody up to speed. And
3 members of this committee and any other interested parties here
4 are invited to our October 7th meeting of our equal opportunity
5 committee at our convention in Hot Springs at the Arlington
6 Hotel. It's an eight o'clock meeting, so it's an early
7 meeting, but our equal opportunity committee likes to meet
8 early and get that part of it in gear and running. It will be
9 in the Venous Room on the second floor of the Arlington.

10 Just some recommendations to you that we would have,
11 we believe in public education. We believe in education more
12 than we do enforcement. Although we understand that
13 enforcement is necessary, we certainly think that education is
14 the way to go.

15 Until we all learn to live together and work
16 together, we're not going to progress very far. Even with
17 strong enforcement, it doesn't always work. You can look at
18 our jails and our enforcement of other laws and see that we
19 still have a ways to go there, and I think the public is going
20 to need to be educated in all sort of areas in order to meet
21 the goals that we are seeking. And that's to be one.

22 We do feel that the existing enforcement procedures
23 are adequate at this point. There are venues for complaints to
24 be held. We even make our professional standards committee
25 available to anyone who wants to complain about one of our

1 members in fair housing.

2 We have a setup that is state-wide, whereby we have
3 hearings, and we can fine our members or we can -- we can
4 dismiss them from the organization. We can suspend them, so
5 that we do have that enforcement area there.

6 Now, we have not had any fair housing complaints
7 through that. I would assume that anyone might be a little bit
8 reluctant to go come to us for that, but I want you folks to
9 know that that is available, and if we can get the word out, we
10 want to do that.

11 In the event you do propose a new agency for
12 Arkansas, and I assume that's one of the things that will be a
13 proposal that's submitted to you, we think that there are some
14 conditions that you should look at, the protections afforded by
15 federal law are something that we feel you must include.

16 And we also feel that you shouldn't have any more
17 than the seven currently protected classes under the federal
18 law, and the penalties should not exceed the federal penalties,
19 and a due process of law must be built into it.

20 Complaints need to be handled quickly and I
21 understand that would be a reason for a state or a local fair
22 housing commission.

23 A distinct difference between the investigative body
24 and the adjudicating party, I think, is necessary, and you need
25 the right of appeal to the court systems. Our feelings on the

1 adjudicating body is that a commission or hearing panel is
2 preferable to Administrative Law Judges. We think that it
3 should be a group of people rather than one person.

4 And then I want to finish up by offering our
5 cooperation in anything you folks decide you want to pass on to
6 anyone, and we certainly want to have a dialogue with you and
7 any other groups that are interested in doing this, and we
8 thank you very much for having the opportunity and we'd like to
9 offer any questions, answers to any questions you might have.

10 DR. MITCHELL: Any questions from the committee
11 members?

12 MS. STRICKMAN: I do know some people participated
13 in some of the training opportunities you've provided,
14 particularly the one in Harrison, and although I know that
15 traditionally your association is going to attract people
16 to your trainings that are people who are members of the
17 association or are serving in a realtor role, as opposed
18 to the people who may be protected by our laws, and I'm
19 wondering if you've done anything or have considered
20 anything in terms of your educational proactivity that
21 would include people in the community for them to better
22 learn their rights under the laws, particularly with
23 disabilities and people in the other protected classes.

24 MR. BALHORN: I'll pass that on to Patsy and have
25 you done any of that?

1 MS. SHADDOX: I'm not sure if I understand the
2 question, but on the particular workshops we are currently
3 doing is yes, we are opening that to the public. We are,
4 however, confined to getting the word out because of our
5 limited budget that we have to work. Now, in Harrison the
6 newspaper we had provided them with information and they
7 did put a little blurb on the front page. Primarily with
8 the apartment owners, those that were in attendance were
9 there because we made that personal contact.

10 So yes. Now, some of our training is certainly for
11 members and is provided by the dues they pay, but I think
12 you know, even with our committee meetings, as far as
13 public, certainly we want them to understand our job and
14 we want to be able to understand, for example, Mr. Pless'
15 job and the enforcement, and I think that's what makes it
16 a beautiful relationship, and everybody knows, and I think
17 that's opening to the public.

18 MR. BALHORN: You know, I have a real lack of ideas
19 of how to get the public to attend. I think the City of
20 Little Rock had a prime example of this this last year,
21 when they asked for public input for legislative issues,
22 and this public meeting had a total of 12 people there.
23 Four of us were lobbyists.

24 And there were maybe three or four neighborhood
25 association representatives there, and we had a couple of

1 fireman and policemen, and the city manager and their
2 lobbyists, and that was all. I mean, and that's for the
3 whole City of Little Rock.

4 They had a second meeting and they had six people
5 turn out. You know, how do you get the word out, and this
6 was in the paper, and that's how I found out about it, and
7 of course I read the paper every day. But getting people
8 to come to these things, I think is very difficult, and I
9 think this is where we need to do something positive as a
10 community as a state, is to get the word out, and it's
11 just difficult to do and without the cooperation of
12 everybody involved, it isn't going to happen.

13 So I think we all have to work together to do that,
14 if we're ever going to do any good.

15 DR. MITCHELL: Any other questions? Thank you.

16 MR. BALHORN: Thank you very much.

17 DR. MITCHELL: Is Mr. Ronald Russell here? And also
18 Mr. Jim Moore from the Friday, Eldridge and Clark law
19 firm. And Mr. Russell is Director of the Arkansas Chamber
20 of Commerce. We welcome you.

21 MR. MOORE: Thank you, Dr. Mitchell, and I ask
22 Diane, is that agreeable with you? Thank you. Good afternoon
23 to the Advisory Committee. I know Dr. Mitchell from school
24 board representation days. It's a pleasure to be here before
25 you.

1 I am James W. Moore. I'm an attorney and partner in
2 the Little Rock law firm of Friday, Eldridge and Clark, where I
3 practiced law for the past 33 years, representing management
4 exclusively in the defense of all forms of claims of employment
5 wrongs and discrimination.

6 I've taught labor law and employment law at the
7 University of Arkansas Law School here in Little Rock, and I
8 started my career as an attorney with the National Labor
9 Relations Board many years ago.

10 And after that and before joining Friday, Eldridge
11 and Clark, I was a law clerk to a chief judge of the United
12 States Court of Appeals of the Eighth Circuit, Judge Pat
13 Mahathey, who hailed from Little Rock.

14 I'm currently a member of the Board of Directors of
15 the Arkansas State Chamber of Commerce, and the United States
16 Chamber of Commerce, and serve on a subcommittee dealing with
17 labor and employment law issues.

18 I am appearing here today on behalf of the State
19 Chamber and Arkansas business community here in Arkansas. I
20 want to state at the outset that the State Chamber has made a
21 strong commitment to diversity training and compliance with all
22 equal employment laws going back at least 25 years, because
23 that's when we commenced giving annually seminars for all
24 employers, whether they're a member of the State Chamber or
25 not, in order to provide them with preventative maintenance so

1 as not to run afoul of any discrimination laws. We've been
2 doing that annually for at least the last 25 years and our next
3 seminar is scheduled for November 4th at the North Little Rock
4 Hilton, and will be an all day training session for employers,
5 and the public in general, who wish to learn from four
6 attorneys who practice in this area exclusively, on how to
7 comply with our equal employment laws, but with state and
8 federal.

9 But that is not the issue that I'm here today to
10 address. We've been asked to address the issue of whether or
11 not in Arkansas there's a need for another at the state level
12 civil rights enforcement authority, which presently does not
13 now exist.

14 In our view we do not feel that there is such a
15 need. The Arkansas business community, which is comprised
16 mostly of employers of less than 100 employees believe that we
17 do not need another civil rights enforcement authority to
18 protect the employees from workplace discrimination.

19 Now, let me point out that such a state agency would
20 be in addition to the existing employee rights laws enforcement
21 authority of the EEOC, which we all know, the OFCCP, the NLRB,
22 OSHA, HUD, the U.S. Department of Justice, the U.S. Department
23 of Labor, the Arkansas Civil Rights Act of 1993, the Arkansas
24 Department of Labor, and a very skilled and sizeable aggressive
25 Civil Rights Bar, which represents plaintiffs here in Arkansas,

1 which is a relatively small state from a population standpoint.

2 I notice from your program that one of my
3 counterparts, Mr. Phil Kaplan, who generally represents victims
4 of discrimination, was here earlier today to address you and he
5 practices extensively on behalf of plaintiffs.

6 Not only do we feel that the Arkansas Human
7 Relations Commission, if it were created by state statute,
8 would be overkill in this area of civil rights protection, but
9 it would be another expense to the taxpayers of the State of
10 Arkansas. It would be very costly to house and staff and
11 provide operating funds to create from the ground up another
12 agency of investigators and lawyers whose duties would only
13 serve, we feel, to duplicate more than adequate existing
14 federal and state civil rights laws and agencies.

15 The new agency would only increase in our view the
16 number of charges of discrimination and venues of litigation
17 for the same alleged employment violations that the employer
18 has to defend now. Accordingly, the employer's legal fees
19 would be increased unnecessarily, to defend we feel the same
20 allegations of wrongdoing before yet another agency, and just
21 another judicial forum.

22 I would point out that it's not uncommon for the
23 cost to an employer to defend a single employee discrimination
24 suit from the filing and investigation of the original charge
25 with EEOC, through the Federal District Court level, trial

1 phase, reaches upwards of \$50,000. Now, this figure does not
2 take into consideration the cost even of an appeal. These
3 causes of actions are usually not covered by insurance. The
4 employer is almost never able to recover his cost and legal
5 fees, even when he wins in court, even if he's not guilty of
6 any discrimination. It's rare that he recovers his legal fees.
7 To recover legal fees, an employer must show the suit was
8 totally frivolous.

9 However, for an employee, on the other hand, recover
10 his legal fees, he only has to prevail on one issue, which is a
11 much lesser burden of proof. Consequently, even if the
12 employer wins the lawsuit, he's found not to have been involved
13 in any discriminatory acts, he loses because he has lost
14 thousands of dollars of nonrecoverable legal fees.

15 As a practical matter, employers in Arkansas are
16 forced as a result of this to settle cases every day, and I do
17 it, I'm involved in this, even when they are not liable, simply
18 to avoid the outrageous cost of going to trial. For the small
19 employer, the choice is more dire, either settle the case or
20 face financial ruin for expensive litigation.

21 The net result we feel is that another regulatory
22 civil rights enforcement authority at the state level will only
23 increase the monetary pressure that an allegedly wronged
24 employee can bring to bear on his employer to settle claims of
25 employment discrimination, irrespective of merit.

1 Consequently, it seems to us that the only real
2 beneficiaries of another civil rights agency such as this would
3 be lawyers, not real victims of workplace discrimination, who
4 have many avenues of redress where they can already go, both
5 state and federal.

6 More agencies to complain to simply means more
7 litigation, and more litigation creates the need for more
8 attorneys and more litigation expense. While lawyers have
9 prospered over the last 30 years with the expansion of civil
10 rights legislation, this is hardly we feel a rationale for yet
11 another agency at the state level in an area of law which is
12 already saturated with legislation and regulatory agencies.

13 We believe the goals of the Commission are certainly
14 laudable and we want to assist in preventative maintenance
15 steps, education, as the gentleman from the Realtors Board said
16 earlier, which we feel is the key to really eliminating
17 workplace discrimination. Enforcement in my view has done
18 little to deter this. Education is the primary, I think,
19 method of eliminating this, and we subscribe to this and we
20 participate in this and put on our own programs.

21 But the Chamber today feels that on behalf of all
22 employers in Arkansas, both large and small, that we
23 respectfully submit that we do not feel there is a present need
24 for an Arkansas Human Relations Commission as a state
25 enforcement authority, given the comprehensive existing

1 protection of civil rights at the federal and state level.

2 I'd be happy to answer any questions that the panel
3 may have. The Chamber sincerely appreciates the opportunity to
4 present the business side to this question, which there is a
5 real side for the business community, and it has to face this
6 prospect of litigation every day, and it's an expensive cost of
7 doing business, and even as I said, when the employer is not
8 guilty, has committed no wrong, it still is faced with costly
9 litigation, an expense for which it cannot recover. We feel
10 the existing panoply of laws and agencies at the state and
11 federal level, particularly with respect to the 1993 Arkansas
12 Civil Rights Act, which has been used widely by victims of
13 discrimination, that it would be superfluous to create another
14 agency at the state level for enforcement purposes.

15 Thank you very much.

16 DR. MITCHELL: Thank you.

17 MR. MOORE: Be happy to try to answer any questions
18 you might have.

19 MS. STRICKMAN: I was interested when you said that
20 there's a very active Civil Rights Bar in the State of
21 Arkansas, and one of things that we've learned in this
22 process of studying this issue is that in fact it's very
23 difficult for people who are complainants to locate, hire
24 a civil rights attorney based on for a number of reasons.
25 So I'm interested in where this active Civil Rights Bar

1 is, and how can we support the complainant who is already
2 in a situation often where finances have become a major
3 issue?

4 MR. MOORE: There are many fine plaintiffs civil
5 rights attorneys in the Little Rock area, where most of
6 them practice, although there are others now throughout
7 the state. But even if a plaintiff has no funds and is
8 indigent, he or she after going through the EEOC process,
9 which is free, as you know, can go to federal court and
10 can obtain the assistance of a clerk of court to prepare a
11 form complaint, which they help prepare, costs nothing,
12 they file it, and then the court will appoint an attorney
13 to represent that plaintiff, free of charge. The
14 plaintiff bears no cost to that. If they don't have the
15 funds to bring the case, the federal court will appoint an
16 attorney to represent someone who is indigent to press
17 their claim of alleged discrimination.

18 So there is a means to address that and the federal
19 system has recognized that.

20 MS. STRICKMAN: Well, you're far more experienced in
21 that area than I am, but that has not been my experience
22 that a plaintiff has been able to have a court-appointed
23 lawyer in the federal court when a case of discrimination
24 has been filed.

25 MR. MOORE: I have files in my office, Ms.

1 Strickland. I defend them every day.

2 MS. STRICKMAN: Well, we need to know more how to do
3 that.

4 MR. MOORE: They do do it. It does work.

5 MR. COULTER: If I may enter in here, Jim, it's not
6 -- you have no right to a counsel in a civil matter. The
7 court has a discretion to appoint somebody, but the court
8 does not have to appoint somebody to represent --

9 MS. STRICKMAN: Okay.

10 MR. COULTER: -- an informal pauperis petitioner in
11 the federal courts. I have been appointed and it was not
12 a happy call when the judge calls and asks you to do it,
13 but it's my experience, with all respect to Jim, it
14 doesn't happen very often.

15 MS. STRICKMAN: And that's --

16 MR. COULTER: The judge makes some determination
17 whether the claim has got any merit, and every once in a
18 great while the judge will appoint a lawyer to represent
19 somebody in a civil action, but generally it doesn't
20 happen.

21 MR. MOORE: Well, if you fill out a form and qualify
22 financially, I've yet to see the court -- if you don't
23 have a level of income and assets to take you into the
24 area where you can afford an attorney, I've yet to see the
25 court turn down a request for such an attorney. Now, I

1 really have, and I practice in this area exclusively every
2 day, and it does work. But I'll say this --

3 MS. STRICKMAN: Well, we'd like to learn more on how
4 to do that.

5 MR. MOORE: -- that the plaintiff's bar takes case
6 on contingency too, and I'm sure Mr. Kaplan, Mr. John
7 Walker, Mr. Jack Laby, and many, many others will take the
8 cases. If there's merit, they will do it, because they've
9 told me they --

10 MS. STRICKMAN: Well, it's a complex question. We
11 can't resolve the answer. I have one other question or
12 one other sort of a comment. I am not as familiar with
13 cases that have been brought under the Arkansas civil
14 rights law but I am quite familiar with cases brought or
15 complaints filed with the EEOC under the Americans With
16 Disabilities Act, which is the area of work or experience.
17 One of the things that has always been a challenge in this
18 state in my limited number of years here is that 75
19 percent, I believe -- I don't know if that's accurate but
20 it's close -- 75 percent of our businesses are businesses
21 with fewer than 15 employees, which means that an
22 individual who has a disability, filing under the federal
23 law, they do not have a case, because it only covers 15
24 employees or more, so -- and that's an issue that I think
25 is an important one when it comes to employment

1 discrimination.

