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Meet.  
298.2

WEST VIRGINIA ADVISORY COMMITTEE  
to the  
U. S. Commission on Civil Rights

**COMMUNITY FORUM**

**JUNE 14, 1999**  
**9:30 a.m. - 4:45 p.m.**

**West Virginia University College of Law**  
**Lugar Courtroom**  
**100 A Law Center**  
**Morgantown, WV 26506-6130**

The following is a transcript of the hearing held as described above, under the direction of **Marc Pentino, Esq.**, U. S. Commission on Civil Rights, 624 9th Street, NW Suite 500, Washington office; the **West Virginia State Advisory Committee** present as follows: Chairperson, **Gregory T. Hinton**, Fairmont; **Debra J. Hart**, Cross Lanes;; **Samuel N. Kusic**, Wheeling; **Norman Lindell**, South Charleston; **Ranjit K. Majumder**, Morgantown; **Arthena Serell Roper**, Charles Town; **Brian R. Swiger**, Cross Lanes; as reported by and before **John Campbell, Certified Court Reporter, Videographer and Notary Public** for the State of West Virginia.



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**ORIGINAL**

## APPEARANCES:

### PANEL I - Civil Rights Concerns for Persons with Disabilities:

Moderator: **RAMJIT MAJUMDER**  
Panelists: **BARBARA JUDY**, ADA compliance officer, WVU  
**REED MARTIN**, Attorney in private practice.  
**JAMES S. JEFFERS**, Director, WV Division of Rehab. Services  
**RUBY LOSH**, Disability Rights Advocate.  
**KENT BRYSON**, Staff Attorney, WV Advocates.

### PANEL II - Civil Rights Issues in North Central West Virginia:

Moderator: **GREGORY HINTON**  
Panelists: **LEONARD GEORGE**, Director, MBC United.  
**ALLEN LEE**, President, NAACP-Harrison Chapter.  
**KATHERINE BANKOLE**, Director, WVU Center for Black Culture & Research.  
**KAY FRANCIS MEADE**, Member, Fairmont City Council.  
**CHARLENE MARSHALL**, Member WV House of Delegates.

**OPEN SESSION PANELISTS: DEWEY BERRY and BREDGA NEAL**  
Sign Language Interpreting Provided by: **DOLLY FORD and TERESA McGONIGLE**

**JOHN CAMPBELL**, OCR-Retired/CCR/CVR/NP

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1 JUNE 14, 1999

2 **MR. HINTON:** *Good morning. On behalf of the*

3 *West Virginia Advisory Committee of the US*

4 *Commission of Civil Rights I would like to welcome*

5 *the state, city, county officials, community,*

6 *religious leaders and the public to this community*

7 *forum to address civil rights in North Central*

8 *West Virginia. We have invited panelists to*

9 *address employment of minorities in areas of*

10 *school systems, incidents of racial harassment*

11 *against minority persons and the work of various*

12 *community organizations in fostering better race*

13 *relations. Today's forum also include discussions*

14 *of problems encountered by persons with*

15 *disabilities, including various educational*

16 *opportunities and gainful employment. This is the*

17 *second of five forums to be conducted across the*

18 *state. Last November we returned to Logan to*

19 *gather information on equal employment*

20 *opportunities in the coal mining industry, police,*

21 *community relations and racial tension in*

22 *secondary schools, areas of concern identified in*

23 *our 1995 report, a copy, of course, is located out*

24 *in the lobby, with other information. This*

1 *committee will conduct similar forums in other*  
2 *regions of the state so we may gain a perspective*  
3 *on various problems unique to each particular*  
4 *area. Based on what we find from these various*  
5 *forums the Committee will prepare a report*  
6 *informing the US Commission on Civil Rights and*  
7 *the public of our findings and recommendations,*  
8 *which we will be distributing throughout the*  
9 *state. I wish to briefly describe this Committee*  
10 *and it's relations to the US Commission on Civil*  
11 *Rights. The Commission on Civil Rights is a fact*  
12 *finding agency with the executive branch of*  
13 *government. The Commission has established*  
14 *advisory committees in each state and the District*  
15 *of Columbia, with members appointed by the*  
16 *Commissioners, who serve without compensation.*  
17 *The Committees advise the Commission of*  
18 *information concerning discrimination or denial of*  
19 *equal protection of the laws because of race,*  
20 *color, religion, sex, age, handicap or national*  
21 *origin, or in the administration of justice, and*  
22 *receive reports, suggestions and recommendations*  
23 *from individuals, public and private organizations*  
24 *and public officials upon civil rights matters.*

1 *Before we begin, please feel free to take copies*  
2 *of the items placed on the table out front of the*  
3 *door there, different publications where our work*  
4 *was done. These include today's agenda, copies of*  
5 *committee reports, biographical information of our*  
6 *committee members and a catalog of publications by*  
7 *the Commission and other committees' prior work.*  
8 *There will be an open session for the public to*  
9 *make statements to the committee upon the record.*  
10 *If you would like to make a statement, please*  
11 *register your name with our staff person, Marc*  
12 *Pentino, the gentleman to my left up front here.*  
13 *Time permitting we will do our best to accommodate*  
14 *your presentations. We are required to provide*  
15 *the same protection. Therefore, we will interrupt*  
16 *and limit presenters who are making defamatory or*  
17 *derogatory comments regarding any particular*  
18 *individuals. We will keep the record open until*  
19 *July 12th, 1999, for additional comments or*  
20 *material that you would like for us to have. We*  
21 *may also contact you at a later time to clarify*  
22 *any points raised or supplement our inquiry. With*  
23 *that said we would like for the other members to*  
24 *introduce themselves before the first panel*

1 *starts. I will start on my immediate left.*

2 *MR. LINDELL: I am Norman Lindell and I'm*  
3 *Deputy Director of the West Virginia Human Rights*  
4 *Commission.*

5 *MR. HINTON: And to my right.*

6 *MR. MAJUMDER: I am Ranjit Majumder. I'm a*  
7 *Professor at the College of Human Resources and*  
8 *Education in Rehabilitation Psychology.*

9 *MR. SWIGER: My name is Brian Swiger and I'm*  
10 *an attorney from Charleston, West Virginia.*

11 *MS. HART: My name is Debby Hart, Equal*  
12 *Employment Opportunities Director.*

13 *MS. ROPER: My name is Arthena Sewell Roper.*  
14 *I'm a faculty instructor with the West Virginia*  
15 *Extension Service.*

16 *MR. KUSIC; My name is Samuel Kusic and I'm a*  
17 *lawyer and businessman from Wheeling, West*  
18 *Virginia.*

19 *MR. HINTON: And our member who is with us by*  
20 *telephone communication?*

21 *MS. POPS: Marcia Pops, Morgantown, West*  
22 *Virginia.*

23 *MR. HINTON: And what do you do, Marcia?*

24 *MS. POPS: Teacher.*

1 **MR. HINTON:** *And where are you currently?*

2 **MS. POPS:** *I'm currently out of town.*

3 **MR. HINTON:** *Okay. Glad to have you with us*  
4 *today. We have with us today the Mayor of*  
5 *Morgantown, Frank Scafella, who will give us*  
6 *welcoming remarks. Mr. Scafella, I would ask you*  
7 *to come to the center here so we can get this on*  
8 *record.*

9 **MR. SCAFELLA:** *Mr. Chairman, members of the*  
10 *Committee, welcome to Morgantown, and may I*  
11 *welcome the audience, as well, on behalf of the*  
12 *city council, the city manager and the people of*  
13 *Morgantown. I don't know of a better place to*  
14 *hold a conference or a session of this kind. We*  
15 *are certainly a very diverse community by virtue*  
16 *of the fact that the university is here, for one*  
17 *thing, perhaps largely so. But we have looked at*  
18 *it over the years as a strength of diversity and*  
19 *those of you who are from Morgantown know that for*  
20 *the past seven years, well, until this last year,*  
21 *our mayor, Charlene Marshall, who is now a member*  
22 *of the House of Delegates, was Mayor of*  
23 *Morgantown, and under her watch a number of good*  
24 *things happened. One of them was that a race*

1 *relation committee was formed. The membership of*  
2 *that committee included the City of Morgantown,*  
3 *the county, including WVU, Star City, the Board of*  
4 *Education is involved there, the NAACP, Mainstreet*  
5 *Morgantown and the Chamber of Commerce. And over*  
6 *the past five years, this was formed five years*  
7 *ago under Charlene's watch, and over the past five*  
8 *years this committee has done several things. One*  
9 *of them was to conduct a race relations survey in*  
10 *the community and the results of that have been*  
11 *used to implement new programs and out of that*  
12 *also came a book on the history of African-*  
13 *American influence on the development of the*  
14 *greater Morgantown area. That book is called,*  
15 *"Our Monongalia" and that book is available in*  
16 *local book stores for members of the committee or*  
17 *members of the audience who are interested in it.*  
18 *It is a wonderful pictorial history of the black*  
19 *community in this area. This committee on race*  
20 *relations has also organized an annual affair*  
21 *which is held in the downtown area each year. It*  
22 *started a pilot program of part time employment*  
23 *for disadvantaged teenagers with non-government*  
24 *employees, and many of those work through the area*



1 *hospitals. And periodically you will find*  
2 *articles in the local newspapers by this*  
3 *committee, or from this committee. And a*  
4 *community workshop on race relations is another*  
5 *thing that they have done. So we have looked,*  
6 *over the years, at social justice and race*  
7 *relations as an ongoing challenge and we have, as*  
8 *a community, gone a long ways to address a number*  
9 *of those challenges. I think you will find that*  
10 *you have articulate folks here today, people with*  
11 *concerns on their minds and not afraid to state*  
12 *them. We welcome you again, and we hope it is a*  
13 *productive workshop. Thank you, Mr. Chairman.*  
14 *MR. HINTON: Thank you, Mayor. At this time*  
15 *I will turn the proceedings over to our sub-*  
16 *committee chair, Ranjit Majumder, who will be the*  
17 *moderator and introduce our first panel this*  
18 *morning.*  
19 *MR. MAJUMDER: I feel that this is a very*  
20 *significant occasion, both from the Committee's*  
21 *activity point of view, as you heard this is the*  
22 *second of five meetings that we are going to have,*  
23 *and we particularly took measures to hear about*  
24 *the concerns and issues related to disability.*

1 *West Virginia has an estimated 142,245 individuals*  
2 *with work disability. Of these numbers*  
3 *approximately 79.7 percent are not working. Some*  
4 *of you know that at the national level the*  
5 *President has established a task force on*  
6 *employment of people with disabilities. There are*  
7 *similar situations where individuals with*  
8 *disabilities are experiencing difficulties in*  
9 *getting education, locating appropriate housing*  
10 *and accessing consultations. Of course there are*  
11 *positive indications in our community and in our*  
12 *state of the awareness of the problems and issues*  
13 *and adding toward disabilities to respect*  
14 *civilized people with disabilities. In this*  
15 *session we want to hear from you about the state*  
16 *of the affairs they relate to, the civilized to be*  
17 *accorded to everybody, including individuals with*  
18 *the disabilities whether they're physical or*  
19 *mental, in the areas of education, employment,*  
20 *housing, consultation and so on. We know that*  
21 *Morgantown and the Mon County Transit Authority*  
22 *are developing programs to facilitate consultation*  
23 *of garages with mobility throughout this city-*  
24 *county area. This is commendable. What is not*

1 *commendable is when a taxi driver denies the*  
2 *passenger that civilized consultation because they*  
3 *are riding on a wheel chair. I want to really say*  
4 *that this is an opportunity for us as a Committee,*  
5 *but also this community to tell us what is going*  
6 *on and their own personal concerns, issues and*  
7 *expediency about your neighbors and your family*  
8 *members. So I am particularly inviting panel*  
9 *member Barbara Judy, who is the ADA Compliance*  
10 *Officer at West Virginia University; we have*  
11 *Jessica Justice who could not be here for personal*  
12 *reasons, but is there a gentleman by the name of*  
13 *Kent Bryson here? If not maybe by the afternoon*  
14 *he will be here to express some concerns that*  
15 *Jessica had, and maybe he will be here to relate*  
16 *that. We have Reed Martin, an attorney in private*  
17 *practice. He is here. And Mr. James S. Jeffers,*  
18 *Director of the West Virginia Rehabilitation*  
19 *Services; Helen Matlick, Director of the*  
20 *Monongalia County Consumer Service Center and Ruby*  
21 *Losh, Disability Rights Advocate. Would you*  
22 *please come and join us here at the podium. Okay.*  
23 *I'll start with Barbara Judy. Would you please*  
24 *state your name and also your affiliation for the*

1 *purpose of the reporter.*

2 *MS. JUDY: My name is Barbara Judy and I am*

3 *the ADA Compliance Officer for West Virginia*

4 *University. The issue here is to discuss, very*

5 *briefly, services and so forth that are available.*

6 *But first let me express to you my philosophy,*

7 *which I think will be kind of self-explanatory. I*

8 *do not believe that anybody gets up in the morning*

9 *and says I want to see how many people with*

10 *disabilities I can abuse today. I don't believe*

11 *that. I believe that the things that do happen*

12 *are things that happen when people don't have good*

13 *information, don't have good -- have stereo types*

14 *in their background and so on. I think there is a*

15 *lot of learning to be done and this type of forum*

16 *is an ideal place to present those issues. I*

17 *think we make broad steps everyday, but we have a*

18 *long ways to go, and I am the first to recognize*

19 *that. Just a couple words about higher education*

20 *in West Virginia. I will tell you that through*

21 *the chancellor system we do have a fairly detailed*

22 *set of training procedures that take place on a*

23 *state level. We have been meeting for a number of*

24 *years on an annual basis to provide information*

1 *about what can and should be done for students*  
2 *with disabilities. I will not tell you that*  
3 *everyone is complying with those kinds of things,*  
4 *because there are some large problems with respect*  
5 *to the topography, the geography, if you will, in*  
6 *the State of West Virginia. So much of our*  
7 *responsibility has to be done in providing program*  
8 *access. That means that we will have to move*  
9 *students, we will have to change classrooms, we'll*  
10 *have to provide accessibility in some other way to*  
11 *that classroom. There are a number of service*  
12 *programs throughout the state. I will not make an*  
13 *effort to list all those because there are other*  
14 *members on the panel, but I will just mention one.*  
15 *There is a resource in the State of West Virginia*  
16 *that I also direct. That is called the Job*  
17 *Accommodation Network. It is a service which Dr.*  
18 *Majumder has been associated. It is a resource*  
19 *that is a service of the President's committee on*  
20 *employment of people with disabilities. It is an*  
21 *organization that has been on our campus since*  
22 *1983, and provides, by a toll free number,*  
23 *information about the employment of persons with*  
24 *disabilities throughout the entire nation, in fact*

1 *the world through the internet. That is a service*  
2 *free of charge to anyone that has questions about*  
3 *employment issues. I will let the remainder of*  
4 *the panel discuss their issues and perhaps come*  
5 *back later.*

6 *MR. MAJUMDER: Let me mention, if anybody has*  
7 *any questions, including the Committee members,*  
8 *you will have opportunity to do that. Mr. Martin.*

9 *MR. MARTIN: Thank you, Mr. Chairman. My*  
10 *name is Reed Martin. I'm an attorney in private*  
11 *practice here in Morgantown. I'm delighted to*  
12 *have joined your city recently. I have been*  
13 *active in Special Education law for 28 years, and*  
14 *have had an opportunity to work in all 50 states,*  
15 *with all 50 state departments of education, with*  
16 *over 500 local school districts and with over 4500*  
17 *families across the nation. My comments today*  
18 *have, obviously, to do with West Virginia and of*  
19 *course Morgantown, Monongalia County Schools here.*  
20 *And the title I was asked to address and what*  
21 *we're all talking about is compliance with the*  
22 *Individuals with Disabilities Education Act and*  
23 *also difficulties experienced by persons with*  
24 *disabilities. I would have expected, coming to*

1 *West Virginia fairly recently, that there would be*  
2 *full knowledge and compliance with the IDEA*  
3 *because of so much action that has occurred here,*  
4 *and also Section 504 of the Rehabilitation Act of*  
5 *1973. The late Senator Jennings Randolph of West*  
6 *Virginia authored the IEP part of the Individuals*  
7 *with Disabilities Education Act. The first*  
8 *federal court decision in the nation under Section*  
9 *504 in education was here in West Virginia in*  
10 *1976, and ordered the State Department to begin*  
11 *making swift strides to come into compliance,*  
12 *which by my estimate they apparently never did do*  
13 *anything, and I'll talk about that in just a*  
14 *minute. The first case in the United States*  
15 *holding a teacher individually liable for money*  
16 *damages for refusing to follow a child's*  
17 *individualized education program plan was in West*  
18 *Virginia. I would have thought that would have*  
19 *caused shock waves across the state, and everybody*  
20 *would want to know about that, they wish it had*  
21 *never happened but they would want to know about*  
22 *it. And unfortunately that doesn't seem to be the*  
23 *case here in this state. It is very widely known*  
24 *around the country. The case is Doe versus*

1 *Withers. I would have to say, I wasn't asked to*  
2 *make this estimate, but I think it is important to*  
3 *say that having worked with all 50 states for 28*  
4 *years, having been a consultant to some states,*  
5 *been a consultant to some districts, as well as*  
6 *representing parents, I would have to say that*  
7 *West Virginia ranks as low as any state I have*  
8 *ever seen in terms of compliance with the*  
9 *Americans with Disabilities Act in Education, that*  
10 *is elementary and secondary education, in the*  
11 *IDEA, the Individual with Disabilities Education*  
12 *Act and also Section 504. Just this year, I have*  
13 *been here 10 months, and Connie Mathews who is in*  
14 *the audience was my partner in our advocacy*  
15 *efforts here and I have interacted with well over*  
16 *a thousand parents in West Virginia this year, on*  
17 *our Web site, E-mail, faxes, letters, phone calls*  
18 *and in person at a number of our conferences that*  
19 *we have conducted around the state. We have filed*  
20 *complaints. I don't want you to think that we*  
21 *haven't believed in the system and tried to make*  
22 *it work. We have filed complaints with the*  
23 *Monongalia County Board in Morgantown, the West*  
24 *Virginia Department of Education, Director of the*



1 *Office of Special Ed Programs in the US Department*  
2 *of Education, the Assistant Secretary of the*  
3 *Office of Special and Rehabilitative Services in*  
4 *the US Department of Education, the Family Policy*  
5 *Compliance Group in the Department of Education*  
6 *which deals with access to records, which is very*  
7 *important. And also Region III, Philadelphia,*  
8 *Office of Civil Rights which oversees ADA and*  
9 *Section 504 in education matters. So let me give*  
10 *you a quick idea of the types of issues and the*  
11 *responses that we have been getting. What is*  
12 *uniform and what is reported to us, and it also*  
13 *has been my own personal experience, is that when*  
14 *a parent approaches a school district here and ask*  
15 *about something, they are not responded to, they*  
16 *are attacked. I have not seen anywhere in the*  
17 *country such a hostile environment that is*  
18 *apparently intentional. Now, there are arguments,*  
19 *right and wrong, how much, always arguments. I*  
20 *certainly have seen parents who are asking for*  
21 *something that's not required in the law, I've*  
22 *seen school districts deny things clearly required*  
23 *in the law, a lot of lack of information, but the*  
24 *intentional climate of hostility, the repeated*

1 *hostile response, is unlike anything I have seen*  
2 *anywhere in the country. The American*  
3 *Disabilities Act and Section 504, specifically in*  
4 *the statute under ADA of the regulations of 504,*  
5 *protect against "intimidation, retaliation,*  
6 *interference, threats and coercion", and*  
7 *particularly when you are engaged in the protected*  
8 *activity of advocating for a child. Yet that*  
9 *seems to be a standard pattern. Not just when I'm*  
10 *involved but all these parents who have contacted*  
11 *us. The school districts complain, constantly,*  
12 *about the shortage of funds everywhere in the*  
13 *United States. That is a common complaint. But*  
14 *they always have the funds for attorneys,*  
15 *including attorneys to become plaintiffs in cases*  
16 *against parents, and to spend an enormous amount*  
17 *of money, most recently in becoming a plaintiff in*  
18 *a case against a parent to the point of*  
19 *threatening to take the child away from the*  
20 *parents, from very vocal advocates who was*  
21 *advocating for her child. One thing that stands*  
22 *to me as a symbol, the hostility, the arrogant*  
23 *hostility, of the Monongalia County School Board,*  
24 *is the fact that their administration or offices*