2 MR. MOORE: Well, the Arkansas Civil Rights Act
3 starts at a level nine employees, as you know, because you
4 attached that to your mailing, and that's about as low as
5 most any state in the Union, I think, goes with their
6 state's civil rights laws. Some may be five, six, seven,
7 eight, but you get down so low that somebody with that few
8 employees has so few assets that, as I've said earlier,
9 even if they defended the suit and won, they probably
10 don't have enough money to pay their own attorneys, much
11 less result in any judgment that might be received against
12 them. That's why they do put some threshold of employment
13 minimum.

14 But to tell you the truth, the best way to get into
15 court, if you want to get into court, you can avoid EEOC
16 altogether. There's a Section 42, USC, 1981, for race
17 claims -- doesn't cover sex claims -- but you don't have
18 to go to EEOC. You can immediately file in federal court
19 under that statute, and you can append to your complaint a
20 state cause of action based on Arkansas Civil Rights Act,
21 and you have no waiting period, no delay, and away you go.

22 So there's ready access in this state in my judgment
23 for an aggrieved employee to seek justice for
24 discrimination.

25 MS. STRICKMAN: Thank you.

1 MR. MOORE: Yes, sir.

2 MR. NGUNDUE: I would strongly disagree with you,
3 and I am a proponent for Arkansas Civil Rights agency. As
4 an educator yourself, education without testing, would
5 really not be very effective, and I would really submit to
6 you that you should put your effort behind this in a sense
7 that a strong long with an agency that has strong teeth,
8 we will progress and reduce the litigation that you
9 anticipate. Cost is significant, but we should look at
10 the general good of the whole population, the citizens of
11 Arkansas. With own expertise, sir, why would cost in your
12 view be the only reason why you wouldn't support this
13 agency?

14 MR. MOORE: Well, we already have in our opinion the
15 protection in place, both with a states civil rights law,
16 where you can go directly to state court or you can append
17 it with a federal claim, as I mentioned, in federal court
18 immediately without having to go through any agency, EEOC
19 or otherwise.

20 So you can go to the EEOC, if you wish. So there's
21 two prongs that you can resort to immediately, both state
22 and federal redress.

23 Now, to my way of thinking, adding a state
24 enforcement agency, what this would do is the alleged
25 victim would then file yet perhaps a third claim, or

1 another claim, and proceed on all fronts against the
2 employer for the same wrong, and to me that would be
3 unfair because the cost to the employer to defend two or
4 more claims on the same wrong, in various bodies, simply
5 because they have concomitant jurisdiction, is not right.
6 I mean, one agency, one court or two courts is enough,
7 state and federal. Why do we need another agency and
8 another enforcement arm to regress something that we
9 already have covered adequately?

10 To me I have found that most employers today,
11 they've gotten the message. They know what the laws are.
12 Most of the discrimination does not occur at the hiring
13 level. If there is some, it occurs more in the upper
14 reaches of the promotion process, or perhaps in the
15 compensation process, and it's more subtle.

16 But by creating another agency with more enforcement
17 I submit you are not going to overcome that, and that it
18 would be counterproductive. Really I do believe, I train
19 employers as part of my representation, individually, and
20 I train them on behalf of the state chamber collectively,
21 that they want to know how to comply. They are not
22 looking for ways not to comply. They want to know how to
23 comply. And they do a pretty good job, but they're not
24 perfect, and they commit violations, either knowingly or
25 unintentionally, but they do do it, but the secret or the

1 answer, I believe, is in more education, more training,
2 not the creation of another enforcement agency in an area
3 where it's already adequately covered in my view. Yes,
4 sir.

5 RABBIE LEVY: Your mention of education goes along
6 with people who have been both opponents and proponents of
7 the agency. Would the Chamber, do you think, be willing
8 to join in a state-wide education effort with employees,
9 employers, and people involved in the civil rights
10 litigation to do what you say you're doing?

11 MR. MOORE: Let me see if I understood you
12 correctly? You say join in litigation?

13 RABBIE LEVY: No, join in education.

14 MR. MOORE: Education, okay.

15 RABBIE LEVY: I may have said litigation. Join in
16 education.

17 MR. MOORE: All right. I see no reason why they
18 would not. We subscribe to that certainly. We do it
19 ourselves, and we would I think help support that kind of
20 an effort by any agency. Really, it behooves us all to
21 try to advance the cause of -- knowledge brings
22 compliance, except for those employers who are malivant
23 and wish to try to avoid the laws, but that is not good
24 business. It does not make good sense business-wise to
25 discriminate. It really doesn't.

1 There may have been a time when that was not the
2 case, but I submit that employers are looking for good
3 employees, regardless of their race or sex. They are
4 looking for merit. They're promoting on merit. They
5 really are, and it makes sense to them business-wise
6 because employees with good merit are more efficient, more
7 productive and more valuable to the organization
8 regardless of race, sex or age, and they're learning that.
9 I submit that's been my experience, and I've had 30 some
10 odd years to see this evolution, so I think I have some
11 empirical basis on which to make that observation. Yes,
12 sir.

13 MR. NGUNDUE: Last question. If we make an
14 alignment, education, training and litigation, would we
15 still receive your support in this effort, sir?

16 MR. MOORE: Well, you know, you put us in somewhat
17 of a bind to support litigation against our own
18 membership, you see. That's a bit of a stretch for us to
19 subscribe to that. You know, because I'm representing
20 employers, and they're the ones that get sued. We want to
21 keep them out of court. I don't think they would want us
22 to support any effort that would subscribe to litigation
23 again. Short of that, yes.

24 MS. ROBINSON: I have a few questions. My name is
25 Farella Robinson. Thanks for coming.

1 MR. MOORE: Thank you for having me.

2 MS. ROBINSON: I have two questions. In your
3 opening statement you indicated that many cases, f
4 employment discrimination cases have been filed under the
5 Arkansas 1993 Civil Rights Act.

6 MR. MOORE: Yes, ma'am.

7 MS. ROBINSON: On what basis do you make that --

8 MR. MOORE: The complaints that I've defended
9 personally, the lawyers in my department, in my firm.
10 What happens mostly -- they're not filed in state court
11 primarily. They look to the federal jurisdiction to file
12 these complaints, but they attach a combined set of
13 theories of liability. One, Title VII, the Civil Rights
14 Act, Section 1981 of the Federal Code, and with that they
15 combine what they call a pendant or attached state claim
16 of discrimination, based on the Arkansas Civil Rights Act,
17 which is very comprehensive. It covers race, sex, creed,
18 national origin, age, and disability. Sorry, strike that,
19 does not cover age, but disability, does not cover age.
20 But they attach that as another allegation to their
21 complaint, and they proceed on those lines, so they are
22 using the Arkansas Civil Rights Act. They prefer to be in
23 federal court rather than state court, because the
24 procedures are more precise, the trials are more certain,
25 and they feel like that they have a better cross-section

1 of a jury, which they have now given to all of these types
2 of claims.

3 MR. COULTER: Let me follow up on that? Would you
4 agree with me that there's no marginal added cost to
5 defend a case when the plaintiff brings a pendant claim
6 under the state statute, the '93 statute? Essentially on
7 the same cause of action, they've pled an alternative
8 theory under the -- it doesn't really increase or balloon
9 the cost of defending the claim, does it?

10 MR. MOORE: I would agree with that, but now if you
11 create another state agency and another cause of action
12 and another avenue in which to proceed independently, that
13 would.

14 MR. COULTER: If you assume that the claimant is
15 going to go to the state agency and then back up and go --
16 I don't know what the history in other states -- my
17 inference from what I've heard is that you provide those
18 options and people will go one way or the other but not
19 both.

20 MR. MOORE: I feel like they will go both, because
21 the name of the game --

22 MR. COULTER: Wouldn't the statute --

23 MR. MOORE: -- exert maximum pressure upon the
24 employer, who is the defendant, has multiple claims to
25 defend, and then he has to settle as the cheapest way to -

1 - it's a business decision. It becomes not whether he's
2 right or wrong. It's a matter of a business decision to
3 take the most economical way out of this litigation. He
4 says I can't afford it, it's too much, I've overwhelmed,
5 I'm a small company, which is what we're dealing here with
6 in Arkansas mostly, so cut my losses, settle it, let me
7 get out of court. I can't afford this. And there's no
8 insurance in this area. There's some but it's rarely
9 purchased. It's very expensive and it's rarely used.

10 MR. COULTER: One other question. Somebody who has
11 been out there as long as Jim has, I understand the
12 argument Jim has that what we need now is education. The
13 Chamber is not the only corner from which that argument is
14 springing. It may be that's what needed now is different
15 than what was needed 30 years ago. What distresses me a
16 little bit is for the Chamber to say enforcement has done
17 little. You're uniquely situated and practiced in this
18 jurisdiction as long as you have, with such -- what I
19 consider to be the people at the top of the Bar, and the
20 finest law firm in the state --

21 MR. MOORE: Thanks.

22 MR. COULTER: I would be curious for the benefit of
23 the people here, since we've heard a lot of discussion
24 about regulatory, enforcement burdening the economy, would
25 you agree with me that at least -- you said something, the

1 message has gotten through loud and clear to the employer.
2 Isn't part of that message coming from the fact that if
3 you don't comply with the law, you're going to pay a
4 price. You're going to have to go hire Jim Moore or
5 somebody else, and you're going to have to be defending
6 yourself in court at a minimum, and if you're wrong, if
7 you're violating the law, you're going to have to pay
8 somebody to make up for it.

9 Is it fair to at least say at some point maybe we're
10 past the point of constitutioncy, but at some point
11 regulation and litigation produce the ability for people
12 to get that message. It's what makes us come to you and
13 say we want to prevent these things, we want to educate
14 our work force, our managers, we want to avoid litigation
15 because litigation in essence is too expensive for
16 everybody?

17 MR. MOORE: I think in part what you say -- the
18 negative aspect of legislation and litigation has I think
19 overcome discrimination to a certain degree, over a period
20 of time. Now I don't find that to be as true as it once
21 was. There are fewer suits being filed in this area all
22 the time over hiring decisions, which used to be quite
23 prolific. Now very, very few over hiring decisions.

24 The only areas where we really find the cases
25 emanating would be well, sexual harassment, there's still

1 quite a bit of that. Promotion, you know, beyond a
2 certain level. There's still some of that. And
3 compensation. But this as to existing minorities and
4 females who are already on the payroll, and that's where
5 most of the claims are coming. And quite a bit of age
6 discrimination is still being practiced. We have a lot of
7 that and a lot of sexual harassment.

8 But as far as racial discrimination, that's fallen
9 off quite a bit. As far as the litigation experience that
10 we've had, and where it does occur, it's in I think
11 compensation and promotion levels.

12 But employers are getting the message. And they
13 realize, as you say, it's not worth the risk of a lawsuit
14 to have these kinds of motives in your employment
15 decisions, and secondly, it's good business to promote
16 people based upon merit, and let the best person go to the
17 top.

18 And I see that more and more all the time from the
19 defense side inside the employer. I'm inside looking out.

20 DR. MITCHELL: Any other questions?

21 MS. ROBINSON: Yeah, I had one other question.
22 You've indicated in your comments that there's sufficient
23 number of civil rights attorneys that will accept and do
24 practice civil rights law. That's contrary to all the
25 information that we received during the course of our

1 review and we've been out there in the field for about
2 four months.

3 But coupled with that on behalf of the Arkansas
4 Advisory Committee, we would love to work with you in
5 identifying a list of civil rights attorneys in Arkansas,
6 and then in addition to that I think it would be of value
7 -- this evening we will have a person who will talk about
8 the barriers and the problems and the difficulties that
9 she faced in trying to get legal counsel to address a
10 civil rights --

11 MR. MOORE: Well, that comes as a surprise to me,
12 because I've known many of these attorneys for years and
13 years and have litigated with them. And there are new
14 ones coming along I notice every day, not just the same
15 old names crop up. There are new attorneys that are
16 appearing on the scene and for a community this size, we
17 have a large number of plaintiff's civil rights attorneys,
18 good ones too, some of the best in the country, and we
19 have a regional office of the EEOC which is sub-regional
20 to the district office in Memphis, and they have always
21 had more filings I think over here per capita than they
22 have in other parts of the country for many, many years.
23 Now, whether that's fallen off in recent times, I don't
24 know. The filings with EEOC have been high here.

25 The EEOC will take the case too. I've litigated

1 against the EEOC on occasion. If they see a case of merit
2 that they feel disposed to take, they'll provide the
3 counsel for the charging party and go to court, but I'd be
4 happy to prepare such a list, because I know most all of
5 them, and support you on that.

6 MR. COULTER: I think one of the things, Jim, my
7 experience has been, and I don't know what experience you
8 do out there in the Bar, but because the message is
9 getting through, because the '64 Civil Rights Act is
10 working -- it's taken a generation to start having that
11 effect, but there are fewer egregious cases and fewer
12 people -- it's the hand of Adam Smith.

13 There are fewer lawyers practicing in that area
14 because there are fewer cases that can be easily filed,
15 easily secure recovery. The cases that have to be filed
16 now are the harder cases, the kinds of cases where the
17 alleged discrimination is more subtle, you're talking
18 about not giving promotions or salaries, those cases are
19 more expensive on both parties.

20 I think the fact that it's ever more expensive to
21 litigate causes fewer lawyers to believe they can make a
22 living in that area of law, when you're dealing with cases
23 where the issue of what somebody's subjective attitude is
24 to an employee is hard to ferret out.

25 MR. MOORE: Well, let me tell you what's happened

1 here since the 19 -- I guess it was '91 amendment to Title
2 VII, where they create a jury trial. They added
3 compensatory damages and punitive damage, where heretofore
4 all you got was injunctive relief and back pay. We've
5 seen for the first time that the price of a settlement has
6 gone up because of the jury factor, but when you're trying
7 these cases to a jury, there's always a risk of litigation
8 in front of a jury. You never know.

9 Before when it was just a judge, we figured well,
10 you know, he might find against us but back pay is the
11 worst we're going to be faced. Now we're faced with jury
12 trials with compensatory damages upwards of \$300,000 per
13 claim, plus punitive damages which are unlimited. It's
14 not uncommon to see verdicts from other parts of the
15 country, as well as Arkansas that are approaching a
16 million dollars in federal court all the time. And now
17 class actions have resurfaced, because there's a
18 plaintiff's lawyer, God bless them, they're in business to
19 make a living like the rest of us, a class action is much
20 more of a threat --

21 MR. COULTER: The Wal-Mart suing --

22 MR. MOORE: Right.

23 MR. COULTER: Volume discount.

24 MR. MOORE: That's right, and so they file these in
25 hope that even if they don't get the class certified or

1 get redress for the entire class, hundreds of thousands
2 employees, they know they scared the employer into
3 settling, it's going to be higher.

4 So there's been a resurgence of class litigation
5 which we hadn't seen in 20 years, because of the jury
6 trial and compensatory and punitive.

7 MR. COULTER: Are there caps on the punitive damages
8 based on the size of the company?

9 MR. MOORE: No. No. I think the three hundred is
10 compensatory, but I don't believe --

11 MR. COULTER: There's a cap on compensatory damages
12 based on the size of the company, escalating cap based on
13 the size of the company, under the '91 amendment?

14 MR. MOORE: Yes.

15 MR. COULTER: In order to get to the jury --

16 MR. MOORE: Yes.

17 MR. COULTER: -- you were given some limitation of
18 what you can get from the jury --

19 MR. MOORE: I believe that's right.

20 DR. MITCHELL: Any other questions?

21 MR. MOORE: Thank you so much.

22 DR. MITCHELL: Our next presenter is Tracy Steele,
23 Director of Martin Luther King Commission, soon to be
24 state legislator.

25 MR. STEELE: Let me say good evening, committee, Ms.

1 Robinson and her staff. I'd like to certainly thank you for
2 this opportunity and thank you for the work, the very
3 important, critical work that you're doing in hearing on this
4 very important issue.

5 I am the Executive Director of the Martin Luther
6 King, Jr. Commission. The Martin Luther King, Jr. Commission
7 was established by Act 1216 of the Arkansas General Assembly in
8 1993. The Commission is designed to promote the legacy and
9 philosophy of Dr. Martin Luther King, Jr.

10 We do that in basically four major areas, community
11 development and community service. We work to improve race
12 relations. We promote fair and equitable public policy, and we
13 promote a nonviolent lifestyle.