1 *are in an inaccessible building. They moved to*  
2 *that inaccessible building after the ADA was in*  
3 *effect and after Section 504 was in effect, and*  
4 *said if you are a recipient of federal financial*  
5 *assistance you may not do that. If you are*  
6 *already stuck in a wonderfully, old, historical*  
7 *designated building, you do what you can, but you*  
8 *don't move into a different building and have a*  
9 *second and third floor which houses the Section*  
10 *504 coordinator and the ADA coordinator, and the*  
11 *Director of Special Education are all housed*  
12 *upstairs in a building that is inaccessible to*  
13 *people with mobility impairment. They recently,*  
14 *since I have moved here, have advertised for and*  
15 *hired a Special Ed director, advertised for and*  
16 *hired a 504 ADA coordinator and advertised for and*  
17 *have hired, and he'll soon be coming in, July 1, a*  
18 *new superintendent. I asked them for a copy of*  
19 *those job listings and they denied the access to*  
20 *one. I contacted a national place where they had*  
21 *published it and asked whether they warranted,*  
22 *that they were in compliance with 504, ADA and so*  
23 *forth, because they could not have honestly held*  
24 *the job interviews where they were held on the*

1 *upper floors of this building, or hired the*  
2 *people, all three of the designations that I just*  
3 *mentioned are housed on the upper floors of an*  
4 *inaccessible building. What an incredible symbol*  
5 *of we don't care, we just really don't care.*  
6 *We're insensitive. When we brought this to their*  
7 *attention they engaged in the usual pattern of*  
8 *attack, hostility and just ignored us, completely*  
9 *ignored us. Also, under the IDEA, since 1977,*  
10 *there has been a requirement that if you take*  
11 *dollars under the IDEA, which the West Virginia*  
12 *Department of Ed does and the Monongalia County*  
13 *Schools do, they must have in place a written plan*  
14 *that assures, "Positive efforts to employ and*  
15 *advance employment to qualified individuals with*  
16 *disabilities". That would be a wonderful healing*  
17 *thing, if we see more people with mobility*  
18 *impairments, hearing impairment, visual*  
19 *impairment, and we learn how to work with all*  
20 *those people as co-employees, and hopefully*  
21 *superiors and supervisors, that would begin to*  
22 *break down the insensitivity to this area, but*  
23 *they don't have that plan. They have refused our*  
24 *repeated request to show us a copy of that plan,*

1 *which has to be in place since 1977 and annually*  
2 *renewed. The West Virginia Department of*  
3 *Education also refuses to show us any such plan,*  
4 *even though they, as recipients of IDEA dollars,*  
5 *have to have it. Access to policies are very*  
6 *important steps in advocacy, because if the policy*  
7 *is wrong, then that is the place to address it,*  
8 *let's get that straight instead of fighting in the*  
9 *trenches over a wrong policy, but it is very hard*  
10 *to get policies from West Virginia Department of*  
11 *Ed or Monongalia County Schools. If you ask for*  
12 *one they quite often just refuse to give access to*  
13 *those policies. Congress changed that in 1997*  
14 *under the IDEA, because this was a common*  
15 *complaint, and they ordered that on request a*  
16 *parent must be given a copy of the entire fund for*  
17 *funding, that the local district has given to the*  
18 *state. To this date they have refused to make*  
19 *that available to us. They have indicated it is*  
20 *on advise of counsel that they're refusing to make*  
21 *it available to us, and the last thing we got was*  
22 *simply a cover sheet on the plan, which would have*  
23 *to be hundred of pages of how they're going to use*  
24 *IDEA dollars. That cover sheet is interesting in*

1 *that it shows that they do not swear to comply*  
2 *with the American Disabilities Act, which is*  
3 *interesting. In a couple of recent Supreme Court*  
4 *decisions, the US Supreme Court has indicated how*  
5 *a parent should address a school district when*  
6 *they're trying to advocate for their child and*  
7 *cause a change. We have, since last June, eleven*  
8 *and a half months ago, since the first of these*  
9 *two supreme court cases came down, have followed*  
10 *exactly what Justice O'Connor directed parents to*  
11 *do, and in every instance, every recipient of our*  
12 *letter has refused to respond, refused in any way*  
13 *to respond to our request, whether it is the state*  
14 *or the local board. We have had problems,*  
15 *personally, and it has also been reported to us*  
16 *about the inability to raise an IEP meeting, the*  
17 *Individualized Education Planning meeting, the*  
18 *point the parent wants to be raised. The school*  
19 *district often has their attorney at that meeting*  
20 *and I have been in a meeting in which they shouted*  
21 *a parent down, demanded that that issue not be*  
22 *raised, even though the Office of Civil Rights had*  
23 *ordered that it to be raised at that meeting, and*  
24 *the school board attorney said, on behalf of the*

1 *board, he would cancel this meeting, no planing*  
2 *would continue and the child would suffer as a*  
3 *result. This is the standard kind of pattern and*  
4 *practice, unfortunately, that I see and that has*  
5 *been reported to me. We are running into a problem*  
6 *now with 18 year olds, because in 1990 the*  
7 *American Disabilities Act recognized a remarkable*  
8 *thing. Children with disabilities grow up and*  
9 *they really ought to be treated with the respect*  
10 *that they are entitled to. As they go on into*  
11 *higher education that is not a problem, but we*  
12 *often treat youngsters 16, 17, 18, 19 as if they*  
13 *had not matured into a full adult, and they may*  
14 *have a disability, but that doesn't mean that*  
15 *they're not a 100 percent citizen. So the ADA in*  
16 *1990, and the IDEA just recently, recognized that*  
17 *when that child becomes an adult of 18, the*  
18 *majority in this state, then they are to be*  
19 *accorded certain rights. What is happening, we*  
20 *find now, is that the Monongalia County Schools is*  
21 *exploiting that as a way to refuse to deal with*  
22 *the parent who has been an advocate for 5, 6, 7,*  
23 *8, 9 years, and suddenly turns to the student, who*  
24 *is 18, and insist that they be the sole advocate,*

1 *the sole person who can see records, the sole*  
2 *person that comes to an IEP meeting and so forth.*  
3 *That is exploiting what we ought to celebrate,*  
4 *recognizing that these people are adults instead*  
5 *of exploiting them and trying to separate them*  
6 *from their advocate. We have a problem with*  
7 *related services because that is what makes it*  
8 *possible for a child to be able to be successful*  
9 *with a disability in a public school, and we have*  
10 *a constant problem getting those related services*  
11 *here, even though the supreme court has recently*  
12 *spoken on that issue, and spoke on it in 1984,*  
13 *nine to zero, and spoke on it in the Harrison vs.*  
14 *Strossie case that I mentioned in 1976. And*  
15 *obviously the state and local districts are not*  
16 *responding to the 1976 case, the 1984 nine to zero*  
17 *supreme court decision, and claims huge surprise*  
18 *two months later when the supreme court came down*  
19 *with a case called Garrett, etc. versus Cedar*  
20 *Rapid School District. The argument often offered*  
21 *that there is a lack of resources, that there is*  
22 *just not enough money. For example for an*  
23 *extended school year, a youngster that has been*  
24 *successful in school during a long term may loose*



1 *what he has gained over the summer, so there is an*  
2 *extended school year that is offered. Here in*  
3 *Monongalia County they insist that it can only be*  
4 *two hours a day, two days a week, six weeks in one*  
5 *location with no individualization, and all type*  
6 *of disabilities grouped together and it is only to*  
7 *fight off irreparable regression. But this is the*  
8 *same county that spends \$50,000 a year of their*  
9 *funds for a contract with this University for a*  
10 *strength training coach for 48 weeks out of the*  
11 *year to work with gifted athletes to increase*  
12 *their abilities over the summer so they will*  
13 *really be able to hit the turf in the fall. I*  
14 *have nothing against high school football. I hope*  
15 *that is not misunderstood, but I wished they had*  
16 *the same attitude toward students with*  
17 *disabilities rather than begrudging the dollars*  
18 *they spend on students with special needs. Just*  
19 *let me conclude by saying that the excellent*  
20 *booklets that are available outside by the*  
21 *Commission on Civil Rights on helping governments*  
22 *comply with the ADA, that is an excellent booklet*  
23 *that mentions the heart of this non-*  
24 *discrimination, which is the self evaluation*

1 *ordered in 1977 under Section 504, and ordered in*  
2 *1992 under the American Disabilities Act. Quite*  
3 *often, as we said before, there is a lack of*  
4 *understanding, a lack of sensitivity, I did not*  
5 *realize that was discrimination. That is what*  
6 *self evaluation is aimed at. And Mon County and*  
7 *the West Virginia Department of Education have*  
8 *admitted to us that they did not do the required*  
9 *self evaluation in 1978 under 504, nor the one*  
10 *required in 1992 under the American Disabilities*  
11 *Act, and they frankly don't see much of a problem*  
12 *with that. It is very difficult to work in a*  
13 *state and in a locale where the attitude is, just*  
14 *leave us alone as the State Department of*  
15 *Education and local education agency and we'll*  
16 *continue to do what we have always done. I would*  
17 *say that if any recommendation could be made that*  
18 *it would be to have Congress lodge, and this was*  
19 *discussed in 1997, because of an amendment by*  
20 *Senator Kennedy, to place enforcement of Special*  
21 *Ed laws in the Department of Justice rather than*  
22 *leaving them in the Department of Education.*  
23 *Thank you very much.*  
24 **MR. MAJUMDER:** *Thank you, Mr. Martin. I*

1 *assume you will be willing to answer questions*  
2 *later?*

3 **MR. MARTIN:** *Oh, certainly.*

4 **MR. MAJUMDER:** *Now, we want to ask Mr. James*  
5 *Jeffers to make some statement.*

6 **MR. HINTON:** *I noticed you mentioned ADA and*  
7 *IDEA. I would imagine that some of us know what*  
8 *those mean and some of us do not. So let's take*  
9 *the assumption that no one knows what those things*  
10 *mean.*

11 **MR. MARTIN:** *Okay. Thank you very much.*

12 *Section 504 of the Rehabilitation Act of 1973*

13 *applies to any recipient of federal financial*

14 *assistance and requires non-discrimination, and it*

15 *has been effect, with regulations, since 1977.*

16 *The next response by Congress was the Individuals*

17 *with Disabilities Act, passed in 1975, went into*

18 *full effect with what we know it as today in 1977.*

19 *It's now, through amendments, called the*

20 *Individuals with Disabilities Education Act, IDEA.*

21 *In 1990, we had the Americans with Disabilities*

22 *Act, which effects governmental entities under*

23 *Title 2A, whether they receive federal financial*

24 *assistance or not. That has been in full effect*

1 *since 1992.*

2 *MR. HINTON: Thank you. One of the things*  
3 *we're hoping to do is to inform people of what*  
4 *rights they have under existing laws. We don't*  
5 *have as many advocates as we would love to have,*  
6 *and we have a lot of non-compliance. So I ask the*  
7 *rest of the panelists, if you would, to any*  
8 *acronyms that you use to spell those out for the*  
9 *public.*

10 *MR. MAJUMDER: Mr. Jeffers.*

11 *MR. JEFFERS: Good morning. My name is Jim*  
12 *Jeffers. I am Director of the West Virginia*  
13 *Division of Rehabilitation Services; a native of*  
14 *West Virginia. I have been involved in management*  
15 *and administration of rehabilitation and*  
16 *disability programs for the last 30 years in other*  
17 *states. And yesterday I celebrated, or perhaps*  
18 *more correctly, observed my 37th year of*  
19 *disability. So I have some practical experience*  
20 *in that area and I would like to share that with*  
21 *the Commission today. The Americans with*  
22 *Disabilities Act of 1990 was a major piece of*  
23 *human rights legislation for the disability*  
24 *community. Like the Civil Rights Act of 1964, the*

1 *ADA has given people with disabilities statutory*  
2 *protections. Now it is time, really it's past*  
3 *time, to design a strategy to make equality of*  
4 *opportunity full participation, inclusion and*  
5 *economic self-sufficiency reality. The front here*  
6 *that we crossed in 1990 outlawing discrimination*  
7 *against people with disabilities is only the first*  
8 *step. The next best step is changing attitudes*  
9 *and the often well intended but fatally flawed*  
10 *disability programs and policies that keep people*  
11 *with disabilities dependent on government*  
12 *handouts. Passage of the ADA was the first step.*  
13 *We have more to do because we have more minds to*  
14 *open, more short-sighted policies changed. There*  
15 *are still too many people in our country who think*  
16 *that workers with disabilities can't cut it; who*  
17 *think we are to be pitied and patronized. They*  
18 *couldn't be more wrong morally or economically.*  
19 *This is not to say that people with disabilities*  
20 *haven't made progress since the passage of the*  
21 *ADA. We certainly have made progress. Nine years*  
22 *after the passage of that law I see small measures*  
23 *of progress throughout the State of West Virginia.*  
24 *Access to public buildings has improved*

1 *tremendously, although there are areas that still*  
2 *need improvements. More and more places of*  
3 *business are accessible to both customers and*  
4 *employees with disabilities. Curb cuts are*  
5 *facilitating mobility for everyone from wheel*  
6 *chair users to parents with strollers to in-line*  
7 *skaters. I would like to share with you the five*  
8 *areas I believe are fundamental to insuring civil*  
9 *rights for people with disabilities. They are*  
10 *health care, employment, transportation, housing*  
11 *and safety. Health care. For starters we must*  
12 *reform how we provide health care to people with*  
13 *disabilities. Today too many people with*  
14 *disabilities remain on public assistance because*  
15 *it is the only way they can get health care. That*  
16 *is an incentive against work. We must remove it.*  
17 *We must make sure that working people with*  
18 *disabilities have access to health care. The*  
19 *first step is reforming the social security system*  
20 *and the health care supports that go with it. In*  
21 *our society earning a pay check symbolizes*  
22 *economic and social independence. I would like to*  
23 *say that people with disabilities are the only*  
24 *people who want to pay taxes, because we want to*

1 *work and become contributors to West Virginia's*  
2 *economy. But government programs, instead of*  
3 *powering capable, motivated and skilled people,*  
4 *who yearn to be productive citizens give them*  
5 *money to say home. And for those who rely upon*  
6 *Medicare and Medicaid, we give them no choice but*  
7 *to stay home. The health care crises continue to*  
8 *ensnarl West Virginians with disabilities who*  
9 *definitely want to leave the rolls of the*  
10 *supplemental security income and social security*  
11 *disability's system. As a group we have the most*  
12 *serious and chronic medical needs. Knowing this*  
13 *employers are sometimes reluctant to hire a person*  
14 *with a disability, fearful of the increase in*  
15 *health care cost. Private insurance companies*  
16 *often deny us coverage for pre-existing*  
17 *conditions. Many people with severe disabilities*  
18 *are left dependent on Medicaid and Medicare*  
19 *coverage. To be eligible for these services an*  
20 *individual must label him or herself unemployable,*  
21 *and that label can hurt you if you go to court to*  
22 *try to enforce your rights under the ADA. The*  
23 *fear of loosing health insurance has been*  
24 *identified as a primary barrier to employment.*

1 *Individuals who receive cash benefits through*  
2 *supplemental security income or social security*  
3 *disability insurance also receive health care*  
4 *benefits through Medicaid, Medicare, respectfully.*  
5 *When employment income results in the elimination*  
6 *of eligibility for SSI, or SSDI, the individual*  
7 *also forfeits access to the highly essential*  
8 *medical benefits. This means the loss of*  
9 *critical, residential, rehabilitation and health*  
10 *related support and services. This includes the*  
11 *loss of critical acute health care and in the case*  
12 *of individuals receiving Medicaid benefits, long*  
13 *term services such as personal assistance,*  
14 *prescription drugs and many essential supports.*  
15 *This sudden loss of support creates significant*  
16 *personal, financial hardships, and ultimately*  
17 *constitutes a disincentive to work. Fighting for*  
18 *the health insurance to pick up a loss is often a*  
19 *tremendous challenge. For individuals returning to*  
20 *work who start out in part time employment, which*  
21 *is rarely a company with health care benefits for*  
22 *individuals with disabilities, whose access to*  
23 *private health care is limited by current*  
24 *underwriting practices, and for individuals with*



1 *disabilities whose health care needs are not met*  
2 *through benefit limitations. This lack of access*  
3 *to affordable, adequate, private health care*  
4 *permanently locks people with disabilities, who*  
5 *want to become employed, onto the SSI and SSDI*  
6 *rolls where public health care is assured.*

7 *Employment. We all know working is a*  
8 *fundamental part of what we say is the American*  
9 *dream. Writer Mia Angelo once said that work is,*  
10 *"Something made greater by ourselves and in turn*  
11 *that makes us greater". Every single person with*  
12 *a disability wants to be fully engaged in life,*  
13 *and we ought to have the chance to do so. With*  
14 *the ADA we began a transformation of the*  
15 *proverbial ladder of success for some Americans*  
16 *into a ramp of opportunity for all Americans.*  
17 *Yet, when we realize 70 percent of Americans with*  
18 *severe disabilities are still unemployed it*  
19 *becomes clear that the ADA merely paved the way*  
20 *for inclusion. We still have many steps to take*  
21 *before people with disabilities have full access*  
22 *to the American dream. We must insure that people*  
23 *with disabilities who go to work improve their*  
24 *overall economic situation. Who wants to work for*

1 *40 hours per week to maintain themselves in*  
2 *poverty without health care. We need to look at*  
3 *all possible incentives, including tax credits for*  
4 *workers with severe disabilities. Individuals*  
5 *receiving SSI are among the lowest income*  
6 *households in the country. Compared to the hourly*  
7 *minimum wage of \$5.15 an hour, the SSI monthly*  
8 *benefit is equal to \$3.09 an hour. The national*  
9 *average income of an individual with a disability*  
10 *receiving SSI is only 24.4 percent of the typical*  
11 *one person income in a community. Technology*  
12 *enables people with disabilities to work easier*  
13 *must be universal. Supported work and natural*  
14 *supports at the work site must become the norm for*  
15 *those who need them, and we must make sure that*  
16 *those persons with disabilities who need personal*  
17 *assistance have access to them in the work place.*  
18 *I will make a couple comments on education, only*  
19 *as it relates to employment because that's the*  
20 *area of responsibility for the division I direct.*  
21 *I believe others here today have covered that*  
22 *topic very well. Only a little more than one half*  
23 *of young people with disabilities graduate from*  
24 *high school today. And that sad statistic comes*

1 *at a time when the greatest job growth these days*  
2 *is in technology fields in jobs that require a*  
3 *bachelor's degree or higher. We must make every*  
4 *effort to help the younger members of our*  
5 *community to get the education, training and*  
6 *experience to obtain and keep jobs. We must*  
7 *insure that services available are relevant to the*  
8 *jobs of today and tomorrow. Individuals with*  
9 *significant disabilities face competition from*  
10 *many directions in their efforts to work.*  
11 *Individuals who are leaving welfare, those who are*  
12 *graduating from schools and colleges and those who*  
13 *are dislocated due to corporate down-sizing and*  
14 *economic restructuring are all competing for a*  
15 *limited pool of jobs. Unfortunately for many*  
16 *people with disabilities the system has become a*  
17 *trap. In order to have sufficient economic*  
18 *incentive to leave the federal dole, individuals*  
19 *must be able to earn enough money to rise above*  
20 *the poverty level. We all know that living with a*  
21 *disability, in itself, can be expensive.*  
22 *Practical needs that most of us take for granted*  
23 *add up to a higher cost of living. Congress*  
24 *passed a Work Force Investment Act last year to*

1 *address the employment and training needs for low*  
2 *income individuals who face special challenges to*  
3 *finding work. The act is designed to include*  
4 *people with disabilities in the population covered*  
5 *by the new one stop services delivery system*  
6 *authorized under the Work Force Investment Act.*  
7 *While this act cannot resolve the inadequacies of*  
8 *job opportunities, we are optimistic that the*  
9 *collaborative nature of the programs authorized*  
10 *under that bill will resolve in expanded job*  
11 *opportunities. Barriers to employment created by*  
12 *wide spread myths, misconceptions and expectations*  
13 *about people with disabilities must be broken down*  
14 *before the goals of the ADA, equality of*  
15 *opportunity, full participation, independent*  
16 *living and self-sufficiency can be realized.*  
17 *Today with the ADA and slow, steady changes in*  
18 *societal attitudes, Americans with disabilities*  
19 *have opportunities that previous generations could*  
20 *only dream about.*

21 *Transportation. Eight hundred thousand*  
22 *individuals with severe disabilities entered the*  
23 *work force following the first three years*  
24 *following the implementation of the ADA. They are*

1 *now among out nation's commuters. Many in large*  
2 *cities are using accessible mass transit to get to*  
3 *work. It goes without saying that without*  
4 *transportation it is impossible to go to a job*  
5 *interview, let alone a job. Trips to a doctor or*  
6 *the grocery store don't come easy either. Despite*  
7 *improvements transportation has been identified as*  
8 *one of the largest barriers to employment,*  
9 *especially in West Virginia. For many people with*  
10 *disabilities, especially those who live in rural*  
11 *areas, accessible public transit simply does not*  
12 *exist. Senior service centers are located in*  
13 *nearly every community and as part of their*  
14 *funding for accessible vans, they are to use them*  
15 *to transport seniors and persons with*  
16 *disabilities. People with disabilities throughout*  
17 *the areas we serve find a wide spread failure to*  
18 *co-operate when they contact senior centers for*  
19 *transportation needs. This needs to be addressed.*  
20 *Many jobs that exist today requires travel, where*  
21 *other deficiencies also still exist. Major*  
22 *airlines and bus lines are mediocre at best.*  
23 *There still are not enough with raise printer*  
24 *Braille; not enough assisted devices for the deaf*