14 We feel the Commission has been successful in these
15 areas. And it's important that each of you know what the
16 Commission is all about. But it is also important that you
17 know what the Commission does not do. And that is to hear
18 discrimination complaints and to enforce those very complaints.

19 When the Commission was formed many people thought
20 that the Commission was the answer to this very, very critical
21 problem. The Commission, however, is not designed to do that.
22 So there is still no agency at the state level designed to hear
23 this very important issue. So I say to you at this point that
24 I would support the establishment of a state Civil Rights
25 Commission in Arkansas. If you just look at state employees,

1 for example, there are over 20,000 state employees.

2 They currently now have a grievance process with the
3 state that is inadequate and does not even address civil rights
4 complaints. When those numerous calls come into my office, I
5 tell you it's a very helpless feeling that an office that is
6 designed to promote the most famous, most effective civil
7 rights leader in the world, that we cannot enforce civil rights
8 in the State of Arkansas.

9 We can hear their complaints. We can take notes,
10 and we can advise them to go to another agency. We advise them
11 to go to the EEOC, for example. The EEOC does a good job, but
12 they are understaffed and underfunded.

13 We can also advise them to contact the NAACP, a fine
14 organization that does a critical work for our community. But
15 again, this is a volunteer organization. Since I've been the
16 Director of the Martin Luther King, Jr. Commission these calls
17 have increased over the last two years. Those individuals that
18 are having difficulty in the workplace, who feel they have been
19 mistreated in the workplace.

20 I get more calls in my office because of racial
21 discrimination in this area than of anything else. I get very
22 few calls in my office because someone has been passed over for
23 a promotion or for a raise. It is in fact racial
24 discrimination, which is the nature of their communication.

25 I researched this area and found that at one time

1 there was a Civil Rights Commission in the State of Arkansas.
2 I contacted one of the authors of this legislation, former
3 State Representative William H. Townsend. In talking with Dr.
4 Townsend, he told me that he felt that this Commission was very
5 successful, but it did not have the legislative support and the
6 funding to continue its very important work.

7 He made two comments that stuck with me since our
8 conversation. One of those comments was that he didn't feel
9 that the State of Arkansas was ready for this type of
10 organization. And he also said that if we would have worked
11 harder and done something to continue the work of this human
12 rights commission, that the State of Arkansas would be a lot
13 better off than we are today.

14 We need a Civil Rights Commission in the State of
15 Arkansas. I would like to see this Commission do a few things,
16 such as investigate complaints of discrimination and unfairness
17 in the workplace, to evaluate the effectiveness of the current
18 legislation, to research trends and possible patterns of
19 discrimination, to advocate and provide workers' rights
20 educational material to employees, to in fact prevent these
21 discrimination complaints from happening in the first place.
22 Provide educational material to the general public on civil
23 rights, and provide more of a detailed explanation to the
24 general public of what civil rights is and what our rights are
25 in this area.

1 And finally, I think we need a state Civil Rights
2 Commission for three reasons. One, our past experiences.
3 Arkansas for many years has been known for what happened 41
4 years ago during the crisis at Central High. We are still
5 feeling the effects economically and socially because of our
6 history.

7 I also feel we need this Commission because of our
8 current situation. Race relations still need to improve in the
9 State of Arkansas. We need more organizations that are
10 advocates for race relations, more organizations that will
11 support and realize where are today as it relates to civil
12 rights.

13 And finally, we need a state Civil Rights Commission
14 for the future of our state. Thank you very much.

15 DR. MITCHELL: Thank you. Any questions for Mr.
16 Steele? Mr. Coleman?

17 MR. COLEMAN: Do you think -- I really feel often
18 that it is kind of a hindrance to those politicians who
19 carry this kind of baggage that they did support these
20 civil rights act and all of this. Is that because, as you
21 said, is that because we have failed to announce it in the
22 contract -- this is a human rights issue instead of a
23 civil rights issue. It's -- some of us come with more --
24 you have to take me if you get anything, because I've got
25 about three things that's wrong with me, that has nothing

1 to do with my civil rights per se, but it's a human rights
2 issue that we are trying to get over, and those people of
3 goodwill that I know, who consistently be against -- not
4 against or talk against a nonsupported law, the
5 legislation that would create a civil rights organization.
6 We still got it involved in our mind that when we talk
7 about civil rights, we are talking about black folks and
8 white folks. That's just to me a part of it, and I think
9 we keep using the terminology, civil rights, to increase
10 our prejudice or whatever, when we think about it being
11 black and white.

12 Have you had that experience?

13 MR. STEELE: Yes, sir, you're absolutely right,
14 Commissioner Coleman. I think in society today we have
15 become from a political standpoint a society of sound
16 bytes. We use a lot of what I call niceties of
17 complexity, where they tag titles on things to identify us
18 and where we stand, and oftentimes to cast a negative
19 light politically on anyone who is in office or is seeking
20 office.

21 But you are absolutely right, the major issue here
22 is human rights. It's human rights first and foremost. I
23 think the more we say that and continue to promote that, I
24 think we will all be the better for it. As relates to the
25 times that is necessary -- we have few occasions where we

1 are actually able to have this type of dialogue with one
2 another.

3 Usually again, it's in a small sound byte, and
4 usually the communication about someone running for public
5 office is not what that particular person is saying, but
6 what someone else is saying about that particular person.
7 You're exactly right.

8 RABBIE LEVY: Mr. Steele, I loved hearing your talk
9 and it was a beautiful presentation, and then I was
10 thinking well, you're running for the legislature and you
11 know what our legislature is comprised of, and I don't
12 think that they would buy what we're trying to advocate.
13 What would you do about that? In other words, the reality
14 versus the ideal, because we've had numerous people
15 already say it will, you know, talking politically it will
16 never get through, both because of the nature of the
17 people who are in the legislature, the cost involved, and
18 we know what's happened with various human rights issues
19 over the past eight or nine years.

20 I've sat in on enough committees to know just the
21 words, the lingo that comes out of various legislators
22 when they deal with various human rights issues. They are
23 very, very negative on almost any human rights issue that
24 comes up.

25 MR. STEELE: Well, you're absolutely right, but I

1 will also say that I did work on the Governor's staff for
2 several years and had I feel a good working relationship
3 with the legislature, not to say that we on the Governor's
4 staff was very successful. But there was the same type of
5 conversations that were going on about establishment of
6 the Arkansas Martin Luther King, Jr. Commission, and there
7 were many who said that it would never pass, that there
8 would never be a Martin Luther King, Jr. Commission in the
9 State of Arkansas, but here I sit before you today, and
10 realizing as well that we're talking about a much more
11 complex and a much more difficult process, because it's
12 one thing to promote the philosophies of Dr. King's legacy
13 and it's totally a different thing to enforce, so it's
14 going to take much more of an effort on our part and the
15 general public to advocate the formation of something of
16 this nature, but I think it's important to do that and I
17 think it's important that we give every effort to make
18 sure that this happens.

19 Keep in mind as well that I feel we have with term
20 limits over 50 percent of the House of Representative will
21 be new members, and after the next election, over 50
22 percent of the Senate will be new members, so I am in
23 hopes that they will come with a much more open and a much
24 more inclusive philosophy that they will bring to the
25 House and Senate.

1 DR. MITCHELL: Any other questions? Thank you very
2 much.

3 MR. STEELE: Thank you.

4 DR. MITCHELL: Before our dinner break our last
5 presenter will be Cathy Collins, and she spells her name
6 with a C. Cathy is Director of the City of Little Rock
7 Racial and Cultural Diversity Commission. Welcome.

8 MS. COLLINS: Welcome. It's a pleasure to be here
9 this evening, and I thank God every day that my jurisdiction is
10 Little Rock and not the whole state.

11 So I know the task before you, because my task is
12 large. The jurisdiction gets larger and larger, the
13 complexities just get more and more exacerbated, so you have a
14 tremendous challenge before you, and as Commissioner Ngundue
15 knows, because he serves on my Commission, we're in the process
16 of trying to draft -- we're not trying to, we are drafting a
17 local substantial equivalent for housing ordinance, and so in
18 many ways we also are doing what you are doing, again on a very
19 small scale in terms of your full realm of human rights issues
20 that will go into that.

21 I will talk from experience of the process we've
22 gone through in drafting this particular ordinance, and then
23 just some general comments, as I was thinking about what would
24 be helpful to you.

25 What we've discovered is that we're not really

1 forging new territory in terms of this being something unique
2 to a state trying to either create a human rights commission or
3 a substantial equivalent for housing ordinance. In many ways
4 it's only helping Arkansas, or in my case Little Rock, catch up
5 to the rest of the nation.

6 Saying that though, I think it's important not just
7 to copy what someone else has done. I know that I'm one of the
8 few people that actually read through this and obviously some
9 of this has come from Alabama, since Alabama Supreme Court is
10 going to get the opportunity to appoint two of our members.

11 However, I say that not in jest of that, but we've
12 discovered that there are several things that are very unique
13 about the legal system of Arkansas. Foremost is the dual court
14 system, which presents challenges to any issues of enforcement.
15 And those have to be worked through.

16 I understand that the legislation may consider an
17 article of judicial review, which will make null and void some
18 of those concerns, but nonetheless the difficulties, and I'm
19 sure Mr. Coulter has some ideas about what all of that means,
20 but it's something that on the -- sitting back, going oh, yeah,
21 we can do this, just look at a couple of documents, where I
22 think we're one of two states in the entire nation that still
23 operate under a dual court system, and so just as you work
24 through some of the legalities, there is, for instance in the
25 current civil rights law, you have the right to file injunctive

1 -- for injunctive damages, however, you can't file it in the
2 proper court, so those little technicalities that -- because
3 we've spent more time on are brought to the forefront, which
4 most of you are probably going what is she talking about?

5 Trust me, that these are the things that in terms of
6 really getting a good document, producing a good, solid
7 document, you need to be very aware of and very diligent about
8 doing, because those are the things that then lawyers will pick
9 up on and throw the case out, and the whole purpose of having
10 this will be undermined.

11 It's also I think very important to be about
12 consistency in terms of what protected classes you say
13 throughout the entire document. There are several places in
14 here, and I will submit these in terms of where there's a
15 different listing of which classes you're talking about, and
16 again these are very small things, but these are the things
17 that people who are against this will tear apart.

18 Lastly, it's also critically important and as we've
19 done, to really hear and understand your opposition, which I
20 gather from the group of people that you've had, and where it
21 is that their problems really lie, and having enough
22 opportunity for dialogue to really get at those, because
23 oftentimes what seems as the major insurmountable obstacle, is
24 really not that large if you have the opportunity to delve
25 further into it, and in figuring out ways to bring on board

1 that opposition or at least diffuse it.

2 Bob Balhorn is probably a very good example of that
3 in terms of really willing to work with and move through this
4 process of -- it may not be something that he's going to stand
5 up and share with, but will work to find common ways that we
6 can meet our mutual needs.

7 In trying to explain to people what we're doing with
8 the fair housing ordinance that's substantially equivalent, we
9 get a lot of the comments from Jim, we don't need any more
10 legislation, this is already here, they have all these avenues.

11 One, I think that there is some confusion that this
12 -- from my understanding is not an additional. It's kind of
13 like you're moving it down to a more local level. This could
14 be incorrect -- I'm not as familiar with EEOC, so I don't know
15 enough, but I do know with the fair housing component of this,
16 that what happens is you have a dual filing system, that it
17 comes to the local level, the regional level will actually have
18 copies of the complaint that's being filed and the process it's
19 gone through. The only time that they will take that
20 particular case over is one, if it's a conflict of interest,
21 for example, if the City of Little Rock is being sued, the City
22 of Little Rock cannot take care of that in that complaint. The
23 regional office would have to come in, or if the local office
24 did not fulfill its duties in carrying out that complaint.

25 So I don't think that it's a possibility for a

1 person's ability to file and do at this particular level and
2 then again at this level. I know for fair housing that that is
3 the case. I do not know for EEOC, but I imagine that since
4 they are governed basically in a similar parameter, that that
5 would be the case.

6 So there again, your challenge will be to educate
7 people and to provide good information in terms of what this
8 legislation actually means.

9 More importantly though is that sometimes it's very
10 easy for those of us who are not oppressed to think that we
11 have plenty of access or knowledge of the system to gain it.
12 Now, I know that as a white woman that if I had been
13 discriminated, I would know how to access the system, because
14 of the privileges that I've been afforded, because of the color
15 of my skin.

16 However, most oppressed people are not typically
17 going to have that sort of knowledge of you go file here, you
18 gain an attorney here, and so the presence of a body that may
19 help with that I think is a very positive one, and something
20 that often does not get discussed as we deal with these issues.

21 I think that there's also just a symbolic commitment
22 that gets presented when we say the state has a human relations
23 or human rights commission. We have enforcement, everything
24 that is going to be possible under this commission more than
25 likely can be handled by another jurisdiction. No doubt about

1 that.

2 But what it says about the commitment of this state
3 to furthering human rights is a very, very powerful one. At
4 the same time I think it's important for not just to be about
5 enforcement. Enforcement is something that is that necessary
6 evil in my opinion that when things are not working and you're
7 nor adhering to the protection and respect and commitment to
8 another person's human rights, that you will be punished.
9 However, our goal should be that that enforcement mechanism is
10 never used, and you have to do that by combining that with
11 education and training and I would carry it further to a
12 systemic approach that deals with the larger issues of why
13 these particular incidents happen in the first place.

14 My other caution would be and that sometimes is one
15 of my favorite analogies, and Jerome knows I use analogies a
16 lot, is about the people that are pulling all the people that
17 are in the river that have been thrown into the river, pulling
18 them out, and that's pretty much what this would be doing is
19 dealing individually with the people that have had their rights
20 violated.

21 But very few people actually venture up the river to
22 see why people are being thrown in the first place. Now, we
23 can understand, we can say this right has been violated, but we
24 don't now why it continues to happen, and if all you ever do is
25 focus on pulling people out, there's always going to be people

1 to pull out, and that's a real magnanimous thing, you feel real
2 good about saving somebody or helping somebody.

3 The glamorous work is not up at the reason why
4 people are being thrown in, but I put that there that to
5 realize that although this would be an important component of
6 our ridding ourselves of oppression, based on the many things
7 of race and gender and national origin, et cetera, it will not
8 be the only thing that will make us realize moving towards a
9 better place.

10 I'm willing to answer questions.

11 DR. MITCHELL: Any questions for Ms. Collins?

12 MR. NGUNDUE: I want to comment Ms. Collins for the
13 fine work she has been doing on behalf of the race
14 commission. Cathy, you were not here this morning --

15 MS. COLLINS: Chad was here.

16 MR. NGUNDUE: Chad was here, I know. And I was
17 bringing this to say that some of the members from what
18 you've said, the -- because always mention this dooms day
19 scenario. Would someone like you who has been on the
20 forefront, do you have any advice for the Commission on
21 how we could win these people to put their trust behind
22 this effort, because you could tell most of what's here
23 are for this human rights agency. We would like to
24 benefit from your experience.

25 MS. COLLINS: The question is how do you deal with

1 the question you asked Tracy in terms of the legislature
2 and getting past the negative feeling.

3 MR. NGUNDUE: Right.

4 MS. COLLINS: I think first of all taking enough
5 time. I mean, if you think this is going to be passed in
6 this legislation, it won't. And not even attempting to
7 pretend like it's going to be. Taking the time to really
8 listen and work with all those different views and
9 validating that their viewpoint is valid for them. From
10 that knowledge and information, begin to really set out
11 what this actually is and demonstrating how this can be
12 helpful for your particular community.

13 And one of the things some of you may know, one of
14 our biggest opponents right now is small landlords,
15 because of their fear of the rental inspection program,
16 that this is just going to be another rental inspection
17 program.

18 Well, it's not been a real pleasant experience to go
19 through that amount of hostility towards this, but because
20 we listen to all that, we have a sense of okay, this is
21 where their concerns are, and we can then begin to help
22 show them where those concerns will not come to fruition
23 or that there isn't a connection here.

24 Also showing ways in terms of economic development
25 for the Chamber of Commerce, that this state and this city

1 are plagued by our poor race relations, whether real or
2 perceived, we are still plagued by it. There is no reason
3 why the City of Little Rock should not be a very major
4 urban center, except for the fact that in 1957 we did not
5 deal with race relations, and until -- took us 40 years,
6 40 years to properly even begin to acknowledge what that
7 has done, and so they pay an economic factor much beyond
8 any litigation that would ever occur.