1 *in hotel rooms; not enough accessible showers,*  
2 *tubs and toilets and not enough pay phone*  
3 *amplification systems. Transportation for those*  
4 *who cannot Tele-commute must be provided. Support*  
5 *system infrastructures must be built in rural*  
6 *areas of West Virginia.*

7 *Housing. In every state across the country*  
8 *people with disabilities face an affordable*  
9 *housing crisis. No where is this more evident*  
10 *than in West Virginia. This crisis is the direct*  
11 *result of the actions and inactions of the federal*  
12 *government, and the unwillingness of many state*  
13 *housing officials to acknowledge or address the*  
14 *housing needs of people with disabilities.*

15 *Finding accessible housing is an ongoing problem*  
16 *experienced by counselors at the division,*  
17 *particularly in rural areas where many of our*  
18 *customers come from. Substandard housing is*  
19 *common and waiting lists are the norm. The*  
20 *federal housing affordability standard for very*  
21 *low income households suggest that no more than 30*  
22 *percent of monthly income should be spent on*  
23 *housing. In 1998 the federal SSI program provided*  
24 *an individual with a disability living in West*

1 *Virginia a monthly income of \$494. Based on that*  
2 *figure West Virginians with disabilities receiving*  
3 *SSI benefits were priced out of the market. That*  
4 *is, they are unable to afford a modest efficiency*  
5 *or one bedroom apartment. Here in West Virginia*  
6 *an individual with a disability would have to*  
7 *relinquish nearly 51 percent of his or her SSI*  
8 *income to rent an efficiency apartment and nearly*  
9 *60 percent to rent a one bedroom apartment, far*  
10 *beyond the 30 percent that is recommended.*  
11 *Clearly without affordable housing people with*  
12 *disabilities continue to live at home with aging*  
13 *parents, in crowded homeless shelters, in*  
14 *institutions or nursing homes or are forced to*  
15 *choose between seriously substandard housing or*  
16 *paying most of their monthly income for rent. To*  
17 *make matters worse the number of federally*  
18 *subsidized apartments available to people with*  
19 *disabilities under age 62 is intentionally being*  
20 *reduced by government elderly only housing*  
21 *policies, which was signed into law in 1992. This*  
22 *designation of elderly only housing by both public*  
23 *and private federally funded housing providers*  
24 *means that more and more people with disabilities*

1 *will be literally shut out of the subsidized*  
2 *housing market in the years to come.*

3 *Safety: When I speak of safety for*  
4 *people with disabilities, I am referring*  
5 *specifically to legislation regarding hate crimes*  
6 *and abuse. Throughout much of history people with*  
7 *disabilities were seen as useless and dependent,*  
8 *hidden and excluded from society in private homes*  
9 *and in institutions. This isolation is gradually*  
10 *giving way to inclusion, but it hasn't been a*  
11 *painless process. People with disabilities often*  
12 *seem different to people without disabilities.*  
13 *They may require assistance of a wheel chair or a*  
14 *cane, uncontrollable seizures, or have difficulty*  
15 *understanding seemingly simple directions. These*  
16 *perceived differences evoke a range of emotions*  
17 *from misunderstanding and apprehension to feeling*  
18 *of superiority and unfortunately hatred. Twenty*  
19 *one states have recognized the importance of this*  
20 *issue and have included people with disabilities*  
21 *as a protected class under their hate/crimes*  
22 *statutes. Sadly West Virginia is not one of them.*  
23 *There is a new law that is under the West Virginia*  
24 *Human Rights Act, West Virginia Code 5-11-20,*



1 *which provides for an injunction which may be*  
2 *obtained by a disabled person who is being*  
3 *threatened with violence. However, most hate*  
4 *crime attacks happen without warning. Witness the*  
5 *case of a mentally disabled man in another state,*  
6 *who was kidnapped by a group of people and*  
7 *tortured for three hours and then dumped somewhere*  
8 *with a pillow case over his head. While captive*  
9 *he was taped to a chair, his head was shaved, his*  
10 *clothing were cut to shreds and he was punched,*  
11 *whipped with a string of beads and beaten with a*  
12 *toilet brush. How do you file an injunction*  
13 *against that? One reason that people with*  
14 *disabilities are excluded from hate crime*  
15 *legislation is that people do not want to believe*  
16 *that it occurs. There is no consistent method of*  
17 *reporting or tracking hate crimes against people*  
18 *with disabilities. Many local police departments*  
19 *do not participate in the few tracking mechanism*  
20 *that do exist, making figures unreliable and*  
21 *unrealistic. Like other instances of abuse, many*  
22 *cases of abuse and violence against people with*  
23 *disabilities go unreported because they are at the*  
24 *hands of a family member, nursing home staff, aid*

1 *or other caregiver. People with disabilities are*  
2 *reluctant to disclose information because of*  
3 *further stigmatism or fear of abandonment. The*  
4 *same safety nets that are in place for abused*  
5 *children and battered spouses should also exist*  
6 *for people with disabilities. Training should be*  
7 *conducted with the medical fields, teachers and*  
8 *members of society on how to recognize and prevent*  
9 *abuse. As you can see, protection is neither*  
10 *uniform nor comprehensive. Federal hate crime*  
11 *legislation must be passed which include people*  
12 *with disabilities as a protected class. This will*  
13 *send a very clear message that violence toward us*  
14 *will not be tolerated in our society. Thank you*  
15 *very much for the opportunity to share these*  
16 *comments with the commission.*

17 *MR. MAJUMDER: Thank you. Okay. Now we will*  
18 *invite Helen Matlick to make a statement. Helen.*

19 *MS. MATLICK: I am Helen Matlick and I am a*  
20 *consumer. I have been a consumer for about 18*  
21 *years now. I have been volunteering in the work*  
22 *force, volunteering really with mental health, and*  
23 *now I'm with the West Virginia Mental Health*  
24 *Consumers Association. So I am volunteering in*

1 *their office now, try to help with the consumers*  
2 *and to teach them how to go forward. There has*  
3 *been a lot of changes approved over the years*  
4 *while I have been there, but there is still a lot*  
5 *of work to be done. People with disability, with*  
6 *psychiatry disability, are discriminated against*  
7 *in health care, education and work settings. This*  
8 *discrimination is supported by the very*  
9 *institutions that are suppose to protect the*  
10 *rights of those with disability. And it is*  
11 *necessary to educate people to remove the barriers*  
12 *to health care. Education, employment, medical*  
13 *coverage, modifications in classroom and work*  
14 *places need to be available to create an*  
15 *environment in which people with mental illness,*  
16 *or any other type of disability can produce*  
17 *themselves. When a person with a job becomes*  
18 *mental illness health insurance will restrict the*  
19 *care that they are able to receive. The insurance*  
20 *companies will not cover mental health service at*  
21 *all. If they are covered it soon runs out. Then*  
22 *the person is faced with an illness that is*  
23 *treatable but not covered with service that*  
24 *enables him to do his job. When left untreated*

1 *soon the people will loose their job and is lucky*  
2 *to find a way to receive some disability benefits.*  
3 *This is a long process and the person may become*  
4 *increasingly ill. If he finds he is eligible for*  
5 *health care assistance he will receive treatments*  
6 *and do better and may be able to return to work.*  
7 *Then he finds that by returning to work he will*  
8 *loose his benefits that are necessary to maintain*  
9 *his health at a place that allows him to work. He*  
10 *decides his health is more important and stays in*  
11 *the system unable to work, but unable to find a*  
12 *way to both work and keep his health care intact.*  
13 *This is the typical problem that people face every*  
14 *day in the state and this county. There are*  
15 *situations where people who are so impaired who*  
16 *should be in the work place with modification to*  
17 *jobs. Routinely asked about mental illness and if*  
18 *people are truthful they are screened out due to*  
19 *this. When a person is ill or medication makes it*  
20 *impossible to put in a regular 9:00 to 5:00 work*  
21 *day in an office, employers are not willing to*  
22 *make modifications, such as adjusting hours or*  
23 *limit restrictions so the individual can be*  
24 *accessible. In educational settings often people*

1 *are overwhelmed with the paper work required*  
2 *simply to enroll. If there is someone to help*  
3 *clear this huddle it is often that illness makes*  
4 *it too difficult to attend classes normally. It*  
5 *would be very simple to arrange for an individual*  
6 *to work around the limitation of his illness and*  
7 *medication, but this help is not often routine.*  
8 *The ADA is a baby step on the road to equal*  
9 *opportunities because of this continued fight to*  
10 *enforce it. Thank you.*

11 *MR. MAJUMDER: Thank you, Ms. Matlick. Next*  
12 *we invite Ruby Losh, Disability Rights Advocate.*

13 *MS. LOSH: Good morning. My name is Ruby*  
14 *Losh and Mr. Hinton has asked me to come here*  
15 *today to talk about assessment and hard of hearing*  
16 *disabilities. Today I want to talk about the*  
17 *program of mainstreaming schools and then the deaf*  
18 *institutions and the accommodations for deaf and*  
19 *hard of hearing that we face in West Virginia and*  
20 *in this county. There are many mainstream school*  
21 *situations that are hiring interpreters that are*  
22 *not qualified, and they're not qualified as being,*  
23 *knowing how to sign the alphabet because they have*  
24 *cheap rates. So they're hired. That is not fair*

1 *to the student who deals with their lack of*  
2 *education, because a qualified interpreter could*  
3 *not meet his or her needs, but because he or she*  
4 *may be too expensive the school couldn't afford*  
5 *it. So that makes the deaf community very angry*  
6 *because their children suffer. And also, in our*  
7 *deaf institution in Romney there is no public like*  
8 *advertisement type thing that goes on and it makes*  
9 *us feel secluded, because it makes the*  
10 *mainstreaming situation look more better, whereas*  
11 *the deaf institution would be better for that*  
12 *child. And in the deaf institution the program is*  
13 *all ready implemented, the student has direct*  
14 *contact with their teacher, because today you get*  
15 *the idea there's many parties going on here and in*  
16 *order for me to get your ideas. The accommodation*  
17 *for the deaf services and hard of hearing*  
18 *services, like for example a rest area, many West*  
19 *Virginia rest areas have no TTYs, and let me tell*  
20 *you that there is a telecommunication devise for*  
21 *the deaf. It is the teletypewriter for the deaf*  
22 *or hard of hearing that is used. Many rest areas*  
23 *in the State of West Virginia do not have it. And*  
24 *also New York, I have drove to New York and I have*

1 *seen signs that say "TTY accessible". So if there*  
2 *is an emergency you can stop and call. West*  
3 *Virginia has not that. And the ADA has passed*  
4 *that to provide that for the deaf communities and*  
5 *West Virginia has nothing like that here. I know*  
6 *our rehab, like vocational rehab, many deaf people*  
7 *want to work, but vocational rehab often says we*  
8 *don't have enough funding to find the deaf*  
9 *community the jobs that they want. Because money*  
10 *- people are dependent on SSI or SSD, because they*  
11 *truly do want to work, they don't want to stay*  
12 *home 24 hours a day 7 days a week all their lives.*  
13 *We really want to work but there is no opportunity*  
14 *without the assistance of VR. Like in higher*  
15 *education places, it is very limited, depending on*  
16 *whether it is a low income situation or high*  
17 *income situation. It is very hard for a deaf*  
18 *person to go to school if they are unemployed.*  
19 *Tuition fees often are not accessible for a deaf*  
20 *person to meet. So we have to go through the*  
21 *student loan option, which, you know, affords the*  
22 *financial aid, and that is very fortunate that we*  
23 *have that. But then back to the interpreting*  
24 *issue, in this area alone we only have three out*

1 *of ten interpreters, who are currently*  
2 *interpreting, who are qualified to be*  
3 *interpreters. Through the National Association of*  
4 *the Deaf, the testing, as registry interpreters*  
5 *for the deaf, the IAD and NAD, many people look*  
6 *for the cheapest rate, the cheapest interpreter*  
7 *out there, and they're most usually not certified.*  
8 *And that is not fair to the other people who have*  
9 *certification and who may be a higher rate. So*  
10 *that is why I want to ask the Commission to please*  
11 *try to pass something so that people who want to*  
12 *interpret need to be qualified and that they*  
13 *actually need to be certified. Thank you for your*  
14 *time and thank you for listening.*

15 *MR. MAJUMDER: Thank you, Ms. Losh.*

16 *MR. HINTON: Before we proceed, Mr. Kent*  
17 *Bryson has arrived and we would like to invite him*  
18 *up to the table, if we can find a place there.*

19 *MR. MAJUMDER: Okay.*

20 *MR. HINTON: Would you please introduce*  
21 *yourself and tell us what group - he is actually*  
22 *the fill in for Jessica Justice, who, because of*  
23 *personal family reasons, was not able to*  
24 *participate today, but Mr. Bryson was asked for*



1 *his input today. Would you introduce yourself,*  
2 *please?*

3 *MR. BRYSON: Yes, sir, Honorable Chairperson.*  
4 *My name is Kent Bryson and I am Staff Attorney*  
5 *with the West Virginia Advocates, which is the*  
6 *State of West Virginia protection and advocacy*  
7 *system. I am here today to represent students who*  
8 *receive Special Education services in the State of*  
9 *West Virginia. We have prepared written comments*  
10 *that are available for the Committee, as well as*  
11 *for members of the audience, and those are there*  
12 *on the table if anyone would like to have one.*

13 *Good morning. Honorable Ladies and Gentleman*  
14 *of the Committee, my name is Kent Bryson, and as I*  
15 *indicated before I am Staff Attorney with the West*  
16 *Virginia Advocates, the state advocacy system. I*  
17 *would like to thank Brian Stolarik and Ziporah*  
18 *Mbugua as well as other parents who have assisted*  
19 *in the drafting of my comments today.*

20 *As many of you know, the Individuals with*  
21 *Disabilities Education Act , commonly referred to*  
22 *as the IDEA, requires the state education agencies*  
23 *monitor local education agencies to ensure*  
24 *compliance with this law. The Individuals with*

1 *Disabilities Act is not a new law, but is an*  
2 *amended re-authorized version of previous law*  
3 *known as Public Law 94-142. Public Law 94-142 was*  
4 *authorized by Congress more than twenty years ago.*  
5 *More than twenty years have passed and a*  
6 *generation of children have been entitled to a*  
7 *free appropriate public education under this law.*  
8 *Unfortunately, many states are not in compliance*  
9 *with this law. Many local education agencies*  
10 *consider this law to be lip service, a nuisance,*  
11 *not a constitutional right. Many local*  
12 *educational agencies also just, excuse me. Many*  
13 *local education agencies also receive numerous*  
14 *federal and state funds in order to implement*  
15 *education for disabled students. Even in this*  
16 *county, Monongalia County, the West Virginia*  
17 *Department of Education has detailed abject*  
18 *failure to provide Special Education services as*  
19 *required by law.*

20 *Although many of the violations of the*  
21 *Individuals with Disabilities Education Act was*  
22 *found by the West Virginia Department of*  
23 *Education, some of the most glaring failures have*  
24 *included the fact that in Monongalia County there*

1 *were 35 teachers who did not meet the minimum*  
2 *certification standards for teaching Special*  
3 *Education. Furthermore, the report states that*  
4 *students are assigned to teachers without regard*  
5 *of state certification standards, and there is no*  
6 *follow up to insure that qualified educators are*  
7 *in place.*

8 A teacher in another field needs only six  
9 hours of approved college credit to obtain a  
10 permit to teach Special Education. Even though in  
11 this county, West Virginia University, the premier  
12 state institution of higher learning, teaches  
13 Special Education classes as well as general  
14 education classes. this glaring deficiency exists.  
15 There are also four other colleges offering  
16 Special Education courses within 75 miles of  
17 Monongalia County. During the past year 80  
18 teachers graduated from West Virginia universities  
19 and colleges. The vast majority of these  
20 graduates cannot find jobs within the State of  
21 West Virginia. This lack of commitment by the  
22 Monongalia County Board of Education and its  
23 administration in hiring qualified Special  
24 Education teachers is evident when one reviews the

1 application for teaching in Monongalia County. On  
2 the front page of the application, the following  
3 statement appears in bold type: "Certification:  
4 West Virginia School Law defines a certificate as  
5 a license for public school employment at the  
6 grade level and in the specializations shown on  
7 the license. Any assignment which is inconsistent  
8 with the specialization and levels stated on the  
9 license is illegal." Obviously, they are aware of  
10 the law, meaning Monongalia, however, the West  
11 Virginia Department of Education's final report  
12 makes it clear there is no attempt to comply.  
13 Qualified Special Education teachers are  
14 required to participate in the development of each  
15 individual's individualized program, also known as  
16 the IEP. The IEP sets forth in writing the school  
17 system's commitment of resources necessary to  
18 enable a child with a disability to receive  
19 Special Education and related services. Without  
20 these certified teachers it is no surprise that  
21 the West Virginia Department of Education found  
22 that there is no process in Monongalia County  
23 Schools to consistently assure the development of  
24 individualized education programs that includes

1 the components required by federal and state law.

2 The Individual Education Program is made  
3 up of six components. It must include a statement  
4 of each exceptional child's present levels of  
5 educational performance; a statement of annual  
6 goals, including short term instructional  
7 objectives; a statement of the Special Education  
8 and related services to be provided; projected  
9 dates for the initiation and duration of services  
10 and appropriate objective criteria and evaluation  
11 procedures and schedules for determining whether  
12 the short term instructional objectives are being  
13 met. In addition, it also must include a  
14 transitional plan for students age 14 or older.

15 Based on the most recent monitoring  
16 report more than 40 percent of the IEPs reviewed  
17 by the West Virginia Department of Education  
18 failed to contain the statutorily required annual  
19 goals and short term objectives. Approximately  
20 one-third, or 33 percent of the student IEPs  
21 failed to include the projected date for the  
22 initiation and duration of services. If this is a  
23 representative sample, more than 40 percent of the  
24 1500 Monongalia County Special Education students

1 had no educational goals, no objective and no  
2 prospect of receiving their constitutional right  
3 to an education.

4 The Code of Federal Regulations, most  
5 commonly referred to as the CFR, states that the  
6 *IEP is a management tool used to ensure that each*  
7 *child with a disability is provided Special*  
8 *Education and related services appropriate to the*  
9 *child's special learning needs. When IEPs fail to*  
10 *provide a free appropriate public education as*  
11 *required by the federal and state law there is a*  
12 *critical management problem and the Board of*  
13 *Education should correct it. No other private or*  
14 *public organization would allow their executives*  
15 *to repeatedly ignore the law without assessing*  
16 *responsibility upon their executives for their*  
17 *failure to comply.*

18 *In addition to the above mentioned*  
19 *failures to provide a free appropriate public*  
20 *education, the West Virginia Department of*  
21 *Education found that the current and accurate*  
22 *student data was not collected and maintained as*  
23 *required again by state and federal law. For*  
24 *example, class lists did not match the actual*

1 *students being served.*

2 *Another failure noted by the West*  
3 *Virginia Department of Education was that*  
4 *Monongalia County School teachers do not collect*  
5 *data for IEP committees to use in annually*  
6 *determining and documenting its students' needs*  
7 *for Special Education services through school*  
8 *breaks. This is also known as "extended school*  
9 *year services." Without this data, students are*  
10 *unfairly denied summer services. Moreover, the*  
11 *West Virginia Department of Education found that*  
12 *gifted students did not receive services for the*  
13 *entire school year. This is a deficiency that we*  
14 *believe should be corrected.*

15 *Lastly, the West Virginia Board of*  
16 *Education found that Monongalia County Schools had*  
17 *not complied with the court order and settlement*  
18 *agreement issued in a 1991 federal court case*  
19 *known as Lorri Harris v. Henry Marockie. Harris*  
20 *versus Marockie as it is commonly called, in short*  
21 *says that no projects are approved or funded that*  
22 *permit segregated or inappropriately located self-*  
23 *contained in regular education class buildings in*  
24 *the State of West Virginia. Also included in this*

1 *order is a restriction against locating Special*  
2 *Education classroom in segregated parts of a*  
3 *structure. In 1991 the state school*  
4 *superintendent agreed that all segregated Special*  
5 *Education classroom which are situated outside the*  
6 *principal education facility shall be eliminated*  
7 *effective at the beginning of the 1991-1992 school*  
8 *year. Two schools in Monongalia County, Mountain*  
9 *View Elementary and Westwood Middle School, have*  
10 *been cited by the West Virginia Department of*  
11 *Education as having segregated classrooms*  
12 *violating the court order. University High*  
13 *School, South Middle School, Ridgedale Elementary*  
14 *and Cass Elementary School were also cited for*  
15 *maintaining segregated classrooms. The irony of*  
16 *this refusal to follow a federal court order*  
17 *should not be lost. The Honorable Judge Haden,*  
18 *the presiding judge in this matter, used to a*  
19 *member of the Monongalia County Board of Education*  
20 *during the 1960s.*

21 *Monongalia County Schools was ordered to*  
22 *submit 13 written plans detailing how the school*  
23 *administration would correct the violations that*  
24 *were indicated in their monitoring report. Upon*



1 *review of this corrective action plan Monongalia*  
2 *County Superintendent and the Special Education*  
3 *Director stated that they would not commit the*  
4 *same violations again. The superintendent signed*  
5 *a statement assuring that all Special Education*  
6 *and related services would not be interrupted at*  
7 *any time during the school year; that Special*  
8 *Education services will be initiated at the*  
9 *beginning of the academic year and will not end*  
10 *until the final instructional day of the school*  
11 *year. Twenty years after the enactment of the*  
12 *Individuals with Disabilities Education Act the*  
13 *West Virginia Department of Education still*  
14 *accepts a written assurance from a local county*  
15 *school system stating, in essence, stating they*  
16 *will not do the same violations that they have*  
17 *been doing in the past. A pattern of consistently*  
18 *ignoring Special Education students exist in*  
19 *Monongalia County. In 1996 the West Virginia*  
20 *Department of Education threatened Monongalia*  
21 *County with a loss of educational funding for not*  
22 *complying with the West Virginia Department of*  
23 *Education's corrective actions. In 1997 the US*  
24 *Department of Education ordered corrective actions*

1 *for Monongalia County Schools in order to comply*  
2 *with the Special Education laws and the violations*  
3 *of such. The Monongalia County Board of Education*  
4 *has consistently ignored for 8 years the federal*  
5 *court order. Yet the West Virginia Department of*  
6 *Education still accepts their word, that they*  
7 *will not violate the rights of students with*  
8 *disabilities.*

9 *Opportunities for generations of*  
10 *exceptional students have been lost and continue*  
11 *to be lost. Education accountability and*  
12 *standards remain a paper tiger in Monongalia*  
13 *County.*

14 *The second issue I would like to address*  
15 *deals with the Individuals with Disabilities*  
16 *Education Act's requirement that a local board of*  
17 *education comply with all state and local laws.*  
18 *Stated in another way local boards of education*  
19 *are allowed to discriminate and apply lower*  
20 *employment standards for personnel serving*  
21 *students with disabilities.*

22 *All county boards of education in West*  
23 *Virginia have a mandatory statutory duty to comply*  
24 *with West Virginia Code 18-5-15C, which deals with*

1 *receiving criminal background reports on all*  
2 *employees. Each local board of education is*  
3 *required to request from the State Identification*  
4 *Bureau the record of any and all criminal*  
5 *convictions relating to child abuse or possession*  
6 *of controlled substances.*

7 *This law is not discretionary and is*  
8 *designed to protect school children from predators*  
9 *who would use the system as an incubator for*  
10 *abuse. Since 1986 the Monongalia Board of*  
11 *Education has been required to obtain criminal*  
12 *background checks for all of its future employees*  
13 *to protect school children from child abusers,*  
14 *molesters and drug traffickers. This report must*  
15 *be obtained before an individual is employed by*  
16 *the Monongalia County Schools System. Incredibly,*  
17 *the Monongalia County school administration has*  
18 *failed to obtain mandatory criminal identification*  
19 *reports on employees who serve Special Education*  
20 *students. Monongalia County Schools only comply*  
21 *with the statute after parents who are informed of*  
22 *their rights that it be done. The tragedy of the*  
23 *situation, in most instances, these are the most*  
24 *vulnerable victims. Children who utilizes Special*

1 *Education services in Monongalia County and*  
2 *throughout the state, frequently have problems in*  
3 *communicating. In essence there is no way to*  
4 *report the abuse that could be going on in the*  
5 *classrooms.*

6 *We do not know how many victims are out*  
7 *there, but it is imperative that Monongalia County*  
8 *Schools take all measures to protect the children*  
9 *in their care. Unfortunately, it appears that the*  
10 *public school system has not been diligent in*  
11 *complying with this law that helps protect*  
12 *children from abuse.*

13 *On September 17, 1998, a former Special*  
14 *Education teacher's aid at Morgantown High School,*  
15 *was sentenced to five to fifteen years after*  
16 *pleading guilty to a felony charge of sexual abuse*  
17 *of a child by a custodian. The local newspaper*  
18 *reported that the victim of this abuse, a 17 year*  
19 *old male Special Education student, who according*  
20 *to his aunt, has attempted suicide because he*  
21 *doesn't want to face life any more. The victim*  
22 *told police that the sexual abuse began in May*  
23 *1996, when the Special Education aid took the*  
24 *student to the Special Olympics. The student told*

1 *local law enforcement officials that the aid*  
2 *sexually abused him three to five times a week*  
3 *until he was arrested in 1997. The local*  
4 *newspaper reported that at the trial the local*  
5 *judge who was presiding over the case asked how*  
6 *many other victims are out there that we do not*  
7 *know about. Monongalia County Schools, in*  
8 *documents obtained via the West Virginia Freedom*  
9 *of Information Act, had never requested a criminal*  
10 *identification report on this now convicted*  
11 *abuser. Even if a report had been obtained, or*  
12 *had been requested, rather, there is still a hope*  
13 *that this would serve as a chilling effect and*  
14 *this alleged abuser would not have followed*  
15 *through with his request for employment.*

16 *When the local school system fails to*  
17 *follow a simple law of obtaining satisfactory*  
18 *criminal identification reports before an employee*  
19 *is given permanent employment, we feel they are*  
20 *directly responsible for the acts of these*  
21 *employees.*

22 *We believe that the Monongalia County*  
23 *Board of Education must cease in discriminating in*  
24 *it's application of state law, which is designed*

1 *to protect all students and retaliating against*  
2 *Special Education students and their parents when*  
3 *they seek to assert their children's rights.*  
4 *Furthermore, we believe that no parent should have*  
5 *to seek the assistance of Child Protective*  
6 *Services in order to receive a free, appropriate*  
7 *education. We hope that this community will be*  
8 *able to look into these inquires further and*  
9 *rectify the situation. Thank you.*

10 *MR. MAJUMDER: Thank you, Mr. Bryson. We*  
11 *will take a short break for about ten minutes and*  
12 *then we will come back and follow up on these*  
13 *issues and concerns we have.*

14 *MR. HINTON: Before we break, I want to make*  
15 *it known that the West Virginia University College*  
16 *of Law is videoing this forum today for*  
17 *educational use in the future. So I want to make*  
18 *you aware of that. There are restroom facilities*  
19 *on the outside of these two doors here, as well as*  
20 *in the corridor. It is now, by the clock on the*  
21 *wall back there, 12 after. Let's return, if you*  
22 *can, by 22 after the hour.*

23 *WHEREUPON, a brief recess was had and*  
24 *upon reconvening the forum continued as follows:*

1 *MR. MAJUMDER: Okay. We will need to answer*  
2 *some of the questions to the statements made, and*  
3 *if we would like to either make any comments,*  
4 *remarks or any questions, to either a specific*  
5 *panel member or the group, we would be willing to*  
6 *do that.*

7 *MR. HINTON: Let me make a statement. The*  
8 *video taping has ceased. We had a person that*  
9 *needed to have a prior waiver, as far as video*  
10 *taping is concerned, and since that was not done*  
11 *we are not taping any longer. So the tape has*  
12 *been turned off.*

13 *MR. MAJUMDER: Okay. I have a question to,*  
14 *well, it could be to any member, but I'm going to*  
15 *ask Ms. Judy, Barbara Judy, what would be the*  
16 *mechanism that somebody who is either dissatisfied*  
17 *or not agreeing to the way the University treats a*  
18 *student or addresses ability to get education.*  
19 *Would you give us an idea how the University*  
20 *resolves and addresses these discrepancies between*  
21 *the students' expectations and the University's*  
22 *ability to do proper education.*

23 *MS. JUDY: Yes, I would be happy to do that.*  
24 *The University, let's talk about West Virginia*

1 *University, and the structure we have there.*  
2 *Students with disabilities are asked to*  
3 *communicate with the Office of Disability*  
4 *Services. That office reports to the ADA*  
5 *Coordinator, which is my office. I, in turn, am a*  
6 *member of the Social Justice Office, which reports*  
7 *directly to the president. So there is a process*  
8 *of getting information. Now, we have, as*  
9 *required, a complaint process. Any time a student*  
10 *has a complaint and cannot address that, or is*  
11 *unsatisfied with that complaint, if it is*  
12 *addressed to the Office of Disability Services, is*  
13 *asked to go through the complaint process, which*  
14 *requires that they go to our EEO office. And*  
15 *there is a process there whereby that student will*  
16 *be asked what the difficulty is. There is, within*  
17 *a 48 hour time period, an investigation will begin*  
18 *into that complaint. Any student who has any*  
19 *complaint can go to that department and it will be*  
20 *investigated. If a student goes to Disability*  
21 *Services, Disability Services will oftentimes send*  
22 *them directly to me and I will discuss with that*  
23 *student what the difficulty is. But there is a*  
24 *given complaint process that a student can use and*



1 *it will be investigated.*

2 *MR. MAJAMDER: Thank you.*

3 *MR. HINTON: Mr. Martin, you indicated that*  
4 *you had been in touch with a thousand persons this*  
5 *year through your Web site. Would you be kind*  
6 *enough to give us your address for people that*  
7 *might want to access you?*

8 *MR. MARTIN: Yes. Thank you very much.*

9 *Modestly, it is [www.reedmartin.com](http://www.reedmartin.com). All lower*  
10 *case, of course, since we all have learned that.*  
11 *We have a question board where people can leave*  
12 *questions, far too many do. And of course there*  
13 *are E-mail type questions and then through faxes*  
14 *ask questions, also. We have had quite a response*  
15 *here in West Virginia. Thanks to Connie Mathews*  
16 *we have a West Virginia section of our Web site.*  
17 *So we post decisions and interesting kind of*  
18 *things that are happening just for West Virginia.*  
19 *I have happily adopted this as my state in the*  
20 *last few months and we are really enjoying the*  
21 *West Virginia flavor to it.*

22 *MR. HINTON: You indicated that the*  
23 *Monongalia County Board of Education was*  
24 *inaccessible and they have things on the second*

1 *and third floors. You didn't indicate, but I'm*  
2 *wondering, is there an elevator in that building?*  
3 *MR. MARTIN: No, there is not. We have, you*  
4 *know, the good and bad of this wonderful terrain*  
5 *we have here with all the hills, and so if one*  
6 *goes into the right place to park, then there is*  
7 *now, because of a complaint filed by Ms. Mathews,*  
8 *some designated places to park, and it is relative*  
9 *flat. And then you can go, with only a slight*  
10 *incline, around to the door that is now accessible*  
11 *in terms of the terrain. The only door you could*  
12 *get to before, Arnold Schwarzenegger would not*  
13 *have been able to get in. And if you are sitting*  
14 *in a chair and have to pull a door across you it*  
15 *is very difficult. That has now been adjusted.*  
16 *The first floor now has a bathroom that is*  
17 *accessible. If you come in and go around - you*  
18 *can't go from there to the second or third floors*  
19 *because of the stairs. If you go around to a*  
20 *different part of the building where there is*  
21 *parking and you are really willing to kind of*  
22 *gamble, you can go through a little bit of a*  
23 *difficult terrain and into the building into what,*  
24 *in effect, is the second floor. You can get*

1 *access that way, but it does not meet ADA or 504*  
2 *requirements, but technically you could get*  
3 *access. But nobody can get access to the third*  
4 *floor. We were surprised with just, I don't know*  
5 *whether to call it arrogance or kind of a "who*  
6 *cares" attitude about that. We said, okay, what*  
7 *if a person - because parents have mobility*  
8 *impairment, not just children, and what if a*  
9 *parent wanted to attend a school board session,*  
10 *what if a parent in a chair wanted to address a*  
11 *school board session on behalf of a child without*  
12 *any disability, or vice-versa, a parent just*  
13 *wanted to go up there in regard to a child in a*  
14 *chair, just that insensitivity that you are not*  
15 *going to be able to have that child with you or*  
16 *the parent won't be able to go in that chair with*  
17 *something incredible. We were told things like,*  
18 *well, we will be happy to read your question to*  
19 *the board, we will be happy to video the board*  
20 *session and you can see the video tape at home.*  
21 *If you want to go and get access to your child's*  
22 *records you have to sit on the first floor and*  
23 *wait for somebody to bring them down to you. What*  
24 *I suggested, what I thought was an accurate, in*

1 *civil rights law, what I thought was an accurate*  
2 *analogy, if you had a sign that said "No blacks*  
3 *above the first floor", would you feel that was*  
4 *okay. Their response was, "Is your client black",*  
5 *and I said, I'm sorry, I think we are missing the*  
6 *point here. And so it has just been incredible to*  
7 *me how insensitive they are to that. And I had*  
8 *assumed, moving here 10 months ago, that they had*  
9 *moved into this nice building years ago and it is*  
10 *one of those buildings that cannot be made totally*  
11 *accessible. There could, of course, be an*  
12 *elevator, but that would be expensive and they*  
13 *don't want to incur that expense. They didn't*  
14 *move a long time ago. They moved after the*  
15 *Americans with Disabilities Act and way after*  
16 *Section 504, the Rehabilitation Act.*

17 *MR. HINTON: You mentioned that they were*  
18 *receiving federal funds because, and they were*  
19 *suppose to have the written plans under the*  
20 *individual act, do you have an idea of their level*  
21 *of funding under that program?*

22 *MR. MARTIN: I'm not sure how much is brought*  
23 *in under the IDEA.*

24 *MR. HINTON: Can you give me a ball park?*

1 **MR. MARTIN:** *I really don't know. I assume*  
2 *several million, but I have no idea exactly what*  
3 *it is.*

4 **MR. HINTON:** *Based on an annual basis?*

5 **MR. MARTIN:** *I believe. Don't hold me to*  
6 *this because - I'm catching up real quick on--*

7 **MR. HINTON:** *You feel confident in saying*  
8 *they're getting at least six figures a year?*

9 **MR. MARTIN:** *I would think so, yes. I know*  
10 *in one Freedom of Information Act request, have*  
11 *you ever been ordered to turn any money back as*  
12 *unused, because schools will often say to parents,*  
13 *look, we're just out of money, we just don't have*  
14 *enough money. Just about everybody in America*  
15 *will believe that because nobody has enough money*  
16 *in public education. So we asked, have you ever*  
17 *been forced to turn money back because you just*  
18 *did not get around to spending it, and the answer*  
19 *was, yes. I think for one year it was \$17000 that*  
20 *they hadn't got around to spending and had to turn*  
21 *it back. Based on that estimate and also they had*  
22 *to turn money back that had been misspent. I*  
23 *would guess it has to be at least six figures that*  
24 *we're talking about. But in order to qualify for*

1 *continuation of funding there has to be what I*  
2 *would call affirmative action. I know that is a*  
3 *technical term that is debated back and forth, but*  
4 *a plan to employ and advance employment for*  
5 *persons with disabilities. And they just do not*  
6 *have one. In fact I do not think they could have*  
7 *one if you're in the central administration office*  
8 *because a person, even if they were employed on*  
9 *the first floor, is going to have to run up and*  
10 *down those stairs to the second and third floors*  
11 *in order to be an employee. It is a real problem.*

12 *MR. HINTON: I have some more questions but I*  
13 *will defer to the other members of the committee*  
14 *right now.*

15 *MR. KUSIC: Question to Mr. Jeffers.*

16 *MR. JEFFERS: Yes.*

17 *MR. KUSIC: Are you with the old like Voc.*  
18 *rehab?*

19 *MR. JEFFERS: Yes.*

20 *MR. KUSIC: Ms. Losh mentioned something*  
21 *about TTY accessibility to visitors' centers.*  
22 *Would that be something that your division would*  
23 *be connected with or recommending?*

24 *MR. JEFFERS: It would not. Our division is*

1 *responsible for two primary areas of focus. One*  
2 *is vocational rehabilitation services for*  
3 *individuals with disabilities who are either*  
4 *seeking to enter or re-entering the work force,*  
5 *and secondly, we perform, on behalf of the Social*  
6 *Security Administration the eligibility*  
7 *determinations for applicants for Title II, social*  
8 *security disability insurance and Title 16,*  
9 *supplemental security income insurance. We do not*  
10 *have a statutory responsibility for accessibility*  
11 *to public buildings and facilities in West*  
12 *Virginia. The responsibility for those roadside*  
13 *rest facilities would rest with the Division of*  
14 *Highways, the Department of Transportation.*  
15 *MR. KUSIC: There was reference you don't*  
16 *have enough money to serve those individuals that*  
17 *Ms. Losh was concerned with.*  
18 *MR. JEFFERS: I am not sure what the specific*  
19 *criticism is with respect to that comment. I*  
20 *noted it as well. Two points, we do not have*  
21 *adequate resources to serve all individuals who*  
22 *may be able to benefit from our services. I am*  
23 *speaking particularly, at this point, of the*  
24 *rehabilitation program. We are under what is*

1 *termed "order of selection", which details the*  
2 *priority groups or individuals who receive*  
3 *services. But we have increased our funding*  
4 *support over the past couple of years. And*  
5 *typically an individual with a specific*  
6 *disability, and deafness would be*  
7 *included within that definition, would be eligible*  
8 *for our services currently.*

9 *MR. KUSIC: But you do try to help those*  
10 *people?*

11 *MR. JEFFERS: Help them, indeed.*

12 *MR. KUSIC: Okay.*

13 *MR. MARTIN: To your---*

14 *MR. HINTON: Go ahead.*

15 *MR. MARTIN: Yes. To answer your first*  
16 *question, now that we know it is the Division of*  
17 *Highways, I was wondering who operated these rest*  
18 *stops and things. The Division of Highways, and*  
19 *may I say I am very grateful that they do have*  
20 *those rest areas, under Section 504, back in 1977,*  
21 *and then under the American with Disabilities Act,*  
22 *Title 2A, in 1992 the Division of Highways would*  
23 *have had to either (A) As recipient of federal*  
24 *financial assistance under Section 504, or (B) as*



1 a governmental entity under Title 2A of the ADA,  
2 would have had to conduct a self evaluation and  
3 that would mean they would notify, would have  
4 public meetings, and notify, this is in the  
5 regulations, participants who would be their own  
6 employees, their own folks, but also anybody in  
7 the disability community and simply raise the  
8 issue of are there any policies, practices or  
9 procedure that we do that unfairly impact people  
10 with disabilities. So somebody might have said,  
11 hey, I need to communicate while I am traveling  
12 and everybody else can pull off at that rest stop  
13 and make a phone call, and I can't make a phone  
14 call. How about that. And they would have then  
15 figured out some way of responding and dealing  
16 with that. I am not in the business of  
17 criticizing the Department of Highways. Obviously  
18 the State Department of Education did not do that  
19 self evaluation, so we have been robbed of that  
20 opportunity to have input, because, in regard to  
21 education, it is teachers who have questions, it's  
22 related service personnel who have questions, it's  
23 interpreters, as the comment was made very well,  
24 interpreters who ought to be able to say, well,

1 *you have a policy, practice and procedure of*  
2 *hiring the cheapest and not hiring qualified and*  
3 *not individually deciding in this particular*  
4 *situation for this child, or whatever. Every*  
5 *principal in America today is really under huge*  
6 *pressure to deal with discipline problems. And*  
7 *how do you balance discipline of a child whose*  
8 *disability causes them to act inappropriately as*  
9 *opposed to another. So it is that self*  
10 *evaluation. It's not parent versus school. It is*  
11 *everybody with a stake in the educational process,*  
12 *saying, hey, I would like to put this on the table*  
13 *and let's figure out how we deal with this policy,*  
14 *practice or procedure to make a change. We really*  
15 *rob ourselves when we don't do that.*  
16 *MR. KUSIC: I'll probably be making that call*  
17 *to the Division of Highways on behalf of Ms. Losh*  
18 *to find out why, because they have a lot of money.*  
19 *Either that or the tourism could also provide some*  
20 *money, because the lottery commission provides*  
21 *them with a lot of money. I have one other*  
22 *question to Mr. Martin. You talked about you were*  
23 *having difficulty getting information, that*  
24 *Monongalia Board of Education is required to file*

1 *with the State of West Virginia. Might I suggest,*  
2 *and I'm sure you have tried it, talk to Dr.*  
3 *Marockie, because it is required to be filed*  
4 *there. We ought to be able to get the public*  
5 *information there and I don't see why Dr. Marockie*  
6 *wouldn't release any information, public*  
7 *information, that is required to be filed by a*  
8 *county board of education.*

9 *MR. MARTIN: Well, I had absolutely that same*  
10 *assumption of yours, and it has been rebutted,*  
11 *every attempt that I have attempted to get that*  
12 *information.*

13 *MR. KUSIC: Dr. Marockie is from Ohio County.*

14 *MR. MARTIN: Okay.*

15 *MR. KUSIC: I'll call Dr. Marockie after I*  
16 *call the highway department.*

17 *MR. MARTIN: Thank you very much.*

18 *MS. ROPER: I was wondering who is*  
19 *responsible for certifying the teachers who sign?*