9 So it's that process of continuing to find ways of
10 showing and expanding how much this is going to impact
11 beyond the typical stereotypes of what this is about, and
12 then what the opportunities are beyond this particular
13 human rights commission.

14 And I think also, as I said earlier, that it isn't
15 just about enforcement, and they'll be a lot of people out
16 there that that's their big bailiwick, it's going to be
17 about enforcement, but the real goal is to get to this
18 other point, and that to get that includes this, this and
19 this.

20 And then showing and demonstrating ways that money
21 can be raised. I know the federal government will have
22 money that will be put into this type of work, and so how
23 you set that up is -- so it's a lot of preparation on your
24 part, and then holding to the commitment that this is
25 important and being very diligent about that, and not

1 binding and folding to the negativity, that you will get,
2 because I think that's also somewhat of an inspiration to
3 people, if you hold onto that, and not in a way that is
4 demeaning or patronizing or better than, that they will --
5 that that will come through loud and clear.

6 MR. COULTER: Cathy, I think everybody pretty much
7 echoes what you just said about enforcement is not
8 something anybody likes. I happen to be a lawyer and
9 lawyers are generally the tools of enforcement, and I
10 don't think it's a very good way. It's not efficient.
11 It's not gratifying. At some point it's the only way in
12 some instances --

13 MS. COLLINS: Right.

14 MR. COULTER: -- that you can get justice, but it's
15 not a good way to do it. There are a lot better ways.
16 What bonds people do, putting out booklets and what Jim
17 says that the Chamber wants to do and all of the things
18 we've heard about education, are much better ways.

19 My point is and I think it's the real world to
20 accept that for some people they won't line up to get
21 educated. They won't listen to the Bob Balhorns, unless
22 they know that there's a cliff that they might fall off
23 out there somewhere.

24 It's like my children. I mean, I'd like to deal
25 with my children not having to threaten some consequence

1 for their bad behavior, but at some point they have to
2 know that out there, if they don't take advantage of the
3 opportunities to redress injustices in the housing market
4 or in the workplace, and they may not be intentional, but
5 they're happening, and we've got three or four hundred
6 years of history that drives them, and we have to figure
7 out ways to stop them, and enforcement is a dirty word.
8 it's not an attractive thing for anybody, but it has to be
9 a part of an effective effort, and I think it has to be a
10 last resort, I hope, but it has to be a part.

11 MS. COLLINS: And I apologize if I gave the
12 impression that I was not for enforcement.

13 MR. COULTER: I think what you're saying is what
14 everybody believes. What you said is you thought there
15 would be people who would be jumping up and down and
16 advocating enforcement. I don't think anybody really
17 feels good about having to set up an enforcement
18 mechanism.

19 MS. COLLINS: I think there are some groups,
20 however, from our experience that that is -- I mean, they
21 would much rather be litigating and seeing that as the
22 only -- as a very viable avenue for achieving these
23 results. I think there are people out there that do see
24 that.

25 MS. STRICKMAN: How close do you think the

1 Commission is in getting its ordinance passed?

2 MS. COLLINS: We are in the final stages of drafting
3 an ordinance that will go out to the public. Our goal is
4 to within about a week and a half, if we can get it out of
5 the city attorney's office, to have that back out to the
6 public. It will be out there for about a month. We'll
7 have at least one, if not more, public hearings for people
8 to come and give us physically their remarks about it, and
9 then we'll accept obviously any written or spoken remarks.
10 We will then redraft it.

11 That draft will go back and hopefully we will have
12 done an adequate job, having had nine hearings, that there
13 won't be a lot of redrafting. That draft will go back to
14 the city attorney for final approval and will be sent off
15 to HUD to ensure substantial equivalency, and then our
16 target date is December 1, before the Board.

17 DR. MITCHELL: Any other questions? Thank you very
18 much.

19 MS. COLLINS: Thank you.

20 DR. MITCHELL: Thank you for your thoughts and ideas
21 and hard work. Well, this is not over for us. We will
22 take a dinner break and return at seven o'clock.

23 (Break.)

24 DR. MITCHELL: The committee has returned from its
25 dinner break. The others are on their way but we should

1 get started so we can stay on schedule here. We're going
2 to hear from people from the business community and civil
3 rights organizations, their perspectives on the civil
4 rights issue here in the State of Arkansas, and our first
5 presenter is Rita Sklar, who is from the Arkansas American
6 Civil Liberties Union. Is she here? She's not. So let's
7 go to Robert Trevino. He's not here?

8 MR. RODRIGUEZ: I can take his --

9 DR. MITCHELL: You're Ben Rodriguez?

10 MR. RODRIGUEZ: Yeah.

11 DR. MITCHELL: Very good. He's a member of the
12 Arkansas League of United Latin American Citizens.
13 Welcome.

14 MR. RODRIGUEZ: I'm not prepared but --

15 DR. MITCHELL: You're always prepared. Thank you
16 for being here.

17 MR. RODRIGUEZ: I'm delighted to be here and thank
18 you very much, and I'm going to say, where is the rest of the
19 committee?

20 DR. MITCHELL: They're on their way. They were
21 paying for their dinner.

22 MR. RODRIGUEZ: Because I was going to talk to you
23 in Spanish. Just to give you a taste of what hispanics are
24 going through.

25 I'm with League of United Latin American Citizens

1 and I'm the immediate past LULAC State Director for Arkansas.
2 And we are a nonprofit organization strictly put together by
3 volunteers.

4 We have been together in this state since 1981, and
5 it's not only a local organization, it's a national
6 organization. And to introduce our community, I want to put
7 you in a state of mind of being located, if you may, in a
8 corridor where there's Fayetteville, Springdale, Rogers, east
9 and west there's VanBuren and north is other communities.

10 And 97 percent, 98 percent of the people were white.
11 Okay. Just five, six, seven years ago all of a sudden here
12 comes an influx of hispanics. You're talking about a culture
13 shock. What would he have done? And not only are they in
14 Northwest Arkansas, but they're all over the state. You're
15 talking about civil rights. We also are concerned with human
16 rights.

17 And I am against the fact that Jim Ross, I think was
18 his name, and Kaplan, were against the agency that supposed to
19 be a civil rights agency advocate. I say that we need that in
20 this state, no question about it.

21 It's time to resurrect the Civil Rights Commission.
22 Discrimination, I've known discrimination since I was born. I
23 went to school without knowing a word of English and that's the
24 reason LULAC was formed back in 1926 or '28. I forget exactly
25 what date it was. And that was to help our people. And it is

1 true up to this very day as far as discrimination, racism, on
2 equal opportunity and lack of access to resources.

3 For example, even your Commission -- I don't see any
4 hispanics sitting on your Commission. And that should be
5 corrected, definitely should be corrected. We have addressed -
6 - let me say this first. Of the people that made all their
7 presentations to you, what are they doing to reach out to
8 hispanics? What have they done? There's lack of access to
9 many, many services because, as I started to say -- I was going
10 to speak you in Spanish, of the language barrier.

11 So we have addressed issues as an organization that
12 pertain to health, law enforcement, administration of justice,
13 education, housing, access to funds for buying a home, and
14 inadequate and unfit in many cases people are exploited, and
15 this is particularly true in the agricultural industry, unfit
16 for animals.

17 Pesticides problems, the people coming in here need
18 access to credit, standards need to be redefined. We've had
19 problems with INS, and this is where the Commission should come
20 in. We have had some good support, especially from the current
21 administration. Things are changing and I hope they will
22 change, but we still have the problems that we need to face,
23 and we need to resolve some of the issues that we are facing.

24 We have made an impact not only on the economic
25 structure but also the social structure of this state. They

1 were totally unprepared for the influx of hispanics, but
2 nevertheless we have been very fortunate that not only this
3 administration, but the previous one and the one before that,
4 are assisting us.

5 We have formed a hispanic task force and we have
6 sent a report to the governor, and we are beginning or will
7 begin very shortly to meet with the different departments of
8 the state to address those issues.

9 But to be more specific, we have in our presence
10 people that are directly involved with some of the problems
11 that we hispanics have faced from the education to the police
12 force problems that we are facing.

13 So I am going to defer the rest of my address to you
14 to some of these people, if I may, because they have actual
15 examples or situations and where they have been involved in the
16 problems that we are facing.

17 So I'd like to call on Vangie. Vangie is an
18 interpreter, translator with some of the courts and she can
19 tell you some of the cases that she has come across.

20 MS. PRATT: You'll have to excuse me. I'm a little
21 nervous. I'm not a public speaker, although I do get up in the
22 courtroom, but that's different because I'm speaking for
23 someone else, so it's not the same.

24 I was very -- I felt very privileged to have been
25 invited to this meeting because first of all, I've been doing

1 this for about two and a half years, and as the gentleman
2 stressed, I have seen so much discrimination -- well, when I
3 first started noticing I was so shocked, I couldn't believe
4 this was happening in our United States.

5 I'm glad I chose this line of work because I feel
6 like I can help balance the scales. I have seen not -- I feel
7 like we have a very good police force, but I have seen big,
8 tall husky police officers yelling at this tiny little Mexican
9 man, (Speaking in Spanish) what is my name? And wanting that
10 gentleman to tell him what the officer's name is, when what
11 he's saying is what is my name.

12 And then charging that poor man with not cooperating
13 or resisting arrest, because he didn't understand what he was
14 saying. The officer thinking he knew enough Spanish, didn't
15 bother to look for any interpreters, didn't -- he was violating
16 this gentleman's rights.

17 I have talked to different attorneys and when I told
18 them about this meeting, they all said I wished I had known
19 about this earlier, I would have been there. This is
20 Washington and Benton County, Carroll County.

21 From Barryville and Green Forest, there is a
22 gentleman by the name of Tony Rogers, public defender at
23 Barryville, and he would like very, very much to have some kind
24 of help, and he said he would have wanted to be here himself --
25 I'll try not to take up too much time, I've got too much to say

1 -- but I met this gentleman because they had a murder trial or
2 a murder case in Barryville.

3 This man is from Quatamala. Nobody could understand
4 him. He just desperately needed help with an interpreter, so I
5 happened to get called, and this poor man was not allowed
6 visits by his family. He was locked away. He was not allowed
7 to go out and exercise, simply because they couldn't understand
8 or they couldn't talk to him.

9 So he sat in his cell with no exercise, no family
10 could come talk to him, until I went to talk to him, and then
11 through his public defender and myself, we finally managed to
12 get him some visitation rights.

13 And I know that there's more -- another one that
14 Tony told me about was that this one he was very emphatic about
15 at schools. He said there was an occasion just recently --
16 there was two young ladies, teen-agers, probably 15 years old.
17 One was a Mexican and one was an Anglo-American, and they both
18 were carrying knives to school, and you know that's not
19 acceptable.

20 Well, the Anglo-American got expelled for nine
21 months. The hispanic got expelled for the rest of the year.
22 He said, tell the Commission to look into stuff like that, and
23 we know it can't be resolved just as quickly as we'd like it,
24 but we'd like to talk about it and find solutions to fix this.

25 See if I can remember what else he told me to ask

1 you. He wants -- he wants a special -- a special training
2 force or agency that will distribute interpreters to each
3 county so that the public defenders and prosecuting attorneys
4 or the court system, the jails, whatever, can easily have
5 access to interpreters.

6 Evidently there for a while we had to come to Little
7 Rock or Fort Smith for interpreters, and I have -- I'm not sure
8 how many interpreters we have in Benton County. I think
9 there's three, maybe four that I know of, and then there's some
10 in Fayetteville. I move around a lot. I travel back and forth
11 from county to county, and I just do court interpreting work,
12 jails or whatever.

13 I have met a lady at Fayetteville. Donna Brown is
14 her name. She is a federal probation officer, and these are
15 her requests right here. She wants an education system put in.
16 She said I'm not sure how we're going to do this. She said
17 let's think about starting at the school level.

18 Let's teach these people about our judicial system.
19 They don't know what arraignments are. They don't know why
20 they keep continuing their court dates just because nobody can
21 understand them. She said let's educate them in that area.
22 Stress how penalties can be very severe because of their
23 culture and their justice system is so different from ours,
24 that they think if you drink a beer out on the public street,
25 it's no big deal. Why would you get hauled off to jail for it?

1 And then you get thrown in jail and you get
2 discriminated against and humiliated. I'm sure there's much,
3 much more. One of her other concerns -- I'm probably talking
4 too fast. I get nervous, I talk too fast -- was let's educate
5 our attorneys.

6 We found out through trial and error when she and I
7 would go to the jails and she would ask certain people -- well,
8 the different cultures have different ways, but mainly it was
9 the confusion with the names, so we've hyphenated their last
10 names. You can probably fill them on that point.

11 The fact that I had one case where the Judge
12 reprimanded the accused because he told them he was married,
13 but his wife had a different last name than he did, and I said
14 I don't know if it's in my place to explain this to you, Judge,
15 but in their country if they're rich, they have a big ceremony
16 and they get married by the church and it last three to five
17 days. The lower the poverty level, the lower the party and the
18 festivities. So if a very poor couple gets together, they're
19 just together. They're commonlaw marriage, that's why their
20 last names are different.

21 And he said well, this is America and in American
22 you only have one wife and you get married and you all have the
23 same name. And the gentleman said well, excuse me, sir, but he
24 was 54 years old -- and he said well, we've been together for
25 like 17 years and we thought we were married.

1 So there's little cultural differences, and I think
2 like everybody's been saying all night, we need to educate our
3 public. Everybody was overwhelmed when the hispanic community
4 came -- started coming in. I enjoyed it because I could follow
5 them around the store and listen to the Spanish and practice,
6 and all the good restaurants that have come to our area.

7 But there are just so many instances where I have
8 seen lawyers abuse their power, discriminating against these
9 people. If they don't understand the judiciary process,
10 they're just kicked aside, thrown in jail for several months
11 until -- okay, if we have time, we're going to deal with this,
12 but it's no big deal, you know. They just -- I probably have
13 way too much to say and I just mainly wanted to get the point
14 across that I would support your agency. I would do whatever I
15 could to help. I think it's a good thing to do.

16 You have judges, attorneys, city officials, police
17 officers, wanting to assist you in this. We're all looking for
18 the way to do it. To me the court system, as I'm sure the
19 Father over there has told me some of the things that he's gone
20 through in the growing process, and it is hard. We're all
21 growing.

22 But it's fun to learn about the other culture, but
23 at the same time we do need to educate them, as well as educate
24 our law enforcement and our judicial system.

25 I think I'm going to go ahead and close because I've

1 probably taken too much time. I would like to at one point be
2 able to communicate with the agency and maybe tell about some
3 other cases when we have a little more time. Thank you.

4 DR. MITCHELL: You can always put your -- what you
5 want to say to the committee and to the staff in writing.

6 MS. PRATT: Okay, thank you.

7 MR. RODRIGUEZ: I think I want to mention before
8 bringing -- go ahead.

9 DR. MITCHELL: Mr. Rodriguez, what we want to do, I
10 have the names of the people who want to address us, and
11 what I want to do is continue these other couple of people
12 that are scheduled, and then we're going to come back to
13 them.

14 MR. RODRIGUEZ: You want to come back to us?

15 DR. MITCHELL: Yes.

16 MR. RODRIGUEZ: Because Bob Trevino has just arrived
17 also.

18 MS. ROBINSON: Let me clarify that.

19 MR. RODRIGUEZ: Sure.

20 MS. ROBINSON: The persons that you identified had
21 signed up for the open session, and the open session
22 follows the formal agenda, so they will --

23 MR. RODRIGUEZ: Okay.

24 MS. ROBINSON: -- have an opportunity to speak at
25 the open session.

1 MR. RODRIGUEZ: When is that going to be, what time?

2 MS. ROBINSON: We want to try to follow the agenda
3 as much as possible, and I also would like to say to Ms.
4 Wathan, Diane, is -- that you can submit your remarks --

5 MS. PRATT: This is Diane. I'm Vangie.

6 MS. ROBINSON: Vangie, okay, then --

7 MS. PRATT: Because I won't be here tomorrow.

8 MS. ROBINSON: Okay. You can submit any additional
9 information to us in writing as well, and what you
10 indicated to us this evening will be a part of the record,
11 and the other thing, the other piece of information that
12 we would like from you is number one, how many hispanics
13 currently are in the state, where they are predominantly
14 located at, and what was the other question -- have there
15 been any state agencies or efforts to establish a state
16 agency to support hispanic concerns.