20 *MS. LOSH: There is really no law passed in*  
21 *West Virginia. I sit on a board where I test for*  
22 *interpreters and their levels. Like there is five*  
23 *levels, three through five, five being the*  
24 *highest. When you are at Level 1 you're really*

1 *not suppose to interpret, maybe other than one on*  
2 *one. You're not very qualified at level one as a*  
3 *teacher. The teachers, they're hired through the*  
4 *board of education. There is no connection,*  
5 *really, with the interpreter and state board of*  
6 *evaluators. A lot of times they only need to know*  
7 *the alphabet. They really need more. They should*  
8 *know how to interpret well to be teachers.*

9 *MS. ROPER: Would he begin to try to suggest*  
10 *that teachers be certified at a certain level? I*  
11 *think certification has to be formed first. Where*  
12 *could that start?*

13 *MS. LOSH: In Charleston there is a*  
14 *commission, the West Virginia Commission for the*  
15 *Deaf and Hard of Hearing. That is in Charleston.*

16 *MR. HINTON: Let me indicate too, that the two*  
17 *interpreters that are here, there may be some*  
18 *additional comments you might make on questions*  
19 *addressed to Ms. Losh. You may help clarify*  
20 *certain things or you might add something that*  
21 *she's not aware of. So feel free to add to her*  
22 *input.*

23 *MS. ROPER: My second question was, I wasn't*  
24 *clear on the distinction you were making between*

1 *the school at Romney and the public schools.*

2 *MS. LOSH: Okay. In Romney, that is the*

3 *state school for the deaf, where all the students*

4 *are hard of hearing or deaf, and the teachers are*

5 *all well versed in sign language, and the*

6 *mainstream involved there are, well the Special Ed*

7 *in public schools, in the mainstream schools, they*

8 *have like a good program for handicapped, but as*

9 *far as interpreters there is only communication*

10 *between the interpreter and the student. The*

11 *teacher is talking to the student and there is a*

12 *classroom interpreter, but the teacher may not*

13 *know what is going on between the interpreter and*

14 *the student.*

15 *MS. ROPER: Okay.*

16 *MS. LOSH: So it is an inclusion program*

17 *whereby, you know, it is isolating the best*

18 *student in a lot of ways.*

19 *MR. HINTON: Dolly.*

20 *INTERPRETER FORD: Well, like what she was,*

21 *basically at Romney you've got the teacher, you*

22 *are already accessible to the language. Really*

23 *the student's mainstreaming is not even speaking*

24 *the language with the teachers. There isn't any*

1 *direct contact ever. Like here today, there is no*  
2 *direct contact between you and her, in the third*  
3 *person. Whereas in college the whole entire*  
4 *culture is in one place. They get to relate to*  
5 *each other. Its just easier. I mean, for the*  
6 *student it is a plus. Do you see what I mean?*

7 *MS. ROPER: Yes, ma'am.*

8 *INTERPRETER FORD: For the family it may not*  
9 *be as fortunate because they would have to leave*  
10 *their child there. And that is where a big*  
11 *problem comes into play, where the mom and dad*  
12 *don't want to leave their child at five years old*  
13 *in a dorm until they're 18. It is more for*  
14 *themselves than it is for the child, when it comes*  
15 *down to it. The direct contact is so much better.*

16 *MS. ROPER: She mentioned something about*  
17 *advertisement, it seems like the public schools*  
18 *are better than the Romney school. I thought the*  
19 *Romney school, the school at Romney was the best.*

20 *MS. LOSH: No, No, that's not what I meant.*  
21 *The superintendent of the school -- help me out*  
22 *here. Oh, I see here. The alumni president for*  
23 *Romney asked that there be an advertisement -- I'm*  
24 *not familiar with this part.*

1 *INTERPRETER McGONIGLE: Okay. So like I am*  
2 *the president of the alumni association for Romney*  
3 *and I was talking with the superintendent of the*  
4 *school and I asked him if I, you know, could*  
5 *possibly advertise, talk about the mainstreaming*  
6 *situation and they said the State of West Virginia*  
7 *won't allow it.*

8 *MS. ROPER: Oh. Okay.*

9 *INTERPRETER McGONIGLE: So it is basically a*  
10 *self advertising situation.*

11 *MS. ROPER: The school is funded by the*  
12 *state; right?*

13 *INTERPRETER McGONIGLE: Right.*

14 *MS. ROPER: But they don't want to advertise?*

15 *INTERPRETER McGONIGLE: That is what the*  
16 *superintendent told me, they didn't allow it.*

17 *MR. HINTON: Go ahead, Reed.*

18 *MR. MARTIN: Mr. Chairman, the push in the*  
19 *Special Education law, starting about 1975,*  
20 *recognized that there were about 1.2 million kids*  
21 *of school age not even enrolled, and not allowed*  
22 *to be enrolled in school and another estimated 2*  
23 *million not being appropriately served. And this*  
24 *overwhelming rush was to get all these kids out*

1 *there and put them in a regular classroom, get*  
2 *them to a regular campus. That was considered*  
3 *good; that was the goal. Along the way we sort of*  
4 *trampled a lot of hearing impaired kids, who, if*  
5 *they were left to tell you what they really*  
6 *wanted, would like an environment that they*  
7 *consider, what we call least restrictive*  
8 *environment, you know, it doesn't make any sense*  
9 *to a youngster who cannot communicate with anyone*  
10 *else in their environment. So when I would visit*  
11 *a state school for the deaf in a place and go*  
12 *through a lunch line with that child, and the*  
13 *person serving the lunch can communicate with him,*  
14 *and the janitor can communicate with him, and*  
15 *everyone on that campus can communicate with him,*  
16 *the parents who are coming there, the staff, any*  
17 *aid, everybody and you see these youngsters*  
18 *communicating all through the day, and then we say*  
19 *the least restrictive environment is a regular*  
20 *classroom where you have maybe one person in the*  
21 *building you can communicate with. So the law was*  
22 *changed in 1997. The ADA has a very substantial*  
23 *amendment dealing with that and recognizing this*  
24 *community is a very special community, and we need*



1 *first of all respect their view of what is less*  
2 *restrictive and rehabilitate the rest of us who*  
3 *are unable to communicate with our friends with*  
4 *hearing impairment. We don't want to give up on*  
5 *having everybody together, but right now it is not*  
6 *the least restrictive environment. Congress found*  
7 *in 1997 to have a child who can communicate with*  
8 *only one teacher and maybe two other students in*  
9 *the whole building, and to go school assemblies,*  
10 *to sit in the lunchroom, to play at recess, all of*  
11 *those non-academic and extra curricular activities*  
12 *that they can very richly engage in a state*  
13 *school. I am not trying to sell either side. I*  
14 *think it has to be an individual decision with the*  
15 *opportunity to allow that student to get what they*  
16 *need. But the Congress finally caught up in 1997*  
17 *and recognized hearing impaired is a very, very*  
18 *important extra consideration.*

19 **MR. HINTON:** *How many school children would*  
20 *you say there are in the state that would be*  
21 *hearing impaired?*

22 **MS. LOSH:** *In the state?*

23 **MR. HINTON:** *Yes, ma'am.*

24 **INTERPRETER FORD:** *Two thousand.*

1 *INTERPRETER McGONIGLE: I think that is*  
2 *right, all over the state.*

3 *MR. HINTON: And it was indicated earlier*  
4 *that three of ten interpreters are really*  
5 *qualified. I am wondering if ten is an adequate*  
6 *number to begin with?*

7 *MS. LOSH: Three out of ten interpreters?*

8 *MR. HINTON: Right.*

9 *MS. LOSH: That are certified?*

10 *MR. HINTON: That are certified.*

11 *MS. LOSH: In our county, here in Mon County.*

12 *MR. HINTON: Oh, in Mon County.*

13 *MS. LOSH: With 2,000 in the mainstream,*  
14 *there's not enough interpreters that have*  
15 *qualifications. In Romney, the school, itself, is*  
16 *diminishing in size because of the state barriers.*  
17 *So then, really, in my estimation, a state school*  
18 *is much better for a deaf child. It is not the*  
19 *deaf child's fault. They are stuck in the middle.*

20 *MR. MAJUMDER: Do we have enough institutions*  
21 *to train people for signs?*

22 *INTERPRETER FORD: No.*

23 *MR. HINTON: How many institutions do we have*  
24 *that are doing that?*

1 *INTERPRETER FORD: One. Fairmont State*  
2 *College and that's it.*

3 *MR. HINTON: I knew the answer to that.*

4 *MR. MAJUMDER: In the rehabilitation center*  
5 *do we have any education for sign language*  
6 *instructions?*

7 *MR. JEFFERS: No. We have at the West*  
8 *Virginia Rehabilitation Center, but that is*  
9 *restricted for our service population. One issue*  
10 *that perhaps the commission would be interested in*  
11 *hearing that has been an area of dispute in other*  
12 *states, and that is to recognize American sign*  
13 *language as a foreign language in both secondary*  
14 *and higher education. I cannot believe that it is*  
15 *recognized as a fulfillment for a foreign language*  
16 *requirement in West Virginia, and if it were it*  
17 *might provide an incentive for students to acquire*  
18 *those skills in high school.*

19 *INTERPRETER FORD: Fairmont State College is*  
20 *the only interpreting training institution, but it*  
21 *is really not good enough. They're not learning*  
22 *as much as they could. It really takes a long*  
23 *time to get qualified. It takes a lot longer than*  
24 *a couple of years, like a 2 year program and an*

1 *associate degree, to learn a foreign language like*  
2 *ASL. Also, I want to say that I work at WVU as an*  
3 *interpreter for Ruby's sister, Mary, and students*  
4 *come up to me all the time, asking me, where can I*  
5 *go to learn. I mean there is a lot of interest*  
6 *out there but there is no place to go. At WVU we*  
7 *have a sign language craft, but it is called,*  
8 *what, manual code, and it is not sufficient to*  
9 *communicate with deaf people. And I'm sorry to*  
10 *see that happening, and it's continuing to happen*  
11 *at WVU. Students come to me all the time and say,*  
12 *I'm missing the sign language class. So that's a*  
13 *problem, too, at the BBU. But there are students*  
14 *out there, and I taught at a junior high school*  
15 *for two years, four years ago was my last year,*  
16 *and we had a sign language club and we were*  
17 *teaching kids. There is a lot of incentive out*  
18 *there. Kids want to know. Hearing kids are*  
19 *really interested. My club was the biggest one.*  
20 *We had club day and my club was the biggest one.*  
21 *INTERPRETER McGONIGLE: There is one*  
22 *institution offering education on sign language,*  
23 *or ASL, and I'm excited about that and I think it*  
24 *is terrific. But like it has been said, the*

1 *schooling, the people interested and the students*  
2 *taking the course by thinking that they would*  
3 *succeed and be qualified at the end of those two*  
4 *years be enough to come in and interpret a forum*  
5 *like this, or a court case, or a doctor's*  
6 *appointment that could save somebody's life. I*  
7 *have been doing this for 22 years and I'm still*  
8 *learning. So that needs improvement but it's a*  
9 *great step on that issue. As far as the school*  
10 *system here in Mon County, ASL is not even*  
11 *considered a foreign language, and which it is a*  
12 *foreign language. If it is not a universal*  
13 *language you are going to get a deaf person that*  
14 *could not speak to Ruby in sign language because*  
15 *they speak a different language than she does. If*  
16 *you go to any other country, the situation would*  
17 *be the same. ASL is not a universal sign English*  
18 *language. I do not sign to Ruby exactly what*  
19 *you're saying. I sign to her in her language what*  
20 *you are saying. And in Mon County it is not*  
21 *called a foreign language. It's not called a*  
22 *foreign language at WVU. They are taking French*  
23 *and they're taking Spanish and they forget it in*  
24 *four years. But yet they had a ASL class at*

1 *University High School two years ago and removed*  
2 *it for no reason whatsoever. And even the*  
3 *students went on strike because of it, like a*  
4 *little mini strike because they were so interested*  
5 *in it and they took it away from them. I remember*  
6 *one person commenting to me that she said, the one*  
7 *thing that I took interest in at school was sign*  
8 *language, and they took it away from me. Now I'll*  
9 *be a nobody. So she probably looked for a future*  
10 *in that. But for some reason it was taken out of*  
11 *the classroom. It's just a lot of little things*  
12 *here and there that people don't realize. The*  
13 *interest is there but we need to advocate the*  
14 *support to make it happen.*

15 *MR. MAJUMDER: Do I understand at the state*  
16 *level also do not recognize ASL as a foreign*  
17 *language; is that right?*

18 *MR. JEFFERS: I don't so.*

19 *MR. HINTON: Reed.*

20 *MR. MARTIN: I had the privilege of working*  
21 *with a young lady who was a eleventh grader two*  
22 *years ago, who, because of her particular kind of*  
23 *disability really had an incredible problem*  
24 *reading and leaning what we traditionally think of*

1 *as a foreign language, something of that sort of*  
2 *thing, she had voluntarily taken, just out of*  
3 *interest, sign language classes and wanted to*  
4 *pursue that. She got on her IEP, her individual*  
5 *plan, that she would satisfy her foreign language*  
6 *credit by sign language. Mon County was not able*  
7 *to find her a sign language instructor. I don't*  
8 *want to comment on whether we were sure they were*  
9 *that enthusiastic about finding one, but I have*  
10 *found all over the country, and I would recommend*  
11 *to any young person, in terms of employability, a*  
12 *person with facility and sign language is in*  
13 *incredible demand now. If for no other reason*  
14 *than decency, but the Americans with Disabilities*  
15 *Act, I have paid really top dollar in places when*  
16 *I do conferences around the country. We always*  
17 *make sure if there is a need that we have somebody*  
18 *there. We have paid a lot of money, very*  
19 *properly, for very talented people to come in and*  
20 *sign. Let me mention in the terms of the foreign*  
21 *language thing, in Montana there is a school*  
22 *district that teaches foreign language in the*  
23 *first grade, like anybody who really knows*  
24 *anything about acquiring foreign language tells us*

1 *we ought to do, and they decide with the children*  
2 *in the first grade what they would like to learn.*  
3 *And this particular year there was a first grader*  
4 *who signs, so everybody decided they would like to*  
5 *do sign language. So they got somebody in and a*  
6 *teacher very eagerly worked with them. And as*  
7 *that class went through school, the next first*  
8 *grade and then the next first grade continued that*  
9 *tradition and at the end of six years every person*  
10 *in that school signs. They just loved it, just*  
11 *really enjoyed it, because now they were able to*  
12 *communicate with so many other people. I frankly*  
13 *don't communicate in French with that many people*  
14 *in the US, but I wish I could communicate in sign.*  
15 **MR. MAJUMDER:** *Thank you. Any other members*  
16 *of our group have questions?*  
17 **MR. LINDELL:** *Mr. Martin.*  
18 **MR. MARTIN:** *Yes.*  
19 **MR. LINDELL:** *When a complaint is made to the*  
20 *Office of Civil Rights and they come in and do an*  
21 *investigation and find someone in violation, what*  
22 *do they do if people do not do what they tell them*  
23 *to do; is there any kind of remedial action taken?*  
24 **MR. MARTIN:** *Yes, there is, and my experience*



1 *with Region 3, Philadelphia, which is the office*  
2 *for this area has been very, very disappointing.*  
3 *When a complaint is made there is several routes*  
4 *for the Office of Civil Rights to respond, and*  
5 *whatever route they take they ask the school*  
6 *district for their side of the story. If the*  
7 *school districts says, you know, we didn't do*  
8 *anything wrong and wants to fight it, that can go*  
9 *in one direction. But if the school district*  
10 *simply says, in Region 3, what was referred to*  
11 *earlier by Mr. Bryson, when he was talking about*  
12 *the State Department, if you say, okay, we promise*  
13 *never to do it again, then that closes the case as*  
14 *far as they are concerned. If the complaining*  
15 *parent comes forward and says, wait a minute, wait*  
16 *a minute, they're laughing behind your back and*  
17 *they are refusing today to do what they apparently*  
18 *told you that they would do, and as Kent said, he*  
19 *referred to the State Department, I'm not as*  
20 *familiar with them as I am the Office of Civil*  
21 *Rights, but Region 3, OCR, will accept an oral,*  
22 *verbal representation by a school person, okay,*  
23 *we'll never do that again, we'll start doing the*  
24 *right thing, and even though they required the*

1 *parent complainant to furnish written kinds of*  
2 *information, on that oral representation they'll*  
3 *say, okay, since they have promised to do it, that*  
4 *closes the case, but of course, let us know if*  
5 *they don't do it. Then when you come back and*  
6 *say, well, they're not doing it the Office of*  
7 *Civil Rights will say, well, that is a new issue,*  
8 *open a new case. Now I have been doing this for a*  
9 *long time. I filed the first OCR complaint in the*  
10 *United States under Section 504. I didn't know it*  
11 *at the time, but I was told, you know, Oh God,*  
12 *here comes the first complaint under 504. I have*  
13 *done them in every region in the country. In fact*  
14 *I done a training manual for OCR under Section*  
15 *504, many, many years ago. If you get tough then*  
16 *OCR can move into an area where they have to talk*  
17 *about withholding federal financial assistance.*  
18 *If that is done and there is no voluntary*  
19 *resolution they can, in fact, go into court. That*  
20 *has happened a number of years ago, but not*  
21 *recently to my knowledge have they done that.*  
22 *There have been some rulings out of Region 9, OCR*  
23 *in California, this last year, twice where they*  
24 *have threatened to withhold funds, one where they*

1 *made the local district, there are no funds under*  
2 *504, but they made the local district use their*  
3 *own funds, a hundred thousand dollars a year for*  
4 *three years, to put their program in order. So*  
5 *there are various sanctions that can be used.*  
6 *When I talk to people here about Region 3, I*  
7 *haven't heard any examples where they have really*  
8 *tried to enforce 504.*

9 *MR. HINTON: Mr. Jeffers, you were talking*  
10 *about hate crimes and you indicated that there*  
11 *were 21 states. I was curious if there had been*  
12 *anything proposed and West Virginia had been*  
13 *rejected or just hasn't been addressed at all.*

14 *MR. JEFFERS: I think, perhaps, Mr. Lindell*  
15 *could speak to that.*

16 *MR. LINDELL: We have proposed for the last*  
17 *six or seven years legislation in the West*  
18 *Virginia Legislature to add, among other things,*  
19 *disability to the West Virginia hate crime statute*  
20 *and we have not been successful to date. There*  
21 *are a lot of different reasons. I am sure we will*  
22 *try again this year and we'll see what happens.*  
23 *But it just has not been successful. And part of*  
24 *it is what Mr. Jeffers said early on, there are*

1 *those people who believe that no one attacks*  
2 *someone because they are disabled. I have*  
3 *available in my office, and I am sure he has in*  
4 *his office, a lot of examples of this kind of*  
5 *misconduct.*

6 *MR. HINTON: You gave the five areas, Mr.*  
7 *Jeffers, you talked about health care, employment,*  
8 *transportation, housing and safety, and I thought*  
9 *you did a very fine job of presenting them, and*  
10 *while you were talking I was thinking about your*  
11 *comments about how they want to be involved as*  
12 *fully as they possibly can. And I have been told*  
13 *that in our area, I'm from Fairmont, that the*  
14 *local theater owner was going to have more movies*  
15 *with sub-scripts on them. I was wondering if that*  
16 *is the result of some kind of move in the state,*  
17 *and maybe you and Ruby can address that, because I*  
18 *am sure the hearing impaired community wants to be*  
19 *entertained as well as the rest of us do, but*  
20 *there are limitations out there. I was just*  
21 *wondering if there is any interest or movement in*  
22 *that direction to try to make those kind of*  
23 *services available?*

24 *MR. JEFFERS: There are interests at the*

1 *state level. I'm not sure that there is any*  
2 *initiation that has taken place at the state level*  
3 *to promote what essentially is a private sector*  
4 *response to some of the issues and concerns that*  
5 *have been expressed in the ADA, with respect to*  
6 *public accommodations and access to those*  
7 *accommodations. And in the area of communication*  
8 *for those individuals who are deaf and hearing*  
9 *impaired, or individuals who are blind and*  
10 *visually impaired and cannot read printed text or*  
11 *have difficulty reading printed text, we are*  
12 *seeing the private sector become much more*  
13 *responsive, retailers, wholesalers, and that would*  
14 *include theater owners and restaurant owners as*  
15 *well.*

16 *MR. HINTON: Also, Mr. Martin, you mentioned*  
17 *something about the Mon County Board wouldn't*  
18 *spend money as they are required to by state law*  
19 *and federal law, but you said they would spend*  
20 *money by filing lawsuits, and I listened to Mr.*  
21 *Bryson's comments. What he was saying earlier,*  
22 *would that relate to what you were talking about,*  
23 *are those the same?*

24 *MR. MARTIN: Yes. There is a recent lawsuit*

1 *that was filed. I read the pleadings in the case.*  
2 *I'm not sure where it stands right now, but for*  
3 *the school district to put together those*  
4 *pleadings and to come in as a plaintiff, I'm an*  
5 *attorney, and you need to read your insurance and*  
6 *your representation contract very closely, because*  
7 *school boards generally learn that when they are*  
8 *the plaintiffs their insurance doesn't cover them*  
9 *and they are spending their own dollars, straight*  
10 *out of our coffers. And looking at that, and I was*  
11 *commenting to someone this morning, reading those*  
12 *pleadings that were put together and the time*  
13 *lines on them and everything, if they had come out*  
14 *of my office we would be talking probably about*  
15 *\$200,000 in expense. To be a plaintiff in a case,*  
16 *basically aimed at taking a child away from a*  
17 *parent and placing them somewhere else to,*  
18 *theoretically do Special Education to them, but*  
19 *one would question it. So that was just kind of*  
20 *shocking to me to see, in the mist of complaints*  
21 *about we don't have enough money, because we don't*  
22 *have enough money in public education to do what*  
23 *we want to do. That they would spend that much*  
24 *money to become a plaintiff in a case, especially*

1 *since that case was all ready before a court in*  
2 *another jurisdiction, and so it was curious that*  
3 *they would be able to free up that much money in*  
4 *that particular situation.*

5 *MR. HINTON: Now, you indicated earlier that*  
6 *there is evidence, it seems to me objective as*  
7 *well as subjective evidence, that there is a lack*  
8 *of concern about the real issues across the board*  
9 *for disabilities. I mean, are they showing some*  
10 *special interest here or is it really concern or*  
11 *is it fact---*

12 *MR. MARTIN: My characterization, which, you*  
13 *know, is just purely my characterization, is that*  
14 *it is retaliation.*

15 *MR. HINTON: Okay.*

16 *MR. MARTIN: Against a very, very vocal*  
17 *advocate, and I have only had a couple of*  
18 *occasions to witness that, one being testimony at*  
19 *a school board meeting which was along the lines*  
20 *of what Mr. Bryson was talking about. This person*  
21 *was a very vulnerable child, had insisted*  
22 *following state and county law, that before*  
23 *someone come in contact with your child that they*  
24 *would have the required receipt that they did not*

1 *have a communicable disease, because this child*  
2 *was very vulnerable to infection. Secondly, that*  
3 *they had the basic background check because this*  
4 *child had been abused previously. And when that*  
5 *was denied in both cases and she went to the*  
6 *school board and insisted on testifying, to say*  
7 *are you going to follow through. I happened to*  
8 *have gone to that school board meeting and noted*  
9 *the fact it was held in a one and a half year old*  
10 *junior high school building which does not meet*  
11 *the accessibility code. I just happen to do that*  
12 *whenever I walk into a new building. And we sit*  
13 *down and I watched her testify and I watched the*  
14 *superintendent of schools laugh openly in her face*  
15 *while she was describing the fact that they were*  
16 *not meeting these two state and county rules,*  
17 *therefore subjecting her child to the possibility*  
18 *of abuse or the possibility of infection. He just*  
19 *repeatedly laughed at her. And I said, wow. I*  
20 *thought the inaccessibility of the building was a*  
21 *nice symbol of we don't care, but I mean that is*  
22 *more than a symbol that we don't care. We really*  
23 *don't care in that school district. And that came*  
24 *across very clearly, shockingly.*



1 **MR. HINTON:** *Ms. Judy, I had heard a humor*  
2 *that at WVU there was a student that was hearing*  
3 *impaired that wanted to take a class to a certain*  
4 *professor and the professor was kind of resisting*  
5 *the student taking the class, indicating that to*  
6 *have an interpreter would be disruptive to the*  
7 *class. Could something like that really happen at*  
8 *WVU, that a professor could keep a student from*  
9 *the class who needed a hearing interpreter.*

10 **MS. JUDY:** *Yes, it is, and I can only say to*  
11 *you that an investigation is under way, a very*  
12 *tense investigation of that. That is simply not*  
13 *tolerated at our institution. I can't comment*  
14 *further because of the confidentiality nature of*  
15 *the situation.*

16 **MR. HINTON:** *Very well. I had heard*  
17 *something about that and I was very concerned. I*  
18 *had the good fortune to have a hearing impaired*  
19 *student in my class a year ago and I thought it*  
20 *went along very well, quite frankly.*

21 **MR. JUDY:** *Yes. I have taught for many years*  
22 *and I have taught a number of students who are*  
23 *deaf or hearing impaired and that has been a very*  
24 *pleasant experience. That behavior will not be*

1 *tolerated and it is being investigated.*

2 *MR. HINTON: And that leads me to another*

3 *comment that I would like for the panel to respond*

4 *to. It seems to be that because of a lack of*

5 *concern, interest for people who are disabled,*

6 *that I am believing that a lot of people who are*

7 *disabled feel like, why bother, why even complain,*

8 *why even try. You know, you mentioned that you*

9 *have a process, you have a procedure there and I*

10 *am wondering, does the disabled community really*

11 *believe and feel like if I have a problem I can go*

12 *to someone and something will be done about it. I*

13 *am sensing there is not enough happening out there*

14 *that they feel like, you know, we're invited, we*

15 *welcomed guest and we can come, we can do. Is*

16 *that an accurate assessment?*

17 *MS. JUDY: May I address that. There are*

18 *real concerns about persons with disabilities*

19 *coming from the public system into high education.*

20 *To begin with, in public schools, through the IEP*

21 *or whatever, everything is planned for the*

22 *student. When they come to higher education the*

23 *student is coming into an environment where they*

24 *are responsible for making those issues known.*

1 *Because of that many students are very unhappy*  
2 *with the public system. Let's speak of one*  
3 *specific group, and that is persons with learning*  
4 *disabilities. So many of those folks come to*  
5 *higher education, choose not to make their*  
6 *disability known because they want to try to do it*  
7 *on their own, they get into trouble and must then*  
8 *go back to what can be done. There are a number*  
9 *of folks who would like to do it on their own.*  
10 *Because of this law we are required to treat every*  
11 *student in a similar way. In other words we don't*  
12 *want different treatment. So we really ask our*  
13 *students to go to disability services where their*  
14 *identification can be kept confidential. We will*  
15 *then communicate with the various professors and*  
16 *say you have a student in your class and will need*  
17 *the appropriate accommodations, and these are what*  
18 *we are asking you to do. We do that, but there*  
19 *are still a number of students who choose not to*  
20 *go there, and that is a problem. Our disability*  
21 *services at WVU, I don't know how much you have*  
22 *heard about that, but was in a building that was*  
23 *not really accessible as it needed to be. We have*  
24 *changed that location so that it actually will be*

1 *in the Mountainlair where it is totally accessible*  
2 *for students. We are trying to improve that*  
3 *image, that this is a friendly place to go. We are*  
4 *trying to level the playing field for you and give*  
5 *you every opportunity, but it is a two way street.*  
6 *The student has to come to us and try to work with*  
7 *us. We will help you in any way we can, but you*  
8 *we have to know what your issues are, and we can't*  
9 *do that unless you contact us first.*

10 *MR. SWIGER: I have a question for Ms. Losh,*  
11 *and I would ask her to correct me if I am wrong.*  
12 *As I understand it at Romney there is interaction*  
13 *between the student, all teachers and faculty*  
14 *members at Romney, whereas if a student is in a*  
15 *public school interaction there may be severely*  
16 *limited so that the only interaction would be*  
17 *between the student, the interpreter and perhaps*  
18 *one or two other students at the school. As I*  
19 *hear the panel that is here today, it seems as*  
20 *though we are short on finances, we're short on*  
21 *instructors to train interpreters and we're short*  
22 *on instructors. And that point in time when those*  
23 *are available may be light years away since we're*  
24 *in Star War days. Realistic on June 14, 1999,*

1 *what are some realistic goals that we can set for*  
2 *ourselves with regard to hearing impaired and deaf*  
3 *students for the public schools so that*  
4 *interaction can be maximized as much as possible*  
5 *and through that experience can be fulfilling as*  
6 *possible?*

7 *INTERPRETER McGONIGLE: I think that*  
8 *qualified interpreters, that we hire as*  
9 *interpreters, can interpret and can also involve*  
10 *other children. That is what we have to do,*  
11 *increase the attitude toward qualified*  
12 *interpreters. And then I think that interaction*  
13 *between the students, and other students, also,*  
14 *and the deaf students will have that, too. You*  
15 *see, right now, at Romney in the state school,*  
16 *there are some students that go beyond the*  
17 *education that is provided at Romney, so they go*  
18 *to the public schools, too. They don't have a*  
19 *football team, so they have to go to the public*  
20 *schools to join that, to be on a football team.*  
21 *That is happening at Romney, too. But it is the*  
22 *attitude, it is really the attitude that needs to*  
23 *be tightened. Also I would ask, if you have*  
24 *knowledgeable and qualified interpreters, people*

1 *who are involved with the deaf community and*  
2 *understand deaf culture, because it is really a*  
3 *culture, with its own language and its own humor,*  
4 *that is how we define culture, too. An*  
5 *interpreter or teacher that is involved with that*  
6 *culture and community can offer a class for the*  
7 *public school kids, and then they start*  
8 *associating with the deaf. Like Trudy, who is*  
9 *Dolly's sister, and they're both children of deaf*  
10 *parents, is an interpreter at UHF and she was the*  
11 *teacher of that class. So when that class was*  
12 *offered students just flocked, they loved it.*  
13 *Then they also begin associating with the deaf*  
14 *students. These are the students that I had in*  
15 *junior high that went to the high school and it*  
16 *was so isolating to them at South, I felt. One of*  
17 *them right now is not doing too well actually. I*  
18 *kept in contact with him a long time after I quit*  
19 *teaching. He had other issues, too, in his life.*  
20 *The point is, its the attitude, she's right, you*  
21 *have to have people that care, that come in and*  
22 *will teach the other students, communicate with*  
23 *the other students. There is a whole world there*  
24 *that is very interesting and fascinating to*

1 *everybody.*

2 *MR. SWIGER: My guess is that if opportunity*  
3 *is provided to younger children, and even*  
4 *elementary age, to learn to sign that they will*  
5 *take advantage of that opportunity, and that, in*  
6 *and of itself, will be a tremendous benefit,*  
7 *because once that language is learned and you are*  
8 *able to utilize that language, I would believe*  
9 *that it would be fairly easy to interact with*  
10 *people with hearing impairment, and to carry that*  
11 *with them throughout your life. I am one of the*  
12 *persons that took French for four years and*  
13 *couldn't tell the audience today, Hello, if my*  
14 *life depended upon it.*

15 *INTERPRETER McGONIGLE: It is like any*  
16 *language. You learn it when you are younger and*  
17 *it sticks. It is like she was just saying, teach*  
18 *the younger kids.*

19 *MR. HINTON: Dolly, I think you wanted to*  
20 *respond, as well as Ms. Judy and Mr. Martin. Go*  
21 *ahead, Dolly.*

22 *INTERPRETER FORD: I was just saying that it*  
23 *is important to start it in the school, even in*  
24 *the elementary schools, and it needs to be offered*

1 *as a foreign language, is what I would like to see*  
2 *happen the most, because in reality it is a*  
3 *foreign language and it needs to be addressed as*  
4 *such. Like he said, he took four years of French,*  
5 *I took two years in high school and four semesters*  
6 *of it at WVU and I couldn't tell you a bit of it,*  
7 *and I'll never use it in my entire life. I think*  
8 *that foreign languages of that sort are great for*  
9 *the people who are going to do the public*  
10 *relations thing, or who are going to have*  
11 *occupations to travel. But if they want to learn*  
12 *a foreign language to really use in their lives,*  
13 *that would be a wonderful thing for them to learn,*  
14 *and its not even in the curriculum. And that is*  
15 *the biggest problem with mainstreaming, the*  
16 *interaction is poor. When my sister taught the*  
17 *AASI class there were more people interested in*  
18 *it, because they had the opportunity to be. Their*  
19 *questions were answered, they learned the*  
20 *language. Then for once, in a very long time, the*  
21 *deaf students that were there made more signs than*  
22 *they would have had the class not been*  
23 *implemented. There are just so many obvious*  
24 *things to this, but I think the biggest thing that*



1 *needs to happen is qualified teachers and make it*  
2 *a foreign language.*

3 **MR. HINTON:** *Ms. Judy.*

4 **MS. JUDY:** *Just one comment. I struggle*  
5 *everyday with the foreign language issue, because*  
6 *students with learning disabilities, especially,*  
7 *have difficulty learning those kind of things. If*  
8 *our intent in requiring such courses is to provide*  
9 *that person with knowledge of another culture,*  
10 *then you don't have to be able to speak so many*  
11 *words a few years down the pike. I don't think*  
12 *requiring foreign language is actually*  
13 *accomplishing that as we see it today. The other*  
14 *group that I would like to comment about that is*  
15 *not represented on this panel, who have similar*  
16 *problems in the education system, are students who*  
17 *are blind. There was legislation passed that*  
18 *students who are blind, in order to be literate,*  
19 *if you will, to be able to read, should have*  
20 *Braille instructions. Now, I would ask you how*  
21 *many teachers in the State of West Virginia know*  
22 *how to do Braille, how to teach their students*  
23 *Braille or who can communicate with their students*  
24 *using that language. So the deaf community is one*

1 *group, but it is much broader than that because*  
2 *there are other folks who have very similar kinds*  
3 *of limitations that are not being met well in our*  
4 *public education system.*

5 *MR. HINTON: Mr. Martin.*

6 *MR. MARTIN: I just wanted to mention that it*  
7 *really works both ways. With some children, if*  
8 *they are born hearing impaired, before they really*  
9 *developed any kind of speech, they will see*  
10 *English as a very foreign language. And I am told*  
11 *by linguists around the country that is probably*  
12 *the toughest foreign language to ever learn. So*  
13 *we have had lowered expectations, wrongfully, but*  
14 *lowered expectations of reading levels and so*  
15 *forth of our youngsters who have hearing*  
16 *impairments. I was involved with a youngster in*  
17 *California, who, by the seventh grade, was in a*  
18 *regular school building, in a classroom with six*  
19 *other children who were hearing impaired, a*  
20 *teacher and an aid who were absolutely delightful,*  
21 *but they were unable to communicate at recess,*  
22 *communicate at lunch, and so forth and so on. He*  
23 *is now using a device that was developed by Bell*  
24 *Labs and tailored by Apple Labs and Coopertino,*

1 *and he is very proficient in sign language. So he*  
2 *simply has a computer, he is in a wheelchair and*  
3 *his computer is literally a lab top computer, and*  
4 *fits across the laptop of his chair. He plugs in*  
5 *gloves and then uses American sign language and*  
6 *out comes perfect English Sinfax\*. It also comes*  
7 *on the computer screen. So as he does one*  
8 *language he sees this foreign language coming up*  
9 *and the neuro-processing that goes on has brought*  
10 *him up in one year four grade levels in reading,*  
11 *because it is all most like a total emerging type*  
12 *of thing. He also can communicate with other*  
13 *children in a regular classroom and there is a*  
14 *microphone on his laptop computer, and when*  
15 *someone else in his periphery speaks then it comes*  
16 *up in English on his computer screen. So he is*  
17 *now in an all regular class, he is with all*  
18 *regular curriculum. My understanding is that it*  
19 *is pretty impossible to work that in regular*  
20 *lunch, because nobody could ever hear anything or*  
21 *distinguish anything. I imagine the computer goes*  
22 *crazy at regular lunch. But he is able to*  
23 *interact in everything else. Now he can go to an*  
24 *all school assembly, he can go anywhere,*

1 *communicate with just about anybody. I think that*  
2 *is a very exciting way to go. I'm not saying that*  
3 *we take away the notion of kinship in that*  
4 *community by any means, or that we abandon ASL.*  
5 *That is still his language of choice. But now he*  
6 *can get the rest of us disabled people to speak*  
7 *ASL and they could communicate with us.*

8 **MR. HINTON:** *Go ahead, Mr. Jeffers.*

9 **MR. JEFFERS:** *Mr. Chairman, may I make a*  
10 *comment, please. I believe Ms. Roper asked a*  
11 *question about filing complaints, or lodging*  
12 *issues or criticism with respect to the non-*  
13 *provision of services or civil rights. One*  
14 *network of entities that I think can be of*  
15 *assistance to people with disabilities is the*  
16 *Centers for Independent Living in West Virginia.*  
17 *There are three such centers, one of which is*  
18 *located in Monongalia County, another in Kanawha*  
19 *County and another in Huntington. These centers*  
20 *have, as one of their primary roles, advocacy. So*  
21 *they are key entities that can be contacted by*  
22 *individuals with disabilities who have a*  
23 *grievance, have been aggrieved and wish to have*  
24 *that pursued but don't know how. These centers*

1 *can assist them in doing so.*

2 *MR. HINTON: I understand that they are*  
3 *having a conference this afternoon in Bridgeport,*  
4 *I believe. I talked to the local person here in*  
5 *Morgantown about three or four weeks ago and she*  
6 *indicated there was a conflict between our forum*  
7 *today and their conference this afternoon. It is*  
8 *now 12:30, but I have a note here that there are*  
9 *two persons in the audience that will not be able*  
10 *to come back for the open forum. Mr. Tony*  
11 *Miralles and Mr. Ken Ervin. Okay. We will leave*  
12 *a little late for lunch. We would ask you to come*  
13 *down and we need for you to get on a microphone*  
14 *here. We want to accommodate you since you cannot*  
15 *come back and you were kind enough to come and be*  
16 *a part of our forum.*

17 *NOTE: This person was Ton Miralles.*  
18 *Due to his speech impediment I was unable to*  
19 *understand him and the recording machine is not*  
20 *decipherable.*

21 *MR. HINTON: Mr. Ervin.*

22 *MR. ERVIN: My name is Ken Ervin.*

23 *MR. HINTON: Is that E-r-v-i-n.*

24 *MR. ERVIN: Yes. I am here in two roles*

1 *today. I'm the Advocate Specialist for the*  
2 *Northern West Virginia Center for Independent*  
3 *living, as well as the state organizer for the*  
4 *state ADAWV. I heard somebody down here say,*  
5 *somebody asked a question about how welcoming*  
6 *different entities are, to people with*  
7 *disabilities, and I think one thing we are going*  
8 *to have to face as people with disabilities, is*  
9 *that we are minority and any time -- many times*  
10 *when we file a grievance, or try to make our voice*  
11 *heard, we're not welcome. And it is okay to knock*  
12 *on the door and ask to come in, but a lot of times*  
13 *you're still going to get it slammed in your face,*  
14 *and sometimes you can just knock a little louder*  
15 *and file a grievance, and sometimes you have to*  
16 *kick it in. You really have to take those steps*  
17 *to do that. ADAWV has been in existence for about*  
18 *two years now. We have had a lot of significant*  
19 *victories, one of which most recently was the cab*  
20 *case, which was mentioned early on during the*  
21 *conference. The plaintiffs in that case were all*  
22 *ADAWV members and we think that was a significant*  
23 *victory for all people with disabilities around*  
24 *the state. We have had a significant impact on*

1 *the Medicaid system and the provision of personal*  
2 *assistance here in the State of West Virginia.*  
3 *And the other thing that I would like for people*  
4 *with disabilities to understand is that there is*  
5 *always one resource we can tap, and the best*  
6 *resource that people with disabilities have is*  
7 *each other. And that is why places like Centers*  
8 *for Independent Living are so important, because*  
9 *we are all people that have been there and done*  
10 *that all ready. And I think that Adapt WV is a*  
11 *perfect example of that because we have an active*  
12 *membership of around 50, and we have really*  
13 *managed to accomplish a whole heck of a lot. You*  
14 *know, I think my best advice for people who are*  
15 *being discriminated against is to look around and*  
16 *find your neighbor and find somebody with a*  
17 *similar experience, and to organize, because that*  
18 *is the best way to get your voice heard. Adapt WV*  
19 *has brochures available out there on the table as*  
20 *well as some things off our Web page, we talk*  
21 *about some things we have done. We have assisted*  
22 *with some initiatives at WVU, and have worked with*  
23 *various other entities regarding physical access.*  
24 *So once again I would have to say that my best*

1 *advise to people with disabilities is that our*  
2 *greatest resource is each other. And another*  
3 *thing that I heard that I wanted to comment on was*  
4 *people was talking about the lack of access of*  
5 *Title 2 entities in the State of West Virginia,*  
6 *and Governor Underwood has committed to appointing*  
7 *an ADA coordinator and if anybody has a question*  
8 *of whether the ADA coordinator would be*  
9 *responsible for any activities or programs, I*  
10 *would contact somebody, and Ed Tissie, who is the*  
11 *general counsel in the governor's office, who*  
12 *seems to be spearheading that effort. Thanks a*  
13 *lot for your time.*

14 *MR. HINTON: Thank you. We went over our*  
15 *time. I want to thank that first panel for being*  
16 *here in this participation. We're going to try*  
17 *the best we can to reconvene at 1:45 with the*  
18 *second panel. We have an open forum beginning at*  
19 *3:30. I hope those of you who are in attendance*  
20 *today have signed the sign in sheet. We like to*  
21 *keep a record of those who attended our forum so*  
22 *we can report what is going on. That sign in*  
23 *sheet is on the outside, and if you have not*  
24 *signed we would ask that you do that. And if you*