17 MS. PRATT: He could probably cover that a little
18 more than I could. I just remembered something when you
19 said that. I did have a request from DHS, Department of
20 Human Services in Fayetteville, and they were begging for
21 interpreters in house because they continually -- there
22 was a family that was going to stop food stamps because
23 the man didn't read or write either English or Spanish,
24 and there was no one there to translate there for them,
25 and they were just going to stop it. He's got eight kids.

1 That sort of --

2 MS. ROBINSON: Well, submit this to us in writing,
3 that information, and then we will go back to the agenda
4 unless Mr. Rodriguez has anything else that he wants to
5 say.

6 MR. RODRIGUEZ: Well, Bob Trevino is here and I'd
7 like to give him at least five minutes to talk to you.
8 Okay.

9 MS. ROBINSON: Oh, yes.

10 MR. RODRIGUEZ: I know I started this already but
11 he's here.

12 MR. TREVINO: Members of the committee, my name is
13 Robert Trevino. My friends call me Bob Trevino. I'm the State
14 Director, Arkansas State Director for the League of United
15 Latin American Citizens.

16 I should point out that we're the oldest and largest
17 hispanic advocacy organization in the country. We have some
18 history here in Arkansas, through the efforts of Ben Rodriguez
19 and Mrs. Rodriguez, as well as a number of other prominent
20 hispanic citizens here in Arkansas.

21 I appreciate the opportunity to come by here
22 tonight. I think Ben's probably noted most of the high points
23 of our concerns with respect to discrimination and equal
24 access, and opportunities for housing, education, and et
25 cetera. I'll just make it brief. Part of our concerns that

1 Ben may have again already covered are with again housing --
2 affordable housing opportunities, hispanics here feel like that
3 there are insufficient opportunities for hispanics to
4 participate in housing opportunities.

5 In particular we have a lot of hispanics in the
6 agricultural sector that live in substandard conditions.
7 Oftentimes the families are bunched in and if they decide to
8 protest, they're oftentimes threatened with either their
9 employment and/or deportation even though they may be citizens
10 or in the citizenship process.

11 But there is a substantial fear in the hispanic
12 community, like I say, particularly among the more modest
13 income hispanics that are in the agricultural sector, and
14 perhaps even the poultry industry.

15 Police concerns are another vital interest of the
16 hispanic community here. Oftentimes police departments aren't
17 equipped to deal with Spanish speaking citizens. By the time
18 they reach the court system, the defendants oftentimes aren't
19 afforded translation opportunities and when they do -- we've
20 had very few translators throughout the state, and they can't
21 be everywhere at the same time. And we feel like there's a
22 tremendous need for hispanics to receive translation
23 opportunities in order for them to get the benefit of the law's
24 protection.

25 Talk about housing education opportunities. I think

1 that's a critical need in the hispanic community. I don't know
2 if Ben may have mentioned that we have enjoyed the Governor's g
3 generosity and the state legislature's generosity, some ESL
4 funding in the past, however, we frankly feel like that is --
5 it's a good start but it's not quite enough.

6 Our young hispanic citizens and students clearly
7 need the attention of both the governmental process, as well as
8 educators in particular that we believe make the difference in
9 terms of extending a permanent underclass that develops as a
10 result of poor educational opportunities and the subsequent
11 dropout of students in the education system.

12 I would also like to mention -- going through my
13 list I here -- I apologize if Ben has probably covered most of
14 these subjects. But I think too, getting back to the
15 agricultural sector, too many of our hispanic citizens
16 oftentimes are caught up in this problem of employers employing
17 them and then ultimately refusing to pay them, instead calling
18 Immigration Services and getting back -- and following that
19 further, oftentimes you'll have Immigration agents come in and
20 they'll take both the parents and the children may be in school
21 or the children are located elsewhere. Consequently, you have
22 families that are instantly divided, and we feel that that's
23 inhumane.

24 And the point of all this is that I think the state
25 truly needs a Commission that can oversee all of these

1 particular aspects that deal with hispanic concerns, as well as
2 the broad community as a whole, but from our particular
3 perspective, we think that a Commission, whether it's charged
4 through the federal government or through the state apparatus,
5 in the governmental sector, would provide an excellent
6 opportunity for us to present our complaints and hopefully ask
7 for redress, whether it be in the private sector, nonprofit
8 sector, or the public sector.

9 Again, I suspect Ben's probably done a better job of
10 presenting this than I have, but I will kind of sum up by
11 saying that if there are instances where the hispanic
12 community, and LULAC in particular can be of service in
13 formulating these type of -- whether rules and regulations,
14 statutes, and/or simply governmental mandates, then we'd be
15 happy to provide assistance and we're at your disposal.

16 Thank you very much for the opportunity to be here.

17 DR. MITCHELL: Does anybody have any questions?

18 MS. ROBINSON: I had one question. It's my
19 understanding that you have visited with the Governor's
20 staff, possibly the Governor. How do you feel about the
21 outcome of those meetings and what do you believe will
22 occur in the future based on those meetings?

23 MR. TREVINO: Frankly, we're very encouraged with
24 our relationship with Governor Huckabee. He's been very
25 generous, both with his time and certainly with his staff,

1 in their participation and our requests for addressing
2 specific concerns, particularly as they deal with state
3 government.

4 He's spent some time with us and assured us that
5 each of his department directors will spend specified
6 amount of time with us to look at things like education,
7 state police, health and human services, those particular
8 areas, but even more, some of the more day-to-day
9 departments that deal with hispanics, for instance in
10 agriculture, pesticides and for instance the Minority
11 Health Commission, he -- we have a very good working
12 relationship with Tommy Sprulls and his concerns is that
13 hispanics reap the benefits of the laws and certainly the
14 monies, the grants and so forth that are directed to folks
15 in the agricultural sector, in terms of scanning cancer
16 problems, disease problems associated with birth defects
17 and et cetera.

18 But frankly, again, I think we're very fortunate to
19 have that good relationship with the Governor, but I will
20 say that I think a Commission that looks at civil rights
21 issues would be a perfect and actually a preferable
22 augmentation to the Governor's efforts.

23 I think the Governor only has so much power, and
24 sometimes, particularly groups like LULAC were very active
25 in the advocacy endeavors here throughout the state. On

1 the other hand, we have limited resources, and I think the
2 Commission would be a fair and impartial body that we
3 could take matters to, and we certainly wouldn't have to
4 wait two years for a legislative session, and at the same
5 time it would afford us an opportunity to work both with
6 the Governor and a quasi governmental or judicial body.

7 DR. MITCHELL: Okay.

8 MS. ROBINSON: I just wanted to indicate to you that
9 we have a Where to Turn Guide that has been distributed
10 during the course of this meeting today, and will be
11 distributed tomorrow. And we'd like to get all the
12 information from you regarding hispanic organizations in
13 the State of Arkansas, so we can add that to our Where to
14 Turn Guide.

15 MR. TREVINO: I will add one little point, if I may,
16 with your permission. I think it's important the when we
17 do formulate these bodies that we do strive to include
18 hispanics in these bodies. I mean, it sort of defeats the
19 purpose if we come to a particular body and there isn't a
20 hispanic representative or somebody that can relate in
21 terms of culture and language, and the nuances that make
22 up those particular subjects. So I would move and
23 certainly --

24 DR. MITCHELL: We have one. She's just not here
25 tonight. But in the future Commission, absolutely.

1 MR. TREVINO: Yes, ma'am, thank you.

2 DR. MITCHELL: Thank you. Carolyn Wagner?

3 MS. WAGNER: I've had the flu, so excuse me if I
4 sound a little -- to address the gentleman talking about
5 Latino, I am Regional Director of an organization called PFLAG,
6 Parents, Families and Friends of Lesbians and Gays. I'm
7 responsible for the States of Kansas, Missouri, Oklahoma, and
8 Arkansas, and we are -- our literature for our family members
9 is in Spanish, Japanese, Chinese, French and Russian. I just
10 wanted to let you know that and we do have -- we do have Latino
11 PFFLG members throughout this state and throughout the region.

12 I'm here to address you here and I thank you for the
13 honor to be invited, about what my son and his family have
14 endured over the last three to four years. I have been married
15 to a wonderful man named Bill Wagner for 25 years. We have two
16 children, a daughter Clair, 22 years old, a son William, 17
17 years old, a son-in-law and a granddaughter.

18 I am here to tell you our family's ongoing struggle
19 to ensure that our son will be afforded the same basic civil
20 rights his parents and sister currently have.

21 Our son Willie is a member of a small group of
22 American citizens who currently have no federal nor state
23 statutes in Arkansas that cover the discrimination and violence
24 they endure daily. Willie is gay. His parents and sister are
25 not. His nuclear family treat him no differently. However,

1 his paternal grandparents have ostracized him. His maternal
2 grandmother supports him dearly and is with me here tonight.

3 While in the eighth grade our son confided to a
4 friend that he was gay. Another student overheard the
5 conversation and within 24 hours the harassment and
6 discrimination started. Willie had told his father and I on
7 his 14th birthday. He was very straightforward and just
8 stated, mom, dad, I'm gay. I don't think I'm gay. I don't
9 want to be gay, but this is how God has made me.

10 We reassured him of our love and this made no
11 difference in our feelings toward him. But then we had to do a
12 lot of research. We had to educate ourselves. This came as a
13 complete surprise and the more we educated ourselves on
14 current, factual information, the more amazed I became that all
15 this discrimination continues at such a level of intensity in
16 our nation, and no one is working to redress this.

17 Now, I've provided for you a list of the incidents
18 that our son endured at his school. Now, this list in no way
19 includes every incident. It's right behind a copy of my
20 statement I'll be giving to you. This is a journal. The
21 grammar -- I've not corrected the grammar. I just printed it
22 off the computer. It was a journal and it was when -- and I
23 have to tell you at times when I was making these entries, I
24 was angry. And I have to apologize. I didn't realize, but
25 there are some children's names in there that should have been

1 deleted. I really -- these are minor children that were
2 involved in these incidents, and I no more hold them to blame
3 than I do -- it was based on ignorance, their actions.

4 I do, however, hold the teachers, the principal, the
5 cafeteria workers, the janitors, I do hold them responsible.
6 What I will focus on is our difficulty in getting any
7 assistance to require the school district to provide a hostile-
8 free learning environment for our son, and other minority
9 students.

10 The sexual minority youths are not the only students
11 in schools in Arkansas that are harassed and discriminated
12 against every day. The name calling has got to stop. That's
13 where it all begins, on the play ground, kindergarten.

14 The harassment our son received did begin with name
15 calling, but quickly progressed to sexual harassment, and I
16 mean just within weeks.

17 The perpetrators had not received any messages that
18 the name calling was unacceptable; therefore, there was no
19 reason for this harassment and discrimination to continue to
20 another level. Just to highlight a few of these incidents, on
21 a school field trip some of the perpetrators were allowed to
22 put signs on the bus, the outside of the bus, that stated,
23 help, Willie is raping us, and that -- and I'm not going to say
24 this next word -- Willie blanked his dog to death. A car had
25 killed his dog the week before.

1 Drawing signs of Willie having sex with animals and
2 gasoline pumps, and posting them in the classrooms, and those
3 signs being allowed to stay up, or putting on the blackboard
4 Willie is a faggot, and allowing that to stay up.

5 The music teacher in junior high allowed some of
6 these boys to purchase a signing telegram for a Valentine's
7 Day, singing Valentine, and sent it to another boy, saying it
8 came from Willie. My son heard about this before it was
9 delivered, went to talk to the music teacher, begged her not to
10 allow this to be delivered. She declined. He called me
11 desperate, crying.

12 I went down there. She would not -- you couldn't
13 reason with her. That's important, and I took my son home that
14 day.

15 My husband I made numerous trips to the school to
16 visit with teachers, vice principals and principals, to no
17 avail. Phone calls, visits and letters to the superintendent,
18 addressed the school board twice. Nothing changed.

19 We received a phone call from a school employee late
20 in the evening of October of 1996. There's a typo -- my
21 statement says '97. It should be '96. Telling us that she had
22 feared for our son's safety, his physical safety. Then when I
23 went to school the next morning I spoke with the principal and
24 vice principal and some of the teachers to get to the bottom of
25 this. They did rearrange class schedules to get our son away

1 from some of the harassers, but why wasn't this done or dealt
2 with by the teachers without the parents having to come to the
3 school and demand some change?

4 And what we were not aware of is that our son had
5 already started to receive death threats. On December the 2nd,
6 1996, during lunch at the high school, our son was attacked by
7 a group of eight teens. His nose was broken in two places.
8 His kidneys were bruised. His urine was blood.

9 With various bruises and abrasions throughout his
10 body, especially around his head and back, as they were beating
11 him they were yelling epithets such as, "Die you F faggot," and
12 "This is what you deserve, queer," and so on. And these are
13 documented in the police report.

14 There were over a dozen witnesses. One of our sons
15 went to call the police and my husband. The school did not
16 notify the police and despite their claims of responding
17 immediately, the two boys who were identified were arrested
18 while in class at school on December the 5th, 1996. Remember,
19 the assault happened during lunch, December 2nd.

20 I had sent a letter to the United States Department
21 of Education in October of 1996 requesting help with the
22 description of what our son was enduring at his school
23 district. I did not receive a reply to this letter. My
24 husband I spoke with Sally Cane, regional director of the
25 Southern Regional Office of the Department of Education during

1 this month without any results.

2 We talked with her at the Arkansas state meeting of
3 the PTA in Little Rock. I've always been a member of the PTA.
4 I sent a letter to Mr. Taylor, August Taylor, at the Dallas
5 Office of the U.S. Department of Education in January of 1997.
6 And also to Norma Cantu, the Director of the Department of
7 Education, Civil Rights Division, in Washington, D.C. I
8 received a letter to my -- I received a letter of denial to my
9 request for help to Mrs. Cantu. I received a phone call from
10 the Dallas Office informing me of the denial of my request by a
11 Mr. Schneider.

12 During this time I had also made phone calls to and
13 sent letters to the Arkansas Department of Education, Civil
14 Rights Division in 1996. I have yet to receive a reply from
15 that department.

16 In March of 1997 we had an opportunity to go to
17 Washington, D.C. Our local PFLAG chapter conducted a fund-
18 raising event to pay our way and the National PFFLG office in
19 Washington, D.C. arranged our visits to the Department of
20 Education, Civil Rights Division, Susan Bowers, Chief
21 Enforcement Officer, and at the Justice Department, Civil
22 Rights Division, Mrs. L. D. Atchinson, Assistant Attorney
23 General, and the Civil Rights team there.

24 Shortly after these meetings we received a letter
25 that the school district in Fayetteville would be investigated.

1 As I had been trying to make so many understand, that much of
2 this harassment and discrimination was sexual in nature and
3 could be addressed under Title IX. At the same time I was
4 trying to pursue the desperate need for a hostile-free learning
5 environment bill both in Arkansas legislature and in Congress.

6 I did not succeed, nor did I have support from the
7 Governor's office or from any Senator or Representative in the
8 state with the exception of Senator Mike Edward from -- the
9 other side of the state from where I live.

10 The purpose for this bill would basically be a law
11 that would require zero tolerance on name calling and
12 harassment in our schools, regardless of the reason. The
13 investigation by the Civil Rights Division of the Department of
14 Education came to a conclusion in June of 1998, with a letter
15 of commitment from the Fayetteville School District. I have
16 provided you with copies of this letter.

17 For your information, the school district has yet to
18 fulfill the commitment for August. The commitment to be done by
19 the end of August was to inform all employees of the school
20 district of the new interpretation of Title IX, that also
21 addresses same sex harassment, including sexual minority use.
22 They did not meet that deadline.

23 In school districts and communities throughout
24 Arkansas, our nation, these children are viewed as disposable,
25 and I'm not saying this lightly. It is the honest to God

1 truth. I have many letters from these children who seek PFLAG
2 Arkansas parents out in desperation for love and support. Some
3 of these children are no longer living. The majority take
4 their own life or they run off or they engage in high risk
5 behaviors.

6 I still have doubts that the Dallas office of Civil
7 Rights will follow through with the Fayetteville School
8 District. No representative of the Department of Education
9 ever came in person to the district or to our home. This was
10 all done via telephone interviews, and I felt the resistance
11 from them the whole way, and it took 18 months to resolve.