1 *want to be on the open forum this afternoon at*  
2 *3:30, please see Marc Pentino. We will not*  
3 *adjourn until 1:45 this afternoon.*

4 *WHEREUPON, a recess was had for lunch*  
5 *and upon reconvening the forum continued as*  
6 *follows:*

7 *MR. HINTON: I want to apologize for the*  
8 *lateness. We still have Committee members who have*  
9 *yet returned from lunch. We do expect them. To*  
10 *keep you from waiting any longer we are going to*  
11 *go ahead and get started without them, and they'll*  
12 *just join us as they come in. We are going to*  
13 *begin our second panel that we have for today. We*  
14 *have invited panelists. The panel now is civil*  
15 *right issues in North Central West Virginia, and*  
16 *we have with us Leonard George, Director of the*  
17 *MBC United, Debbie Hall, President of the NAACP*  
18 *for Morgantown Chapter is not present today, but*  
19 *the former mayor of Morgantown is House of*  
20 *Delegate Member Shirley Marshall, who will*  
21 *substitute for her. I will ask her to come*  
22 *forward and join the folks at the table. We also*  
23 *have Mr. Allen Lee, who was here this morning, who*  
24 *is the President of the Harrison County Chapter of*

1 *the NAACP, and I'm expecting him to return to be*  
2 *on the panel. We have Dr. Katherine Bankole, who*  
3 *is Director of the West Virginia University Center*  
4 *for Black Culture and Research; Kay Francis Meade,*  
5 *who is a Member of the Fairmont City Counsel.*  
6 *Also scheduled on the agenda is the Reverend David*  
7 *Kates, a Member of the Clarksburg City Council,*  
8 *and I am informed that he had a funeral to*  
9 *officiate this morning and is likely not to be*  
10 *here, but he may join us as well. We will now*  
11 *open our second forum. We will let each of the*  
12 *persons make their comments in turn, after which*  
13 *we will open it up for questions from the*  
14 *Committee and then perhaps some people from the*  
15 *audience may have some questions. We will work*  
16 *those things in. We will just start as we have*  
17 *them listed on our program. Mr. Leonard George,*  
18 *we will hear from you at this time.*

19 *MR. GEORGE: Thank you. Members of the West*  
20 *Virginia Advisory Committee to the United States*  
21 *Commission on Civil Rights, ladies and gentlemen,*  
22 *my name is Leonard George. Thank you for coming to*  
23 *Monongalia County. Federal Equal Employment*  
24 *Opportunities Commission, EEOC regulations require*

1 *the Monongalia County School Board to file reports*  
2 *regarding the number of minorities that it*  
3 *employs. This information is to confirm the*  
4 *school board's compliance with federal regulations*  
5 *and the school board's eligibility for state and*  
6 *federal grant money. In the 1999 filing with the*  
7 *EEOC the Monongalia County School Board reported*  
8 *to have 1,281 full time employees. This number*  
9 *includes all employees from janitors, cooks, bus*  
10 *drivers, electricians, carpenters, teachers,*  
11 *teachers' aides, administrators and the*  
12 *superintendent himself. Of this figure only six*  
13 *employees were listed as black. No other*  
14 *minorities represented at all. Additionally there*  
15 *were no part time or newly hired minorities*  
16 *employees for 1999. According to the 1997*  
17 *population estimates provided by the United States*  
18 *Bureau of Census, the most recent available, the*  
19 *current population of Monongalia County is 77,552.*  
20 *Let the record show I am submitting photo copies*  
21 *of this census report at this time. The total*  
22 *minority population of Monongalia County is 5,284*  
23 *people, or 6.8 percent. The percentage of*  
24 *minorities employed by the Monongalia County*

1 *School Board is less than one-half of one percent,*  
2 *.46 percent. When compared to a county wide*  
3 *minority population of almost seven percent, this*  
4 *number is inexcusable and is statistically not*  
5 *possible by random chance. Random chance would*  
6 *produce a number of minority employees nearer to*  
7 *84 instead of the six that the Monongalia County*  
8 *Schools currently employ. I have discussed*  
9 *this matter with each of the school board members*  
10 *and I get the same answer from all of them.*  
11 *Answers like "How many minorities apply to work*  
12 *for the Monongalia County School Board", and*  
13 *minorities don't want to work for us because they*  
14 *find better jobs elsewhere", and "we don't have*  
15 *many minority employees because they are not many*  
16 *minorities in the county". Ladies and gentlemen,*  
17 *history shows during the last ten years the number*  
18 *of minorities employed by the Monongalia County*  
19 *School Board has steadily declined for a decade.*  
20 *Ten years ago, in 1988, Monongalia County School*  
21 *Board purported to have 1,051 employees, with*  
22 *seventeen of those employees listed as minorities.*  
23 *This calculates into 1.6 percent of the work*  
24 *force. I might add this figure included two new*

1 *minority hirings for the 1988 year. In 1999 the*  
2 *Monongalia County School Board employed six*  
3 *minority employees out of a total of 1,281*  
4 *employees. This calculates into .46 percent of*  
5 *the work force. To put this in graphic terms for*  
6 *you, minority hiring by the Monongalia County*  
7 *School Board has dropped by 71 percent when*  
8 *comparing a ten year time frame, while the hiring*  
9 *of white employees has increased by 25 percent*  
10 *since 1988. In 1990, in 1992, 1994, 1996 and in*  
11 *1999, EEO commission reports no new minority*  
12 *hiring. We live in a town that had a black mayor*  
13 *for years, we live in a county that has a black*  
14 *member of the House of Delegates, who sits beside*  
15 *me; we live in a county that is the home of the*  
16 *first black West Virginia Supreme Court judge,*  
17 *nevertheless there is a problem with the*  
18 *Monongalia County School Board. The hostile*  
19 *environment created by the Monongalia County Board*  
20 *of Education in failing to recruit higher and*  
21 *promote minorities not only has a chilling effect*  
22 *in the community in general, but has a irreparable*  
23 *repercussion for preparing Monongalia County*  
24 *students for the diversity they face in their own*

1 *community and in the world of the new millennium.*  
2 *The role model of the Monongalia County Board of*  
3 *Education provides it's student body is one of a*  
4 *white segregated world of the 1950s. There are 26*  
5 *public school buildings in Monongalia County with*  
6 *a minority population of 340 black students, 45*  
7 *Hispanic students, 203 Asian or Pacific Islanders*  
8 *and 16 American Indians or Alaskan natives, for a*  
9 *total of 604. These numbers are reflected on the*  
10 *fall 1994 elementary and secondary school civil*  
11 *rights compliance report, compiled by the US*  
12 *Department of Education, Office of Civil Rights.*  
13 *There are approximately 604 minority students of*  
14 *color enrolled in the Monongalia County Schools.*  
15 *Yet the Monongalia County Board of Education*  
16 *consistently defends the proposition that only six*  
17 *minority employees, of whom all are black, does*  
18 *not present a chilling environment where minority*  
19 *students have no role models or authority figures*  
20 *to look towards during seven hours of each and*  
21 *every school day, and for some throughout their*  
22 *entire school career. Additionally, in 1994 the*  
23 *Monongalia County Schools reported 1,023 disabled*  
24 *students. The fact that numerous school buildings*

1 *and the administration building are not*  
2 *accessible, precludes inclusion of employees that*  
3 *are motor impaired, another minority. This school*  
4 *board that does not keep records as to the number*  
5 *of minorities that apply for jobs, nor does it*  
6 *actively recruit minorities. What do you tell the*  
7 *approximately 604 minority children in our school*  
8 *system why they never see a person of their color*  
9 *working for the school system? What do you tell*  
10 *the high school student who recognizes that there*  
11 *are family clans in this county that have more*  
12 *people working for the Monongalia County School*  
13 *Board from one family than all the minority*  
14 *employees combined. Members of the West Virginia*  
15 *Advisory Committee to the United States Commission*  
16 *on Civil Rights, I implore you to review the*  
17 *hiring practices of the Monongalia County Board of*  
18 *Education. When the spin generated by the*  
19 *Monongalia County Board of Education begins,*  
20 *simply remember this equation, this county has a*  
21 *minority population of 5,284, 6.8 percent. This*  
22 *school board employs 1,281 full time employees.*  
23 *This school board has six minority employees, all*  
24 *of whom is black, which is less than one-half of*

1 *one percent of the total number of employees. A*  
2 *fact. There are more than 604 minority students.*  
3 *A fact. There are more than 1,200 disabled*  
4 *students. A fact. The answer to this equation is*  
5 *a thorough review regarding the employment*  
6 *practices of the Monongalia County School Board*  
7 *and the chilling environment presented to it's*  
8 *student body. Thank you.*

9 *MR. HINTON: Thank you. We will return to*  
10 *you later in our question and answer session. Ms.*  
11 *Marshall. Ms. Marshall is here for Debbie Hall.*

12 *MS. MARSHALL: Thank you, Mr. Hinton. I,*  
13 *too, would like to thank the Committee for being*  
14 *here in Morgantown, and as the Chair has told you,*  
15 *Debbie Hall is the President to the Morgantown*  
16 *NAACP and Debbie couldn't be here this afternoon.*  
17 *But she has sent with me a report that she planned*  
18 *to present, and that is what I will present to you*  
19 *at this time. This is the report that Debbie has*  
20 *prepared and I will read this to you. "I want to*  
21 *take a few minutes to tell you about a couple*  
22 *facts in the Morgantown area that was brought to*  
23 *the attention of the NAACP. As many of you know*  
24 *the Barlett house which is located on University*



1 *Avenue is a non-profit, tax exempt charitable*  
2 *organization. It provides shelter, food and case*  
3 *management to homeless men and women and*  
4 *families in North Central West Virginia. This*  
5 *charitable organization is overseen by a volunteer*  
6 *board of directors and operated by a full time*  
7 *executive director, a program assistant, who is a*  
8 *licensed social worker and several shelter*  
9 *workers. Barlett is partially funded by a*  
10 *contract with the US Department of Health and*  
11 *Human Resources, the United Way of Monongalia and*  
12 *Preston Counties, the United States Department of*  
13 *Housing and Urban Development, the Federal*  
14 *Emergency Management Agency, private foundation*  
15 *grants and private donations provides the major of*  
16 *the funding. The Board of Directors conducted*  
17 *interviews for the executive director's position*  
18 *at the Barlett House. Their decision was narrowed*  
19 *down to two ladies, one African American with a*  
20 *degree and a Caucasian woman who did not have a*  
21 *degree. The Caucasian woman was hired. In*  
22 *addition a shelter worker, who is also African*  
23 *American, experienced problems in the work place*  
24 *with the new director and believed it to be*

1 *racially motivated. The shelter worker complained*  
2 *to the board and after several attempts and no*  
3 *results to her satisfaction, she brought her*  
4 *complaints to the NAACP. After reviewing the*  
5 *employee's complaint my first question to the*  
6 *board was how they justified hiring a woman with*  
7 *no degree over a woman who had a degree. They*  
8 *responded by saying, you do not need a degree for*  
9 *the position of Executive Director at Barlett*  
10 *House. The board also conducted an internal*  
11 *investigation and, of course, found no evidence of*  
12 *racial discrimination. After talking to some of*  
13 *the board members I also found that there was a*  
14 *conflict as to whether the executive director*  
15 *should have a degree for this position. As of*  
16 *today this matter has not been resolved. The*  
17 *board has suspended the shelter worker on hearsay*  
18 *charges with no further explanation except a*  
19 *letter in the mail. I made several attempts to*  
20 *contact the President of the Board for explanation*  
21 *and he has not returned my phone calls. Other*  
22 *complaints involve cross burnings in a front yard*  
23 *of homes and students being called the "n" word at*  
24 *school. A parent was very concerned about the*

1 *language used toward her two boys. She contacted*  
2 *the school with her concerns and was told by the*  
3 *assistant principal that they are just words. For*  
4 *those of you who think that you have arrived, you*  
5 *are mistaken. You are only at a pit-stop and far*  
6 *from being arrived. My chapter meets every third*  
7 *week of the month at St. Paul Church at Beechhurst*  
8 *Avenue at 6:00 P.M. I will be doing well if five*  
9 *people show up. Our group is very small in number*  
10 *and have managed to raise enough money to travel*  
11 *to Africa for Black History Month. There is*  
12 *another trip planned for the year 2000. We just*  
13 *can't continually sit back and wait for someone*  
14 *else to take care of our problems and our*  
15 *children. Parents have to take an active role in*  
16 *your children's' lives. It is up to you to teach*  
17 *them to be responsible adults, not video games,*  
18 *TVs, the internet or the streets. We need to know*  
19 *where our children are and who their friends are.*  
20 *We need to teach our children to use the powers*  
21 *that God gave them to succeed in life and not let*  
22 *anyone tell them differently. African America*  
23 *needs to close up the gap that we have created*  
24 *amongst ourselves and learn to work together.*

1 *There are very serious problems in our*  
2 *communities, work places and schools that we face*  
3 *each and every day. We cannot continue to let*  
4 *them be swept under a rug. It is time that we*  
5 *take a hard long look at the people who are*  
6 *teaching our children; it is time we stood up to*  
7 *those who are racists in our communities and in*  
8 *the work place. We still have people in our*  
9 *hospitals who refuse to see a doctor if he or she*  
10 *is a minority. It is imperative that we see*  
11 *ourselves as worthy and deserving. There may be*  
12 *rejections and it may take use a while but as long*  
13 *as we stay in the game and not give up there is*  
14 *every chance we'll score. When we are clear about*  
15 *our priorities, secure in our identity and*  
16 *committed to our goals, we can achieve our dreams.*  
17 *Thank you. President, Morgantown NAACP, Debbie*  
18 *Hall.*

19 *MR. HINTON: Next we have Mr. Allen Lee,*  
20 *President of the Harrison County Chapter of the*  
21 *NAACP.*

22 *MR. LEE: Thank you. We have been beset in*  
23 *Harrison County and Clarksburg with quite a few*  
24 *complaints, I would say, of desegregation and*

1 *especially in the work place. We have so many*  
2 *people that has been let go because of inter-*  
3 *racial marriages, either the man is black or vise-*  
4 *versa, and so many people have been let go on that*  
5 *account. Also, we have problems there, a young*  
6 *man went over to Fairmont to a club there and was*  
7 *denied entrance there because he was with three*  
8 *other white fellows. First, all they needed was a*  
9 *card identification. When it came to him he*  
10 *wasn't dressed appropriately. He left, went home,*  
11 *dressed appropriately, and came back with his one*  
12 *card of identification and he was then told he*  
13 *needed two cards of identification. And also one*  
14 *of the employees there was heard to make the*  
15 *remark, "We don't want him in here anyway". So*  
16 *eventually the police was called and the young man*  
17 *was asked to leave. This young man, as I said,*  
18 *was the product of an inter-racial marriage. He*  
19 *is very light complected, but he never did get*  
20 *entrance to the club. He left. It is so hard to*  
21 *get anything done with something like this. We*  
22 *had two or three other incidents there that have*  
23 *just been swept under the rug. We have to be able*  
24 *to take a stand, have to be able to get some kind*

1 of help in order to stop these things, especially  
2 these so-called fraternal clubs and things like  
3 that. They always find a pigeon hole to hide in.  
4 So those, along with another, that I really don't  
5 want to reveal. Oh, I'll go ahead anyway. Eat N  
6 Park, we had a situation there. There is a black  
7 girl that has been working there for around eight  
8 years, she was suppose to be an assistant  
9 supervisor, she was asked for information  
10 regarding one of the employees, the length of time  
11 they had been working there, she went ahead and  
12 let them have it. Her supervisor came in and he  
13 fired her and the one that caused the problems and  
14 everything, after she gave them the information  
15 and everything, these employees got together,  
16 comparing their salaries and stuff, and of course  
17 there was a little talk and a little confusion  
18 that went on. So when the manager came and he  
19 decided to let her go and the people that caused  
20 the trouble, they're still working there. So  
21 we've got to be able to have - we need some kind  
22 of inroad in order to stop this. We can't sit and  
23 wait for the NAACP to do something, because they  
24 have their rules and regulations. But I would

1 *like to know who and how I can get some kind of*  
2 *help or some kind of response, and who to turn to*  
3 *to get some help. That is our problem there.*

4 *MR. HINTON: Next we have Katherine Bankole,*  
5 *Director, WVU Center for Black Culture and*  
6 *Research.*

7 *MS. BANKOLE: Thank you. I want to apologize*  
8 *to everyone. I have a little cold today, but I*  
9 *didn't want to miss this. I want to thank the*  
10 *Commission and I also want to thank Mr. Marc*  
11 *Pentino for his invitation and hopefully I will be*  
12 *brief. I was asked to talk about exploring*  
13 *overall civil right issues in North Central West*  
14 *Virginia, and my perspective is from that of a*  
15 *historian and a social scientist. So I have to go*  
16 *back and question our understanding. What are we*  
17 *talking about when we say "civil rights". So my*  
18 *question is what is civil rights and do we agree*  
19 *on the definitions of civil rights. We generally*  
20 *have an agreement that civil rights are rights*  
21 *which belong to the citizen by virtue of his*  
22 *citizenship alone, which guarantees those rights*  
23 *and which is protected by the law. There is also*  
24 *this other issue of human rights. Human rights*

1 *are considered natural rights, rights that you are*  
2 *born with, our respect for the human, being human*  
3 *rights. And human rights may or may not be*  
4 *protected under the law. So to deny civil rights*  
5 *is to deny human rights, and so much of what I am*  
6 *going to be commenting on has to do with that.*  
7 *But there is also this issue of civil liberties,*  
8 *which are personal, natural rights guaranteed and*  
9 *protected by the Constitution. They include such*  
10 *things as freedom of speech, press, etc., and of*  
11 *course freedom from discrimination. Now, I also*  
12 *have a question as a social scientist about*  
13 *enforcing rights guaranteed by the Constitution,*  
14 *such as are the laws clear, and are they clear to*  
15 *everyone, are the laws enforceable, can you fight*  
16 *for guaranteed rights in open court; what is*  
17 *enforceable, what is not enforceable; what is*  
18 *verifiable and what is not verifiable. Now, some*  
19 *of you may be familiar with a term that is being*  
20 *bandied about a lot in the media. It is called*  
21 *DWB. Do you know what that means? Many of you*  
22 *know what those three letters mean. It means*  
23 *"Driving while black", and it is "a crime", a*  
24 *crime of racial profiling on the nation's*



1 *highways. And it is reported that President*  
2 *Clinton, himself, has condemned the activity as*  
3 *morally indefensible. And so, you know, when we*  
4 *start talking about civil rights and talking about*  
5 *issues in North West Virginia, a lot of the issues*  
6 *that we are talking about are clearly reflected*  
7 *across the nation. So I have to go back to my*  
8 *concerns as a historian and a social scientist.*  
9 *Civil rights concerns cited, which may not be*  
10 *verifiable, thereby nullify any enforcement. What*  
11 *I mean by that is many students come to me and*  
12 *they talk about what they feel are violations of*  
13 *their rights, but they cannot necessarily verify*  
14 *that their rights have been somehow abridged.*  
15 *This is a real serious concern and it needs to be*  
16 *looked at. There are also such concerns as social*  
17 *issues which contribute to behaviors, which*  
18 *produce or enhance a person's desire to*  
19 *discriminate. Also there is the question of how*  
20 *do you legislate respect for others and*  
21 *preservation of human dignity. At the Center for*  
22 *Black Culture and Research a lot of people don't*  
23 *understand what our role is at WVU and I'll talk*  
24 *about that role a little bit later, but they feel*

1 *that our role is not just advocacy, which it is,*  
2 *but they also feel we should, if we do not have*  
3 *some policy making role or compliance role, or a*  
4 *legal role, regarding civil rights issues on*  
5 *campus, in and around campus, and we do not. So*  
6 *this is an important thing to note, so I want to*  
7 *ask that question again and maybe you can think*  
8 *about that question again: How do you legislate*  
9 *respect for others and preservation of human*  
10 *dignity, because many of the students, the*  
11 *African-American students particularly come to my*  
12 *office with issues that are more about respect and*  
13 *more about having their dignity snatched away from*  
14 *them on a daily basis. There is also concerns*  
15 *about addressing the convoluted arguments about*  
16 *the denial of civil rights. For example; that*  
17 *discrimination is not racism; that patterns of*  
18 *racial violence do not exist. So every time you*  
19 *hear about racial violence in this country you are*  
20 *always told that is an isolated incident. And*  
21 *after so many years I began to wonder whether or*  
22 *not the isolated incidents had added up to,*  
23 *indeed, create a pattern of behavior. Also, I*  
24 *have a question about, can retaliatory behavior be*