12 Our home has been shot at with a plate glass door
13 broken. Police took a report but there was no investigation
14 conducted. We still receive bizarre, sometimes threatening
15 phone calls. A more unusual one is where the fellow stated,
16 "If you continue to campaign for the queers, your soul is
17 doomed to hell and the children of Isaiah will send you there."

18 When a car backfires or any type of loud bang, I now
19 find myself ducking automatically. I have to put a lot of
20 energy into not hating the haters. During the trial for one of
21 the boys who assaulted our son, the judge and prosector allowed
22 the defense attorney to put our son on trial. Terrible things
23 were allowed to be stated about homosexuals. He pointed to
24 Willie's parents and stated, "We all know who the real haters
25 are in this community, the Wagners."

1 This is all because we are standing up for our son's
2 rights, his equal basic rights. The school district, the
3 prosecutor's office, nor the police department put any effort
4 into finding out who the other six teens were who participated
5 in the assault hate crime toward our son.

6 I did notify the U.S. Attorney's office for the
7 Western District of Arkansas in Fort Smith, an attorney by the
8 name of Mr. Nelson. Also notified the FBI also in
9 Fayetteville, and I was brushed off both places.

10 I do realize there's no hate crime bill law in the
11 State of Arkansas, nor a sexual orientation included under the
12 hate crime federal statute, but it is under the reporting act,
13 sexual orientation is a part of that.

14 A young black man, very nice young black man in his
15 20's, he was a registered nurse, was murdered two weeks before
16 our son was assaulted. They wrote in his own blood on his
17 bedroom wall, "KKK." It was no doubt a hate crime, pure and
18 simple. Very much overkill. There was outcry for this young
19 man's death, for his horrible murder.

20 This young man was black, but he was also gay, and
21 we're not really sure why these two gentlemen murdered him,
22 because they never made a statement, so we don't know if it's
23 because of his race or because he was gay or both. But there
24 was no investigation by the FBI. And race is under the hate
25 crime federal statute.

1 Our Governor Huckabee had the Governor's Conference
2 on the Family in November in Cercy, the Harding Campus. Three
3 organizations tried to have a booth there. Arkansas Handicap
4 Association, PFLAG, and the Hate-Free Zone Campaign. The
5 Governor's Office denied request for all three of these
6 organizations. We did not portray the image of the Arkansas
7 family.

8 We were also told that they could be discretionary
9 in who was allowed at this conference, because no state money
10 was being used. A Freedom of Information Act was filed and
11 state money was used. There was \$12,000 of the emergency fund
12 was used, because they fell short in their fund-raising.

13 There is no agency to currently file a complaint on
14 the actions of any state officer. The Ethics Commission can
15 only take complaints during a campaign process. I think that
16 is wrong, because we are native Arkansans, and we are family.

17 We had one attorney to represent our son in the
18 state. He retired. We have yet to locate another civil rights
19 attorney that will take our son to represent him on an ongoing
20 basis, because he has been fired twice from two little jobs
21 now, because he is gay, and that's really legal and acceptable
22 it seems to be.

23 It has been said that sexual orientation should not
24 be included in our civil rights laws, because it is a moral
25 issue, not a civil rights issue. And I agree. It is a moral

1 issue. It is immoral to allow fellow human beings and citizens
2 to be harassed, discriminated against, beaten and even
3 murdered.

4 And I don't want to argue with anyone about whether
5 it's choice or not. My husband and I know in our hearts, for
6 our son this was not a choice. But if that's an issue for a
7 civil rights issue, so is marriage and so is religion. These
8 are choices, as well. That should not be a determining factor
9 and religion has no place in our civil rights laws, none
10 whatsoever.

11 And I've been very involved in pursuing and will
12 continue until I become old and infirmed in a nursing home, or
13 put down in another way, I will continue to pursue the civil
14 rights of my son and anyone else. We have -- I did research
15 165 cities in the nation that have all inclusive human rights
16 ordinances, took that to the city attorney and to an alderman.
17 That was taken to the Fayetteville City Council in April. They
18 passed it by a vote of six to two. We called it the Human
19 Dignity Resolution, and then the Mayor vetoed it and then the
20 veto was overrode.

21 Then the Arkansas Christian Coalition did obtain
22 enough signatures to put it on the ballot in November, so we
23 had the campaign for human dignity going on, and there has been
24 a lot of problems, you know, you're seeing a lot of -- more
25 people in the community are seeing the hate, the

1 discrimination, the absolute venements that my family has been
2 hearing, seeing and feeling for a long time. And we are not
3 alone. We are not alone.

4 Our son was not the only gay child student in the
5 Fayetteville School District or any other school district. The
6 difference is he refused to ignore the harassment, and that's
7 when the school came up with the new rule, they would no longer
8 tolerate reverse harassment, and our son has no history of
9 violence whatsoever, but he just verbally would reply when he
10 was harassed.

11 I thank you all very much for letting me -- any
12 questions?

13 MR. JENKINS: As a matter of record for the U.S.
14 Commission on Civil Rights, our jurisdiction is very
15 limited. Like EEOC, and many of the federal agencies,
16 sexual orientation is not a part of our jurisdiction
17 except in the administration of justice, and in hearing
18 you and your comments this evening, one portion intrigues
19 me, and that deals with the local police department in the
20 arrest of those young men that harassed your son, same
21 sexual harassment.

22 What type of treatment when you wanted to file a
23 complaint and when that went to court did you receive from
24 the police department?

25 MS. WAGNER: There are two women on the police

1 department that have been supportive. They generally just
2 work the weekends, and there is one detective who was a
3 juvenile detective at the time. I'll go ahead and give
4 his name --

5 MR. JENKINS: We don't need the name. Strike for
6 the record.

7 MS. WAGNER: Well, other than that, there was no
8 support. There was much resistance. They would listen to
9 you, they take the information, but then there'd be no
10 investigating. That was the end of it.

11 MR. JENKINS: In the instance that OCR responded to
12 your concern --

13 MS. WAGNER: Eventually.

14 MR. JENKINS: Yeah.

15 MS. WAGNER: Reluctantly.

16 MR. JENKINS: Well, OCR responded to your concern,
17 basically because of recent Supreme Court ruling.

18 MS. WAGNER: Right.

19 MR. JENKINS: On the same sexual harassment. Have
20 you had any contact with the regional office of OCR? You
21 mentioned that there was probably a letter of committal
22 from the school district and OCR for action to take place
23 in August. Have you made contact with OCR to determine
24 why the school district has not complied with that letter?

25 MS. WAGNER: No. At this point the school district

1 really doesn't communicate with me. We did get attorneys
2 to represent our son, and they're in New York City, and
3 they will -- what we're doing right now, there is -- like
4 there's a commitment for September. Throughout this whole
5 next school year there are certain -- and the thought is
6 we're going to give them the -- to be as fair as possible,
7 I want to give them this whole school year to, you know,
8 work with.

9 We -- one of our son's friends did take a tape
10 recorder, one of those small tape recorders, just for
11 three days, and we average counting 26 times a day --
12 that's the average -- you'd hear the words "faggot",
13 "queer", "nick," "kike", all this.

14 MR. JENKINS: One of the things that I would ask
15 that you do for the committee, because the whole portion
16 of your testimony is not within our jurisdiction, is to
17 keep us apprised of your contact with OCR and with the
18 school district, so that we can keep on top of that as a
19 part of our monitoring process in dealing with this
20 matter.

21 MS. WAGNER: I'd love to.

22 MR. JENKINS: I turn over to the committee. I
23 needed to put that on the record for the sake of the U.S.
24 Commission on Civil Rights.

25 MS. WAGNER: And see, I knew -- part of my education

1 was finding out what current federal statutes I could use,
2 state I could and could not, and Title IX -- I mean, that
3 -- the 14th Amendment, kept jumping out at me. You know,
4 these were issues that were relevant to our son. It
5 didn't have to say the word "sexual orientation", but I
6 had to educate OCR.

7 RABBIE LEVY: I wasn't aware that we couldn't
8 officially deal with that, but I did want to know, I guess
9 maybe now for my own information, if you would go back and
10 repeat what was the role of the church? You said the
11 Christian Coalition was going to do something or not going
12 to do something. You went through that very quickly, and
13 I wasn't able to --

14 MS. WAGNER: There's an organization nationally
15 called the Christian Coalition and Arkansas has their own
16 little group, and a fellow that's working on the Faye
17 Bolsman campaign -- okay --

18 MR. JENKINS: If you can, stay away from names.

19 MS. WAGNER: Okay. Well, anyhow, they went and
20 solicited enough signatures for a referendum.

21 RABBIE LEVY: To do --

22 MS. WAGNER: To put the human dignity resolution
23 which is a nondiscrimination resolution, on the November
24 3rd general ballot.

25 RABBIE LEVY: What does that say?

1 MR. COULTER: That's incredible to me --

2 MS. WAGNER: Well, I'm very frustrated that you can
3 actually put on a ballot for the populous to vote on the
4 civil rights of a group of citizens. I think that's so
5 wrong.

6 RABBIE LEVY: Can you get us the text of that
7 somehow?

8 MS. STRICKMAN: We have it.

9 MS. WAGNER: Farella has -- as far as our own
10 personal religion, I was raised Southern Baptist, left
11 when I got married. We became Catholic and then we left
12 the Catholic Church because of conflicts with the church
13 and our son.

14 RABBIE LEVY: And you've gotten really no support
15 from any church group up there?

16 MS. WAGNER: Oh, yeah.

17 RABBIE LEVY: You have.

18 MS. WAGNER: Oh, yeah. None of our churches that we
19 were affiliated with either growing up or during our
20 marriage, but the Unitarian --

21 FATHER FRIEND: Well, none of -- yeah.

22 MS. WAGNER: St. Paul's Episcopal, but I'm not going
23 to say names, but yes, there's been a great deal of
24 support from the Christian community as well as opposition
25 from -- but I try -- everyone is entitled to interpret the

1 Bible, whatever, I'm not -- just please don't take that
2 into government, employment and make cause for
3 discrimination. Thank you all very much.

4 DR. MITCHELL: Thank you. Candace Odom.

5 MS. ODOM: My name is Candace Odom and I'd just like
6 to thank Danielle Strickman and how do you pronounce your name
7 -- Farella Robinson for inviting me here, because it seems that
8 nobody really cares. The people I've talked to, no one seemed
9 to want to listen, and I felt that most people were just boring
10 to them. You know, I was just one voice.

11 But anyway, I'll just read you my complaint which I
12 filed in Federal District Court, and it was filed March 5th,
13 1997, in Fayetteville.

14 This is an action for violation of the Age
15 Discrimination in Employment Act, 29 USC, 621, for violation of
16 the Civil Rights Act of 1866, for violation of Title VII of the
17 Civil Rights Act of 1964, as amended by the Civil Rights Act of
18 1991, with a pendent claim under state law for failure to pay
19 commissions earned prior to termination.

20 Parties and jurisdiction. Plaintiff is a resident
21 of Washington County, Arkansas. I live in Springdale.
22 Defendant is an Arkansas corporation with its principal place
23 of business in Washington County, Arkansas. Defendant has
24 employed 15 or more people in at least 20 weeks, in the current
25 or preceding calendar year. Defendant engages in interstate

1 commerce. All acts complained of occurred in Washington
2 County.

3 This court has jurisdiction over this action
4 pursuant to 28 USC, 1343, 42 USC 1981, 42 USC, 2000, and the
5 Doctrine of Pendant Jurisdiction.

6 Plaintiff filed a charge of discrimination with the
7 Equal Employment Opportunity on 23 September, 1996. A copy of
8 this charge is attached to and incorporated within this
9 complaint as Exhibit A. Plaintiff received a notice of right
10 to sue from the Equal Employment Opportunity on September 26,
11 1996. A copy of this notice is attached to and incorporated
12 within this complaint as Exhibit B.

13 Allegations of age discrimination and employment.
14 At all times relevant to this action plaintiff was over the age
15 of 40, and was one of the oldest persons employed by the
16 defendant. Plaintiff was hired by defendant on February 20th,
17 1996, as a sales associate and as an interior decorator.

18 At all times relevant to this action plaintiff
19 performed her duties in these capacities in a satisfactory
20 manner. I was their top salesperson.

21 During her tenure with defendant plaintiff was
22 repeatedly subjected to comments and questions concerning her
23 age. Defendant's store manager and general manager and sales
24 manager asked plaintiff if she were going through menopause.
25 Defendant's manager asked plaintiff her age on several

1 occasions. Defendant's manager often speculated that he was
2 born when the plaintiff was graduating high school.

3 The above comments and questions were not made in
4 good faith to obtain information or for legitimate purposes.
5 They were made in the context of belittling and ridiculing the
6 plaintiff.

7 Defendant fired plaintiff on July 8th, 1997, under
8 the pretext of insubordination. Specifically defendant stated
9 that plaintiff left the business premises on July 6th without
10 management approval, after disagreeing with the management
11 decision regarding the award of a sales commission to another
12 employee.

13 The stated reason is pretextual, because the
14 plaintiff had often left the business premises without
15 management approval in the course of her duties. Plaintiff had
16 earlier been told by management that she could have the day
17 off, since she had worked on her holiday, the 4th of July.
18 Plaintiff worked the full day on July 6th and other employees
19 routinely left the business premises without permission, and
20 even failed to show up for work without ever being disciplined
21 for their actions.

22 Plaintiff was treated differently from other
23 employees and terminated because of her age. Such treatment
24 and termination were willful acts by the defendant.
25 Plaintiff's former position with defendant has been filled with

1 various persons, all of whom are substantially younger than the
2 plaintiff.

3 As a consequence of defendant's actions, plaintiff
4 has suffered economic loss. I have five kids. Plaintiff --

5 Allegation of discrimination in employment because
6 of race and national origin. Plaintiff is one-half Cheyenne
7 Rapaho Indian. To the best of plaintiff's information and
8 belief, plaintiff was the only member of a racial minority
9 employed by the defendant.

10 During the course of her employment plaintiff was
11 continually questioned by defendant's management as to her
12 parentage, race, ancestry, what tribe she was a member of, what
13 benefits she received for being an Indian, and this occurred on
14 several occasions.

15 During the course of your employment with defendant
16 customers of a minority race, black, hispanics, Asian-Americans
17 were always assigned to plaintiff if plaintiff were at the
18 store. This practice occurred even when the customer which
19 should have gone to another salesperson, who was a non-minority
20 member or when the customer of a minority race should have been
21 assigned to another person.

22 Plaintiff was instructed on several occasions by
23 management to not extend in-store financing to customers of a
24 minority race, even though such customers would otherwise be
25 qualified for such financing.

1 but because of the emotional nature of her presentation
2 this evening, we will just simply go in her presentation
3 and then move on to the open session now, and as a caution
4 for your open session, I know you made an announcement
5 this morning concerning the open session, but it's been
6 the general practice of the U.S. Commission on Civil
7 Rights, particularly for my region, that we try to limit
8 our participants to three minutes, and if they want to
9 provide any additional information, that can be done
10 within the 30-day period, because we have had some
11 participants to go over the time limit, but we have a
12 strict adherence to the time limit because not only that,
13 we have to also get out of this room.

14 DR. MITCHELL: Now we're into our open session and
15 we know there are three people who have indicated that
16 they wish to speak. So additional people will be allowed
17 to speak also, but remember a time limit is three minute
18 per person. So we can just start with --

19 MS. ROBINSON: We have a list.

20 DR. MITCHELL: Andre Guerro.

21 MR. GUERRO: Don't start running that block until I
22 officially thank you all for being able to attend. I'm Andre
23 Guerro, and although I work at the Arkansas Department of
24 Education, I am not representing the Department of Education.
25 It's after hours and I probably wouldn't be able to say

1 everything I wanted to say if I was on time.

2 MR. JENKINS: Could you give us your mailing address
3 also for the record, please?

4 MR. GUERRO: Yes. My home mailing address is 5218 G
5 Street, Little Rock, Arkansas 72205, and I am listed in the
6 phone book. Anybody can call me any time.

7 I work actually for my boss -- former boss is in the
8 room. The Civil Rights Office at the Department of Education.
9 I am now in the Office of Federal Programs. What I do
10 generally is to feel especially responsible as Director of
11 Programs for language minority students at the Department of
12 Education for the State Department, and I want to just briefly
13 answer some questions that you had on the hispanic community.

14 You all wanted some data. I wanted to give you that
15 quickly, and end with just a few general statements so I don't
16 go over my time. They estimate now that there are about 60,000
17 hispanics in the state. That's the latest one. Where are
18 they? Mr. Olegues talked about a corridor. That generally
19 still holds. Most of the hispanics are focused in Northwest
20 Arkansas and Southwest Arkansas, Central Arkansas, but we're
21 finding now that the population is moving all over. We have
22 many of our Delta communities, and Delta -- close to Delta
23 communities that are developing hispanic populations.

24 Every year we send out a home language survey to
25 every school district that surveys every school building in the

1 state. And our data is about four or five years old. We have
2 other state agencies calling us and taking a look at that.
3 This has been tracking the pattern of our language minority
4 population in the state of children in schools, around 76
5 percent are hispanic.

6 The next closest are Laotian with around 11 percent
7 and Vietnamese with perhaps ten percent, and then the rest of
8 the percentage is small populations here and there of Chinese,
9 various European language groups, including those from the
10 former Soviet Union.

11 We've identified 99 different languages other than
12 English spoken in homes with children in our public schools. I
13 only mention that to tell you that the face of Arkansas
14 demographically is changing. Many of our communities basically
15 are going through a process of integration. We are now
16 integrating culturally, not so much racially, although we
17 certainly have room for improvement in racial integration.

18 I just want to mention that in terms of national
19 origin, provision of national origin and compliance in national
20 origin civil rights, the way in which this plays out in our
21 school system is two ways. One is kids have to learn English
22 and we have to provide opportunities for them to do so, so that
23 they can fully participate in the school system and the school
24 program.

25 The second thing is that students have to be

1 provided opportunities to keep up with their core content
2 areas, math, science, social studies, language arts, while
3 they're learning English.

4 If these two things are not being provided, they are
5 being denied equal educational opportunity under the national
6 origin provision of Title VI.

7 So hispanics and those especially that are in
8 language -- come from homes where Spanish is spoken in the
9 home, not all of our hispanics come under this category, but
10 we're finding in Arkansas that more and more are. The
11 percentage of those that are identified as limited in their
12 English proficiency of the total population of national origin
13 or hispanic families, keeps going up and up. We keep getting
14 more and more children and students into our school system that
15 need some good vigilance in terms of civil rights protections.

16 I want to mention the other question you asked was
17 what has been the state response and what have we gotten? I do
18 want to mention and, Bob, and both Bob and Ben had mentioned
19 this earlier. The Governor's office has been very responsive
20 on this issue.

21 I, you know, I never thought I'd, being a bleeding
22 heart liberal type, would say this about Governor Huckabee, but
23 I'll tell you from day one his office couldn't have been more
24 helpful. I'll be very specific.

25 The League of United Latin American Citizens put

1 together with several folks or quite a few actually. There
2 were 20 on the committee, basically a report on the condition
3 of hispanics in the state, and it covered most of the areas
4 that all of us are concerned about discrimination, and housing
5 and health and human services and education and the juvenile
6 justice system, and the justice system, and the rest of the
7 state agencies.

8 This was submitted to the executive branch, hoping
9 that it would be of some use to the legislative branch as well.
10 The Governor's office, Governor Huckabee's office, was
11 extremely responsive to that. He hosted a meeting for us. At
12 the end of this meeting he said what do you want me to do? And
13 we said Governor Huckabee, it would be good if your office
14 could send a letter out to every state agency that you are the
15 chief executive officer of, all the state agencies, and ask
16 them what are you doing for outreach to the hispanic community,
17 and he did it.

18 I know in our agency, the Department of Education,
19 when that letter came in, it came in at the director's office.
20 It filtered down. I'm pretty low on the totem pole compared to
21 all the layers of the department, but finally they got ahold of
22 me and said, hey, we need to be very serious and get a response
23 out. We need a report on what our agency is doing.

24 So I know at least at the Department of Education,
25 while there is still much to be done, while there is still much

1 to be done, we are attempting to be responsive.

2 I want to end actually sort of saying, although it
3 probably is not always very popular to speak up, this last
4 presentation from Ms. Wagner -- I our office at the department
5 we -- whether it's officially sanctioned or not, our office has
6 always been opposed to any hatred directed against any child or
7 any public school person regardless of the situation. That
8 creates which in your business you know is called a hostile
9 environment. And we find that children cannot learn when there
10 is hostility.

11 And I feel especially with hispanic children, when
12 they see people being hostile to their parents in public
13 places, that this is a very, very damaging thing. And I
14 understand that the purview creating the U.S. Civil Rights
15 Commission and passed on to our State Advisory Commission, has
16 certain categories that are protected classes, but I am still
17 reminded whether it's Plessy versus Ferguson or whatever, that
18 for the longest while racial discrimination and slavery were
19 sanctioned in this country and had the support of politicians,
20 church groups, educators and everything else. I would hope
21 that we would be on the cutting edge on all issues in which any
22 child, hatred is directed against any child in the state.

23 Any questions or is my time up? Thank you.

24 DR. MITCHELL: Thank you. Diane Gonzalez Worthen.

25 MS. WORTHEN: My name is Diane Gonzalez Worthen, and

1 I am an educator. I teach high school, Grades 10 through 12.

2 MR. JENKINS: Would you give us your mailing address
3 for the record, please?

4 MS. WORTHEN: Okay. My mailing address, 16700
5 Doolittle Drive, Springdale, Arkansas 72764. I had the
6 privilege of going through the training provided by the State
7 Department for English as a second language to receive my
8 English as a Second Language endorsement.

9 I'm beginning my third year teaching in Arkansas,
10 and I guess one of the things that surprises me even though we
11 have the constitutional amendments and so forth, against
12 discrimination, and against the 504 section of the
13 Rehabilitation Act of 1973, the enforcement processes are not
14 quite there yet.

15 I grew up in Texas, was raised in Texas, and all
16 along I had been subject to the disadvantages that both of my
17 Mexican heritage parents endured, and I often was very thankful
18 that I never had to endure those same types of things.
19 However, when I moved to the Northwest Arkansas area, I found
20 myself witnessing first hand the discrimination practices
21 against minority students, mainly hispanic, and that I have
22 been truly an advocate many times, sometimes by myself, which
23 is very hard to face when you're the only one that is trying to
24 do good things for kids.

25 But I've also had the support and help of Al Lopez,

1 who will speak in a little bit.

2 It services, even though the services are listed on
3 paper of all of the things that we are doing as a district and
4 other districts as well -- when you get right down to it and if
5 you look into and go into classrooms and so forth, you see that
6 it looks good on paper but it's not being followed through at
7 the building level or many times at the classroom level.

8 There are inferior services regarding discrimination
9 against national origin related to academic counseling. Most
10 of our hispanic students are tracked into vocational classes,
11 low level academic tracking, non-college bound. Many of them
12 are not seen as college material.

13 One of the laws that I am also seeing that there is
14 a slight different interpretation of what I was used to, and
15 that is the Section 504 of the Rehabilitation Act, it appears
16 that mostly the help is available for those that are physically
17 handicapped, which you can actually physically see, but if a
18 student has a learning disability, an emotional type problem,
19 emotionally disturbed problem, and an anxiety problem about
20 school, learning and so forth, that is not -- when it's brought
21 up it is just really looked upon as a disability because it's
22 inside, it's not -- you cannot see it.

23 And I have a problem with that. I have referred
24 students along the lines that I felt had some very basic
25 learning disabilities, and after testing they were found to

1 have those disabilities, and these are students who since the
2 eighth grade have been making D's and F's consistently. Now
3 they're at the tenth, eleventh grade level, and still
4 consistently making F, F, F, but no one seems to think that
5 there's understand, anything wrong with that. So I am very
6 concerned about that.

7 Even though there are adaptations and modifications
8 that need to me made concerning regular classroom instruction
9 related to special education students and language minority
10 students, those are not being followed through and we're
11 finding that with our students coming in and saying, Ms.
12 Worthen -- and most of these students are telling me in
13 Spanish, so they feel comfortable coming to me and telling me
14 what is going on in the classroom, and we still have teachers
15 using the same traditional teaching methods that have been --
16 that were used in earliest times of education, and that has not
17 changed, and that is just causing our students to continually
18 sink in the classroom.

19 We have a very high dropout rate, I feel across the
20 board, and especially regarding hispanics and pregnant teen-
21 agers. I'm currently working on some issues relating to help
22 for pregnant teens. Benton County alone, for students ages ten
23 through 17, 5.3 percent of the population are teen mothers,
24 pregnant teens or moms.

25 The outreach programs that are in place for those

1 students are not very accessible for those students, I feel.

2 One other area that I'm not really sure about, and I
3 think it's actually first amendment right that is not being
4 followed through with is the English only -- the English only
5 concept, there is a state law that states that all the primary
6 instruction must be in English, and so we do have teachers
7 telling students that cannot speak Spanish at all in the
8 classrooms or in the hallway, and I think that that is in
9 violation of the freedom of expression.

10 So things such as that. One other law that I'm
11 concerned about is our current school district attendance law.
12 We have a ten-day absence rule in our school district. That
13 means that if a student is absent ten days in the semester,
14 then they lose credit for that entire semester. That almost
15 means that if school starts August the 20th, and that student
16 moves into the district after Labor Day, they're in the
17 classroom, from that point and through December, and they will
18 not receive credit.

19 If a student is moving from one district to another,
20 from one state to another, it doesn't matter. They should have
21 moved before that deadline.

22 Now, they do allow Saturday school for students who
23 have had up to 13 absences, but after that the only
24 opportunities are for them to go to night school, which is not
25 conducive for many of the students, and so forth.

1 So I do have some very legitimate concerns,
2 concerning a lot of issues, but I would say that probably the
3 most that I see many times are those dealing with language
4 minority students and serving the populations that are
5 protected under the Rehabilitation Act of 1973, Section 504.

6 DR. MITCHELL: Thank you very much.

7 MR. JENKINS: One question if I may. Next week my
8 office will be doing a hearing in Oklahoma City on
9 hispanics in Oklahoma City school districts. One of the
10 burning issues that we will be looking at is the fact that
11 hispanic students, LEP students actually are waived from
12 taking a national test, basic skills test, so that school
13 district testing mechanism will look good. Therefore,
14 hispanics are exempted for three years and Oklahoma City
15 is seeking an additional fourth year now.

16 Is that practice going on here in Arkansas?

17 MS. WORTHEN: That practice is going on in Arkansas,
18 however, if they are classified as a level language
19 proficiency of level one and two, they are exempt from the
20 testing. But if they are level three and four, then they
21 must take the test, just like everyone else.

22 Now, one of the things that happened that I have
23 seen is that that also creates a hostile attitude when you
24 have administrators telling ESL teachers it's your
25 students that are going to cause our test scores to look

1 bad, you know, that -- and that is really a very common,
2 if you were to go around and talk to ESL teachers and
3 special education teachers, we're not real teachers.
4 We're there because we have all that money that the
5 government has given us to spend and we are eventually
6 going to bankrupt the school system.

7 So and that is a constant, constant that I hear.

8 MR. JENKINS: That's why we're going to Oklahoma
9 City next week.

10 DR. MITCHELL: Thank you very much.

11 MS. WORTHEN: Thank you.

12 DR. MITCHELL: Al Lopez.

13 MR. LOPEZ: My name is Al Lopez -- actually Alvin
14 Lopez, and my address is 100 Roselawn, Rogers, Arkansas 72756,
15 and I'll be real brief.

16 Just a story, little thing that happened to me
17 recently. I took my child -- I'm from Puerto Rico so I've been
18 talking to my children about how being Puerto Rican, we are
19 Americans. And I take my child, explain this to him to
20 Arkansas Police to take his driver's license test, his written
21 test.

22 And when I get there I present his birth certificate
23 and Social Security card and they ask me for a green card. And
24 I said well, you know, the only green card I have is American
25 Express. And but they insisted. They insisted that I needed a

1 green card, so you know, I very politely I said well, why don't
2 you just make a phone call, find out what's going on, and they
3 did and oops, sorry, you don't need -- so immediately a memo
4 was written. I called a friend of mine that works in
5 Springdale office and a memo was written to let them know, and
6 I saw that it was lack of information. It was not that the
7 person was trying to be mean with me or it was just that she
8 didn't know.

9 And my kid kind of looked at me and said well, I
10 thought we were Americans here, so that's another issue, but
11 basically, you know, I've been here five years, and I can't say
12 I have had five bad years. I say that I've had five good
13 years.

14 I work for Rogers High School, and the first day
15 that I walked into that school they hired me so I could be an
16 interpreter and help out the kids and help out the Latino kids,
17 and assimilate and integrate. When I walked into that school
18 the first day, it was written in spray paint, "Kill Mexicans."

19 And I really thought about well, do I really want to
20 do this? Do I want to -- you know, I was just -- but the point
21 is that I seen that things have gotten better, you know, as
22 I've been working there things have really gotten better. But
23 there's so much still.

24 When I started there I had 50 kids to work with.
25 Now I'm working with 260 Latino kids, plus the white Anglo kids

1 that have come in, plus we have now African Americans, Laotian
2 kids, because you know, Mr. Lopez is not the hispanic relation
3 coordinator. I'm the student relation coordinator. I'm there
4 for all the kids, and they all have the same needs and -- but
5 my point is that if you're really going to do this, you know,
6 every time I come to Little Rock and have my -- them over there
7 that I talk to and I see a lot of issues still here about black
8 and white issues, and I hear a lot of people talking about
9 black and white, and I think to myself, you know, sometimes --
10 and I don't tell this to my kids, because I have kids here that
11 I really want to make this work for them.

12 But I think to myself well, this issue about black
13 and white and -- is there really room for me for the brown? Is
14 -- are we here now and some people say well, we're still
15 dealing with the situation and look, all these Latinos now
16 coming in here and just creating another situation. They don't
17 even speak English.

18 And I feel, you know, that we have to be real aware
19 of it because I -- when I started at the high school and
20 somebody would call one of the Latino kids a name, racial name,
21 he would go and punch this person, and that kid would get
22 arrested.

23 We have taught our kids now that when somebody calls
24 them racial, which is not happening as much as it happened when
25 I started to work there, now they come and use the system in

1 place, because we taught them that they can go to the office
2 and talk to the principal, and if he don't resolve it, they can
3 go to the central office. They don't resolve it, they can go
4 to the State Department. If they're not satisfied with that,
5 they go to civil rights people.

6 And they get their case heard, so we are teaching
7 them and that's what they're doing, because they are learning.
8 We are learning, you know, I'm here and I am learning many
9 things. We need to be taught, but you have to take into
10 consideration that the way that I'm going to learn faster and
11 my wife -- you know, she speaks English but when she came here
12 five years ago she hardly spoke any English, is to try to teach
13 them in their own language, because it's very important if you
14 make me feel part of the community, if you make me feel wanted
15 here, eventually I will start working for you, and that's what
16 happened to me.

17 And there's a lot of people out there that need
18 help. There's a lot of people out there that, you know, I
19 dealt with a case yesterday, a person came to see me, this
20 lady, her husband is in jail, she can't take him out because
21 they're asking \$700 bail bond and nobody wants to get him out
22 because he don't speak English.

23 I mean, what's going on? I mean, is this person --
24 if she came to see me, how about the cases that don't come to
25 see me? These people -- you know, their husband stays in jail.

1 They get bitter against the system. Eventually you can only
2 push the people to a corner and they will hold for so long, but
3 eventually they will come out fighting, and you have an
4 opportunity, you really have a good opportunity to welcome and
5 help assimilate whoever wants to be assimilated or integrate
6 the people that are coming here.

7 It's going to take time and it's not going to happen
8 overnight, but we really need to work hard and we can't -- I
9 don't believe in the black and white issue. My background, my
10 ancestry, my great, great grandmother are African Caribbean,
11 was African Caribbean, so in Puerto Rico we don't have those
12 issues. It's more social. You know, you have money, I don't.

13 But here, you know, I really think that we need to
14 stop -- and I know that it's happening but we need to start
15 working more together and stop saying "those kids" or "those
16 hispanic kids." It's "our kids" and that's what I feel about
17 all the children, you know, in the area and you know, we just
18 need to work together, and I know that the more situation that
19 happen like this, I think it's going to be better, because I
20 think the more the merrier.

21 I'm just going to leave you with this experience
22 that happened to me, and you take it from there. Had this
23 person that worked in the school and every day she would come
24 to me when I started in school and talk real bad. Well, these

1 kids and they don't understand, and they're not bringing their
2 records to school, and they can't speak English and I got to
3 the point that I was about to confront this lady. I said what
4 is your problem? Are you racist? You don't like the -- I
5 mean, I felt really -- but I says no, I can't do this this way.
6 What I did, I provided -- I gave her an ESL tutor every hour.
7 I told her, you know what, since the language is a problem, I'm
8 going to give you a bilingual tutor every hour, and you work
9 with him and he will be your interpreter.

10 And she worked with these kids and six months later
11 this lady on her vacations was going to Mexico, because she
12 wanted to learn Spanish, and when she came back she adopted one
13 of our athletes in school, that is a Mexican kid that was very
14 poor, that was a grade excellence sportsman, and bottom his
15 jacket, and just you know, fell in love.

16 And I always think till this day I would have
17 confronted this lady, if I would have told her I think you are
18 racist, I think you have problems, would I have created maybe a
19 bigger enemy for these children?

20 And I saw that basically her situation was that she
21 didn't know and she was scared and she had heard a lot of
22 things. And we need to do a lot of education.

23 Dan Pless says that he's had a lot of people calling
24 from Northwest Arkansas. Sure, because Dan went to Northwest
25 Arkansas and got on a radio show, a Spanish radio show, and

1 talked to the people about his agency and they responded.

2 So this is what I'm saying. We need to really -- if
3 you're going to take this like you're doing, think about that
4 in Northwest Arkansas there's another situation, and you need
5 probably help addressing the situation, because it's a little
6 different, and like I said before, you know, I got to make it
7 work because my family is here. I bought a house here. I
8 ain't going nowhere. Any questions?

9 DR. MITCHELL: Thank you.

10 RABBIE LEVY: Is your home okay in Puerto Rico?

11 MR. LOPEZ: My home if fine in Puerto Rico. My
12 daughter and my grandchild and everybody is okay. We
13 spent a lot of time on the phone and thank God -- it was -
14 - just for the record for you to know, it was ten years
15 exactly when Hugo hit. I mean, almost to the same day, so
16 that's why we were very scared because Hugo really did a
17 number on us.

18 MS. PLATT: Tell them you're a DJ on the radio.

19 MR. LOPEZ: I do a radio show on a radio station on
20 the hispanics, and we use a lot to help to educate the
21 people, with music, with a lot of music, you know. One
22 thing in common our kids have is music, so I did a dance,
23 a multi-cultural dance, and we were playing this music,
24 hip-hop, you know, what the kids like, and these hispanic
25 kids came and said how come you're not playing a Spanish -

1 - and I says listen to the lyrics. Oh, oh -- it was
2 Spanish but it was -- it had the beat, so -- a lot of good
3 things. I know that we need to work more. There's a lot
4 of things happening and it's getting bigger, so how are we
5 going to address -- are we going to confront or we going
6 to unite and work together and really try to give the
7 benefit of doubt to people and say let me teach you about
8 my country here, and maybe I can teach you a little bit
9 about me.

10 DR. MITCHELL: Do we have any other -- I know we
11 have one other person in the back. Anybody else want to
12 address -- state your name and your mailing address for
13 the record.

14 MR. DILLINGHAM: I'm Oliver Dillingham. My mailing
15 address, 4201 Monticello Drive, North Little Rock, Arkansas
16 71661.

17 Thank you for letting me speak before you this
18 afternoon. I must say I was not aware that I would receive an
19 opportunity to speak. As a matter of fact, I did not know
20 about this until I believe yesterday afternoon. But I could
21 not pass up this opportunity to pass on to you my opinion of
22 what would be great for the State of Arkansas.

23 I feel that I have somewhat of an insight in terms
24 of what would benefit Arkansas in terms of civil rights,
25 because I am program manager of the Equity Assistance Center

1 with the Arkansas Department of Education.

2 In 1985 the legislators in the State of Arkansas
3 passed an act requiring the State Department of Education to
4 take on a section or a unit to provide technical assistance to
5 school districts to assist them in complying with civil rights
6 mandate, and to comply with desegregation mandates, and of
7 course a number of other state mandates, such as minority
8 recruitment, and some other things that might not be so related
9 to civil rights compliance.

10 As I listened to several people speak earlier, I'm
11 not sure that you're aware and the most recent information that
12 I have in terms of the Office of Civil Rights out of Dallas is
13 that in 1996 there were 4,828 complaints filed alleging
14 discrimination. And I will tell you if there were that many
15 filed, there were evidently twice that many that occurred, and
16 I say that because every day in my office I get phone calls
17 from citizens in Arkansas complaining of acts of
18 discrimination, and they fail to follow through and file a
19 formal complaint.

20 The act in 1985 provided technical assistance to
21 school districts, but there was nothing in the act or that I
22 know of enacted to enforce civil rights compliance. My office
23 provides technical assistance so that school districts will be
24 aware of their responsibility and no follow up to assure that
25 they are complying. I think that what you're considering is

1 very, very important if enforcement and compliance is every to
2 occur. It would take me much more than three minutes to talk
3 of some of the experiences and probably become very emotional
4 in telling you of some of the overt acts of discrimination that
5 I hear alleged now.

6 I cannot say that these are true acts of
7 discrimination, because I'm only hearing one side of the story,
8 but I do go into field and provide technical assistance. As a
9 matter of fact I missed this morning's session because I had
10 UAPB with about 40 young people that are about to go out into
11 the field of education, talking with them about 504 compliance,
12 and after three weeks, if you'd hear comments that they could
13 relate to overt acts of discrimination against students with
14 disabilities, then you would realize that there is a need for
15 enforcement.

16 I say along with enforcement there's a need of
17 public awareness. We are about the business of informing the
18 schools, but the schools are not about the business of
19 informing the public, and until the public knows their rights
20 and understand the process to assure compliance with their
21 rights, then the schools are not pursuing a way to inform the
22 public of their rights.

23 Again, if I'm only going to have three minutes, I'm
24 going to have to stop because I'm going to go into something --

25 DR. MITCHELL: Well, we certainly want you to put

1 your comments in writing, some of the experiences that you
2 could cite for us, and we're going to have the mailing
3 address available so you can make sure that we learn of
4 those things.

5 MR. DILLINGHAM: I would love to put some of those
6 in writing. I would also love to make a suggestion in
7 terms of how some enforcement and awareness could be
8 effected in the State of Arkansas.

9 DR. MITCHELL: We'll appreciate that. Thank you.

10 MR. DILLINGHAM: Thank you.

11 DR. MITCHELL: Anybody else -- just come --

12 MR. JENKINS: For the Chair, for your session
13 tomorrow, make sure that the persons sign up in advance,
14 because according to our rules we have to interview the
15 persons prior to their presentation, but we will waive
16 that this evening, but tomorrow let's make sure that we do
17 that.

18 DR. MITCHELL: Okay.

19 MS. JONES: I'd like to apologize and thank you for
20 giving me the opportunity to at least stand for a couple of
21 minutes, and I won't stay long.

22 I am Eppie Jones Bowers, Little Rock, Arkansas, 1905
23 Michael Drive 72204. I'd just like to say as I was listening
24 to the ones that preceded me about discrimination and all, I
25 could see myself in that place. I am Eppie Jones, one of the

1 three blacks that integrated Hall High School back in '59 and
2 '60, so know where they are coming from and I know the feeling,
3 and not only did I know the feeling from back at that time,
4 then we had experienced some of this throughout the years.

5 So I am very familiar with that. But my reason here
6 today, I'd just like to share this. I am a disabled -- combat
7 related disabled Gulf War veteran. I have ended my nursing
8 career due to the fact that I was injured in the Gulf War. I
9 was activated for that.

10 I have done 30 plus years in nursing, 19 in the
11 military and 19 in the VA system. I have always spoken for the
12 rights of others. I've tried to work to the best of my ability
13 in taking care of the veterans, and now I'm on the other end,
14 receiving some.

15 I devoted my life to that, to nursing, and when I
16 ended my career due to a fall, and ended up with several
17 surgeries and bone against bone in my right knee, I have
18 changed. I was doing four mile runs, aerobics. I was doing
19 working two or three jobs. I started my own business following
20 my husband's death.

21 So I was very active. So when I got inactive it
22 really did something to me, and I did suffer from post-
23 traumatic stress and still do, so I've gone through a lot in my
24 life, but I started out early as a young girl working hard, and
25 five years old babysitting, and making \$5 a week at home with

1 my daddy that was recuperating from a stroke.

2 And my mom taught me, and I came up babysitting and
3 I was able to take care of kids, even when their naval cord was
4 on. So I got a lot of experience in those years. And she
5 always said Eppie, take care of the kids.

6 I'm back to that point now of taking care of our
7 kids, and I said it was a shame that I spent all of these years
8 -- well, it wasn't a shame because like I say, I did good in
9 the 30 plus years I did in nursing, but the Lord brought me to
10 my knees to let me see where I need to speak out.

11 So due to the fact that I have nodes in my neck and
12 other things, I said Lord, please I know it was something you
13 wanted me to do, and I never found the comfort until now, and
14 my counselor said Eppie, you've always spoken so speak up for
15 the children.

16 I am speaking today as parent, and I don't have to
17 have any other title, but a parent. I am a parent of ex-
18 offender and we have great concerns for our future generation.
19 I am of a group, Arkansas Care, Citizens United for the Rehab
20 of -- and we are under a national chapter of over 40 chapters
21 throughout different states. We have a national effort to
22 reduce crime through criminal justice reform, and especially in
23 the area of the prison system.

24 I am concerned about, as I started this about a year
25 ago, I had gotten a chance to go to a meeting, and that's where

1 I came in contact with Charlie and Pauline Sullivan, and I was
2 always concerned about the issues, and it was the issue of the
3 105th Congress that really caught my eye, and that was the
4 amendment of the bills of HR3, S3 and S10. I was concerned
5 about that, because as I looked in there and they were talking
6 about the 13 and 14-year-olds that are being incarcerated and
7 tried as adults, that greatly concerned me because we were
8 already -- we already had bills come in about welfare reform
9 and we were concerned about that, and then realized in the end
10 they didn't speak fast enough, so that was an area that we did
11 not speak up in, and we were having problems.

12 And as I read through, as the gentleman presented
13 the 105th Congress and we went through, I could just see the
14 little children just -- we're losing our future generation due
15 to the fact that we have -- start messing with the little minds
16 of our kids, our little ones. We are not taking care of them
17 in the early years, and as we put them into the 13 and 14 age
18 group of in the penal system, I could see the detriment.

19 And due to the fact that I've been in the prison
20 ministry since in the 80's, and I've had a lot of experience in
21 that area in dealing with people hands on, and I could see the
22 deterioration from the ones that had been incarcerated, and
23 then as they come out, and the education level is not in there.

24 Well, they were taking out the PEL grants. That's a
25 higher level, so they were just cutting that level off at that

1 GED or the 12th grade level, so they didn't intend to expand,
2 so I started questioning them, and as I did, our national
3 leader said well, Eppie, you're right. I said what do you
4 mean, I said it's actually genocide with a pencil, because
5 you're going to put our young minds in there and mind you,
6 they're building more prisons and more small prison now, they
7 call them juvenile.

8 But we are concerned about this, and as the bill --
9 and I started speaking out and having forums and all and going
10 -- we need our spiritual leaders. We need our church people.
11 We need our parents. We need our teachers, our principals, we
12 need, and we as parents have failed some because we have not
13 spoken up like we should.

14 And I said I took some blame, because I worked with
15 the elderly. I had not worked with the children. So I blame
16 myself too for not being there for the little children, and we
17 are dealing with little children that cannot vote. They cannot
18 speak for themselves, and they are committing crimes, and I'm
19 not saying that they should not be incarcerated -- we are
20 saying under our cure that prisons should be for exactly the
21 ones that need it.

22 And then if you're going to put them in prison, they
23 do some rehabilitation or some reform with them, and we are
24 finding that this is not happening. They are suffering. They
25 are using their early -- under the HR3 they were using their

1 early childhood records.

2 I have a problem with that because if a child moves
3 in there at elementary school, or they pick them out
4 kindergarten now, but --

5 MR. JENKINS: We are under a time limit to get out
6 of the room. Also if you could wind up so that we could
7 move out of the room, that would be fine.

8 MS. JONES: I'll wind this up. The main thing is
9 I'd like for some -- we do have a commission. The
10 Governor does have a commission that he has in place that
11 are dealing with some of these issues. We are speaking
12 out because as they are leaning toward the S-10, the S-10
13 is not going to cover every factor that's a detriment
14 that's in there. The HR3 and the S3, they are utilizing
15 these -- this bill coming in through the back door
16 seemingly.

17 So we are going to be hurt with that. I'm just
18 asking you all, and I'm asking -- and I just gave up. So
19 we are going to ask for a national day of prayer, and this
20 is what we are saying. We are going to pray for our
21 leaders that are in, hoping that we can all move their
22 hearts to where they will look at our young children as
23 humans, and not a piece of paper.

24 And I had told them prior to the Jonesboro incident
25 that a lot of times we have bills presented because of

1 minorities, but a lot of times other people's children
2 fall into the slot, though Jonesboro came up after that,
3 and I was glad that we had spoken out and started to talk
4 about our children.

5 So I'm just asking you all to help intervene with
6 the commission that's in there, help ask the right
7 questions to them as they are putting -- building more
8 prisons and building more smaller prisons, ask them
9 questions and make sure that you can stay on top of the
10 early childhood records going with the child from the time
11 they are in early elementary school until they finish
12 college. I have a problem with that in the school system.
13 If we could get some of that changed, and join us
14 nationally on October the 31st as we are convened at the
15 State Capitol for a national day of prayer and pride.
16 Thank you.

17 DR. MITCHELL: There are no other --

18 MR. WILLIAMS: I appreciate the need for an
19 interview process, so having absent that process I would like
20 to share with you -- my name is Edward Williams. I'm trustee
21 and former chairman of the Arkansas Group, which a not for
22 profit group in Arkansas. My address is 1414 Eastview in
23 Morilton, Arkansas, and the ZIP is 72110.

24 The Arkansas Group was formed by a group of
25 concerned professionals to address the needs of rural children,

1 and so my short presentation to you today will be to address
2 those needs.

3 Granted, the high visibility and the imperatives of
4 urban and suburban areas -- but we're in a period right now in
5 our state when there is a complete lack of confidence in the
6 smaller communities, that they can deal with issues that the
7 U.S. Civil Rights Commission is attempting to deal with daily.

8 I would like to comment to you briefly that the
9 enforcement component of what you are seeking to do, vital
10 though it may be, perhaps the most important is the issue of
11 civil. And specifically there are foundations in this part of
12 the country in our six contiguous states that I think are
13 prepared as well as other not for profit and charitable
14 organizations to serve in concert with, in complement to, the
15 work of a properly created Arkansas Civil Rights Commission,
16 properly funded and properly staffed, to address the needs
17 which are terribly important of not only our urban and
18 suburban, but also our small communities. So I do want to come
19 before you and pledge whatever we can bring to assisting you,
20 to work with the groups like the PEW Foundations, the
21 charitable trusts that have established a program as you all
22 know, in civil journalism responsibility, and others areas in
23 which the civil is the most important.

24 It's not just an adjective. It's something that's
25 terribly important to all of our communities to make them feel

1 safe and economically viable. So I thank you very much.

2 MS. STRICKMAN: Mr. Williams, I just wanted to ask
3 you as a member of this committee if you would submit
4 something in writing that defined and describes to us a
5 little bit more about the Arkansas Group.

6 MR. WILLIAMS: I would be delighted.

7 MS. STRICKMAN: Thank you.

8 DR. MITCHELL: I want to say to all of you, it has
9 been a long day, that we have been informed and
10 enlightened, and we appreciate your participation. Some
11 people have been here from nine o'clock this morning until
12 after nine o'clock this evening. That indicates a true
13 commitment, and we appreciate that, and we know that
14 working together we're going to accomplish a lot of things
15 in the area of civil rights in this state.

16 So thank you for your participation and we hope to
17 see you in the morning at nine o'clock.

18 (Proceedings concluded at 9:15 p.m.)

C E R T I F I C A T E

STATE OF GEORGIA)

COUNTY OF CRAWFORD)

I hereby certify that the foregoing transcript is a true, correct, and complete record of the said proceedings; that I am not a relative, attorney, or counsel of any of the parties; am not a relative of attorney or counsel for any of the parties; nor am I financially interested in the action.

This, the 6th day of October, 1998.

Ralph L. Ledford