1 *stopped or eliminated, because many of our*  
2 *students report issues of faculty discriminating*  
3 *against them and they are retaliated against.*  
4 *Somehow the professor has got even with them for*  
5 *telling or for implying, or for somehow talking*  
6 *about a particular issue that concerns the many*  
7 *issues of race or racism. Can, what I call the*  
8 *silent dialogue about race, racism and race*  
9 *relations, be broken, because I believe that we*  
10 *are all having a dialogue every day, all day,*  
11 *about racism and race relations, but that is a*  
12 *silent dialogue. A lot of it is going on in our*  
13 *heads; a lot of it is going on in terms of intra-*  
14 *racial groups, but not a lot of it is going on*  
15 *inter-racially. So I think we have to break this*  
16 *silent dialogue about this issue. Also I have a*  
17 *question, what about racial stereotypes; can*  
18 *negative racist stereotypes be legislated out of*  
19 *existence. You know, when people call the Center*  
20 *for Black Culture and Research and complain about*  
21 *negative racist stereotypes, the question I have*  
22 *to people who are much more learned than I am*  
23 *about the law, what do you do, how do you*  
24 *legislate racist stereotypes that permeate our*

1 *society and influence our children and influence*  
2 *each other. I mean, how do you enforce something*  
3 *like that to prevent it from existing? Now, the*  
4 *real question that was brought to me, what about*  
5 *Northern West Virginia? And what I did was, after*  
6 *I talked to Mr. Pentino, I looked back at the*  
7 *records we have. We keep records at the Center*  
8 *for Black Culture and Research about*  
9 *discrimination, but we are not an enforcement or*  
10 *compliance unit at the university. But I also did*  
11 *some interviews because I wanted to be able to*  
12 *share with you what West Virginians in this part*  
13 *of the state have said to me, have said to the CBC*  
14 *and R, not what my personal experience has been,*  
15 *because I have only been here about three years,*  
16 *and you know I wouldn't want to tell you what my*  
17 *experiences have been because I'm sure I have not*  
18 *been here long enough to give you a full*  
19 *reflection. Ms. Meade says, I don't know about*  
20 *that. But here is what Northern West Virginians*  
21 *have cited to me at the Center for Black Culture*  
22 *and Research. They have talked about - and this*  
23 *is faculty, staff, students, employees of the*  
24 *university and community members, they have cited*

1 *the following; being followed in stores. So you*  
2 *get up one day and you go shopping and you notice*  
3 *that a particular guard has found you very*  
4 *attractive, and is following you around the store.*  
5 *So they cite that quite a bit, that it is very*  
6 *common to have that happen. And I'll talk about*  
7 *this issue of perception, because perceptions have*  
8 *a lot to do with these citations. They also talk*  
9 *about being stopped by law enforcement for no*  
10 *apparent reason, or to be harassed. We get that*  
11 *particular citation quite frequently among*  
12 *African-American students, particularly African-*  
13 *American male students. They cite that they have*  
14 *been stopped frequently by law enforcement for*  
15 *various and sundry reasons. Also, they cite to*  
16 *the Center for Black Culture and Research being*  
17 *coded in stores. What I mean by this, by the word*  
18 *"coded", is that you walk into a major store as a*  
19 *consumer to make a purchase and then somewhere*  
20 *over the loud speaker there is a signal that, you*  
21 *know, some black people have entered the store.*  
22 *Now, the voice over doesn't necessarily say that.*  
23 *It might be like in a hospital situation where, if*  
24 *you're in the hospital and there is an emergency*

1 *and you hear "code blue", where it could be*  
2 *security, you know, call Station 9. That is a*  
3 *code that everybody understands, that black people*  
4 *have entered the store, particularly people - be*  
5 *clear, this is about people of color, have entered*  
6 *the store and they need to be watched, they need*  
7 *to be monitored. Okay? And I was concerned about*  
8 *this in terms of just peoples' conceptions, could*  
9 *this be real? I haven't worked in the stores, so*  
10 *I don't know. I had an encounter with a young*  
11 *African-American woman who had worked several*  
12 *years at a department in Morgantown, West*  
13 *Virginia, and I was shocked and appalled at what*  
14 *she told me. She said it was quite routine, that*  
15 *it was quite routine for those codes to be voiced*  
16 *over the loudspeaker for security to hear, for*  
17 *staff and personnel to hear, and that African-*  
18 *Americans were monitored in that way. She also*  
19 *cited another concern, and that was consumers*  
20 *being ignored when they go out into the public.*  
21 *And this is really interesting, because she said*  
22 *that, you know, in staff meetings that she has*  
23 *been a part of there is the idea that African-*  
24 *Americans don't really have any money to spend,*

1 *you know, that the money you have is negligible,*  
2 *so why should a clerk take their valuable time to*  
3 *help you. You don't have anything. So she said*  
4 *that, you know, she would speak up at these staff*  
5 *meetings and address these stereotypes, and*  
6 *address the issues, and she was often put in her*  
7 *place because she was a woman and she was trying*  
8 *to make her mark in the retail world. Another*  
9 *citation by students at WVU as having un-stated*  
10 *double standards for blacks and whites in various*  
11 *circumstances, not just in the terms of*  
12 *consumerism, but also in terms of higher*  
13 *education, and you can ask questions about that*  
14 *later. Also students are feeling more likely to*  
15 *be jailed for minor offenses. And I have to tell*  
16 *you in my three years in being at WVU, that*  
17 *particular citation has come up over and over*  
18 *again. I have been asked to be at several*  
19 *meetings involving students, and it's usually*  
20 *black male students, who have been immediately*  
21 *jailed for what turns out to be, what is*  
22 *considered a prank among the young white male*  
23 *counterpart, but his black male equal, it's*  
24 *considered enough to put the young man behind*

1 *bars, at least over night. Another citation is*  
2 *being asked to identify race on public documents.*  
3 *So this constant having to identify that you're*  
4 *black, not of Hispanic origin, etc. etc. Also*  
5 *feeling like victim of unwritten, yet sustained*  
6 *policies and procedures. For example, the policy*  
7 *of checking all the identification of black*  
8 *customers, but somehow noticing that the*  
9 *identification of others are not requested. So*  
10 *what do you do with that; how do you go about*  
11 *proving that phenomenon? Also students cite the*  
12 *issue of "the apartment is not available to*  
13 *blacks". The student shows up, has called about*  
14 *the apartment, shows up to check out the*  
15 *apartment, and maybe even places a deposit on*  
16 *rent, they're told very candidly that you don't*  
17 *look like what you sound like over the telephone.*  
18 *So therefore, you sound white, that is why I told*  
19 *you the apartment is available, but when you show*  
20 *up it is clearly visible that your pigmentation is*  
21 *that of another youth. So, therefore, the*  
22 *apartment is no longer available for you. Also,*  
23 *students cite having to be physically checked. We*  
24 *used to call it, when I was growing up,*



1 *"frisking", having to be physically checked at*  
2 *airports, especially black people who fit a*  
3 *certain profile, and the instructions are given*  
4 *out beforehand. Also there is a citation of*  
5 *discrimination in employment hiring practices.*  
6 *And also the issue, if you're black, just how*  
7 *qualified do you have to be. I mean, how many*  
8 *degrees do you have to have, how much experience*  
9 *do you have to have. And that among faculty,*  
10 *particularly among African-American faculty at*  
11 *WVU, is a particularly significant citation. So,*  
12 *therefore, we have a faculty member who has a*  
13 *master's degree and they're told, well, if you*  
14 *want this job you had better get a doctor's*  
15 *degree. And they person struggles to get the*  
16 *doctor's degree and then they're told, well, you*  
17 *know, you just don't have enough experience. You*  
18 *go back and get the experience and then you're*  
19 *told, you really just seem to fit in with this*  
20 *department. So it's a never ending cycle of just*  
21 *how qualified do you have to be. In addition*  
22 *there are other citations, and this is of*  
23 *particular interest to me, of fear, of even*  
24 *questioning whether or not something is, or could*

1 *be, racially motivated. So we have students who*  
2 *are afraid to raise the issues because someone*  
3 *might be offended that they are even questioning*  
4 *whether or not it could be racially motivated,*  
5 *particularly with reference to law enforcement.*  
6 *And we have had students who have been chastised,*  
7 *students who have indicated that they have been*  
8 *threatened, because when they have been picked*  
9 *up, when they have been questioned or when they*  
10 *feel that they have been harassed, they have*  
11 *stated, I feel like this is racially motivated.*  
12 *And when they have done that law enforcement has*  
13 *been offended, and it appears that you must not*  
14 *offend law enforcement. In addition, there are*  
15 *concerns about the absence of African-Americans in*  
16 *various systems. Mr. George talked about*  
17 *education. On the absence, on the very absence of*  
18 *people of color, somebody must raise the issue,*  
19 *are there discriminatory practices there, whether*  
20 *they are overt or covert. Also there are*  
21 *citations of concerns, or the perception of the*  
22 *failure of the larger society to acknowledge*  
23 *racist activities and to condemn them, so that*  
24 *there is a feeling that there is no hue and cry*

1 *for African-Americans when grave injustices have*  
2 *been done. But African-Americans are expected to*  
3 *raise a hue and cry for the injustices of all*  
4 *other people. There are also citations of day to*  
5 *day experiences where people encounter what is*  
6 *considered minute forms of oppression. Also there*  
7 *are citations, which I call the paranoia produced*  
8 *by the racist sector. So for a lot of your*  
9 *students they don't understand racism, they don't*  
10 *know what it is and they don't know how it*  
11 *operates, but they know something is going on and*  
12 *they're constantly paranoid, because they don't*  
13 *know whether or not they're being discriminated*  
14 *against, they don't know whether or not it is*  
15 *racially motivated, but they think it might be,*  
16 *they don't know whether or not it's a pattern of*  
17 *behavior at a particular institution, but they*  
18 *think that it might be. And as a student, as an*  
19 *African and an African-American student at a major*  
20 *university such as this, there is always the*  
21 *specter of racism, whereas other people don't*  
22 *necessarily have to carry that baggage around. In*  
23 *West Virginia there is a particular issue of*  
24 *demographics, numbers, particularly numbers, how*

1 *many African-American are in the State of West*  
2 *Virginia. We know the numbers are very low and*  
3 *that has an impact on how we perceive it. There*  
4 *are also citations of being kept at lower levels*  
5 *of the employment scale when hired, so while*  
6 *African-Americans may be hired and it may look*  
7 *like diversity is in operation, they're kept at*  
8 *the lower levels of the employment scale. Also*  
9 *there are citations of employers carefully*  
10 *choosing "the right kind of minority", so that you*  
11 *do, indeed, have to be deemed the right kind of*  
12 *black person, because if you are the wrong kind of*  
13 *black person you may not get the job. So you*  
14 *maybe have to sound a certain way, or you have to*  
15 *say certain things that indicate to the employer,*  
16 *I'm with you, I'm one of you, I'm not one of those*  
17 *other people who cause problems in our society, as*  
18 *we're told every day in the media. In addition*  
19 *there are racial episodes in the public schools.*  
20 *You know, I have to tell you this; I have a*  
21 *daughter in the Monongalia School System, and in*  
22 *Louisiana where we moved from, she was considered*  
23 *a genius in leading, and she comes to Monongalia*  
24 *County and they're not very impressed, they don't*

1 *really know what she is doing and they don't*  
2 *really have a place for her. But when we first*  
3 *moved here one of the biggest crisis we had to*  
4 *deal with was the first couple of days she went to*  
5 *school she came home crying. She was about six*  
6 *years, six going on seven, and she said that the*  
7 *reason she was crying was because the children,*  
8 *who were all white, she was the only black child,*  
9 *was spitting on her because she was African and*  
10 *told her she was a dirty African. And my daughter*  
11 *is West African, so that was very traumatizing for*  
12 *us, because we wondered, you know, what kind of*  
13 *people are we entrusting our space to. We didn't*  
14 *know what to make of that. So we asked the*  
15 *teacher to handle it, and thank goodness we had a*  
16 *teacher who understood that you needed to handle*  
17 *these issues quickly and expediently or they can*  
18 *escalate out of control. And she did, indeed, do*  
19 *that and I am very grateful for that teacher who*  
20 *made sure that was taken care of. But there are*  
21 *racial epithets in the school that go unchecked on*  
22 *both sides. There is also racial violence that*  
23 *goes unchecked on both sides. Also, other*  
24 *citations include lower expectations of African-*

1 *American students in the schools. Also citations*  
2 *that one person I interviewed said, they didn't*  
3 *want their name to be mentioned, but they said*  
4 *they had learned to tolerate day to day racism.*  
5 *They said, "You live it every day, you become*  
6 *accustom to it", and that as far as this person*  
7 *was concerned, who was born and raised in this*  
8 *part of West Virginia, they felt that this was the*  
9 *reflective position of many African-Americans who*  
10 *feel powerless in this particular area. Also,*  
11 *there was a citation about immediate negative*  
12 *perceptions of blacks based on the concept in*  
13 *social justice that is called "lookism". Lookism*  
14 *is just a form of discrimination by just looking*  
15 *at someone and deciding they don't look right to*  
16 *you, so, therefore, you have the right to*  
17 *discriminate against them, and so if you're black*  
18 *it is based on lookism. There is also the issue*  
19 *of skin pigment. So if you look like a drug*  
20 *dealer, you could look like a drug dealer, you*  
21 *could be under suspicion if you're black and maybe*  
22 *dressed a certain way, and if you spend too much*  
23 *cash, and other people write checks. Also*  
24 *African-American married women who are faculty at*

1 *WVU said that when they are by themselves, without*  
2 *their husbands, with their children, or with a*  
3 *child, who may or may not be theirs, they're often*  
4 *perceived or approached as if they are a welfare*  
5 *mother, a dreaded single welfare mother who is a*  
6 *complete drain on society, and treated as such.*  
7 *So as you walk down the street the lookism is*  
8 *there. What is your image when you walk down the*  
9 *street and you see a black woman pulling a black*  
10 *child behind her? Does the first think that pops*  
11 *in your mind, is that a welfare mother? You know,*  
12 *you would be surprised in many places it does.*  
13 *Another citation is that black people have*  
14 *compromised themselves to accept racism and*  
15 *discrimination, so they feel helpless and*  
16 *powerless to do anything about it. They are also*  
17 *fearful about retaliation as mentioned before.*  
18 *Another citation is that there is a failure of the*  
19 *black community to respond. Another citation is*  
20 *that there is a fear of visiting certain areas of*  
21 *West Virginia. And you know, sometimes people are*  
22 *very serious when they talk to the Center for*  
23 *Black Culture and Research, but sometimes they are*  
24 *making jokes. And they say, you know, you can't*

1 go to a certain county at night if you are a  
2 person of color, because that could be trouble.  
3 And perceptions, sometimes, are every thing. Even  
4 if it's not true, the fact that somebody is  
5 talking about it, is saying that perhaps for some  
6 people, no matter how small the number, it is  
7 true. Now, another citation is that issues of  
8 racism and discrimination are reflected very often  
9 here, and are often sanitized or other mainstream  
10 issues are put forward as being more important.  
11 To give you an example I am often asked to go to  
12 various meetings and committees, and ad hoc  
13 groups, and task force, and they specifically ask  
14 me to be there to talk about issues of race and  
15 race relations and racism. Once I get there I'm  
16 usually the only African-American there, number  
17 one, number two, very often nobody wants to talk  
18 about the issues of race, racism and race  
19 relations. They want to talk about the plight of  
20 Appalachia, they want to talk about how horrible  
21 health care is in some other counties, they want  
22 to talk about unemployment and underemployment  
23 among poor whites in West Virginia. So very  
24 often the dialogue turns and so you are no longer



1 *talking about the issues cited by a particular*  
2 *group or a particular population. You're saying,*  
3 *I don't want to talk about this, this is not*  
4 *important to us, we want to talk about what is*  
5 *important to us. So even when race is on the*  
6 *agenda it can very often be removed from the*  
7 *agenda. In addition, at WVU there is a perception*  
8 *among those who cite concerns, that there are*  
9 *double standards for black students and white*  
10 *students at WVU, and there is a perception of*  
11 *double standards. There is also the citation that*  
12 *white faculty who discriminates against black*  
13 *students are able to get away with it, and black*  
14 *students don't feel very much that they have any*  
15 *recourse. So very often they will come to the*  
16 *Center to cite their problems, or even to just*  
17 *talk about their problems. Also, the last point*  
18 *that I want to make before I conclude is that I*  
19 *want people to understand what the Center for*  
20 *Black Culture and Research does at West Virginia*  
21 *University. The Center for Black Culture and*  
22 *Research is a division of Student Affairs, and as*  
23 *I said before, it is not a policy making unit, its*  
24 *not a unit of enforcement or compliance, in terms*

1 *of diversity or social justice. It is there to*  
2 *serve the students of WVU. Now, the Center for*  
3 *Black Culture and Research contributes to*  
4 *diversity initiatives and provides an opportunity*  
5 *to experience aspects of African-American culture.*  
6 *In addition we make it our job to listen to*  
7 *peoples' complaints and to make referrals to the*  
8 *appropriate campus agencies. Very often we do get*  
9 *involved whenever we can, when we think our*  
10 *involvement will be effective in somehow providing*  
11 *a resolution or a remedy, then we will intercede*  
12 *on the behalf of a student/faculty staff member.*  
13 *And also we have programs and forums which give*  
14 *people the voice that they feel they don't have*  
15 *elsewhere. And very often the people who make*  
16 *these citations to the Center for Black Culture*  
17 *and Research, they make these citations because*  
18 *they don't feel they have a voice any place else.*  
19 *Thank you very much.*

20 *MR. HINTON: Thank you. We have now Kay*  
21 *Francis Meade, who is a member of the Fairmont*  
22 *City Council, from Fairmont.*

23 *MS. MEADE: Good afternoon. To the*  
24 *distinguished panelists, the US Commission on*

1 *Civil Rights, the West Virginia Advisory*  
2 *Committee, the University College of Law, faculty,*  
3 *members and guests, I really thank you for*  
4 *allowing me to participate. This is an issue that*  
5 *I am greatly interested in, although I will be up*  
6 *front and tell you I am tired of groups like this*  
7 *meeting and meeting and meeting. All we do is*  
8 *meet and talk. Action doesn't often follow. People*  
9 *don't often take our advise. A grass root people*  
10 *are not present, so they cannot give their*  
11 *statement. The mainstream people are not here, so*  
12 *they can't give their statement. I think it is*  
13 *wonderful that we get invited but we are generally*  
14 *the same kinds of people. Like people, like*  
15 *people. We are all from various groups, but we*  
16 *are the groups that generally meet and we talk.*  
17 *And that is great. I am sure this panel is going*  
18 *to be different from previous panels, in that they*  
19 *are going to do something, because if they don't*  
20 *do something Kay Francis Meade is going to be*  
21 *there reminding them that this is important. I*  
22 *feel, and I have to say this, I feel that for 64*  
23 *years I have suffered at the hands of white*  
24 *America who have continued to heap the racist*

1 *practices on me. I'm tired; I'm tired of the*  
2 *pain; I don't want to see my kids go through it; I*  
3 *don't want to see my grandchildren go through it.*  
4 *It is not necessary. There are things we can do.*  
5 *There are things that African-Americans can do.*  
6 *We can help ourselves. We can quit saying "they"*  
7 *and we can come up with "we", and we can do some*  
8 *things. Our problem is, we always say, we don't*  
9 *have the money. The brothers of the other group*  
10 *manages somehow to get the money. We need to find*  
11 *out where they get it, we need to find out what*  
12 *avenue they get it from and we need to get some*  
13 *money, because the volunteer thing don't work.*  
14 *We've been saying for years, we ought to*  
15 *volunteer. We can't continue to volunteer and be*  
16 *effective, because that panel sitting there, I'm*  
17 *sure has more to do than just sit and hear us, but*  
18 *do nothing. For 64 years I have heard the same*  
19 *old rhetoric. I'm tired. It is time for someone*  
20 *else to be tired. I checked where our school*  
21 *systems are. Boy, oh, boy. It doesn't take a*  
22 *rocket scientist to count to ten, and I didn't get*  
23 *to ten. Nine teachers, from the board of*  
24 *education, and they marvel at that. They gave me*

1 *all kind of arguments for giving me information.*  
2 *It was on a disc, and you know Ms. Meade, by being*  
3 *on a disc we have to call to Washington D.C., and*  
4 *I said I know, but we're not so primitive as not*  
5 *to have the use of telephones. So call to*  
6 *Washington, D.C., but I need the information ASAP,*  
7 *like yesterday. So finally they came up this, not*  
8 *realizing, I guess, that I'm sixty four and a half*  
9 *blind. I can hardly see this piece of paper, but I*  
10 *did get to see it enough to know that we have nine*  
11 *teachers black. That's it. We have, out of nine*  
12 *teachers, 1,171 folks working in the Marion County*  
13 *School System. None has been hired in the last*  
14 *two years. Part time, janitors, and I'm sure that*  
15 *there are some of us who can remember that at one*  
16 *time all we could do was janitor work. We can't do*  
17 *it no more. So, that is what I'm saying, we have*  
18 *the problem, but we keep having the problem. And*  
19 *the school systems is not the only thing. They*  
20 *City of Fairmont, for which I am a Council Member,*  
21 *sometimes I wonder why I am there. I have worked*  
22 *tirelessly to get them to acknowledge that there*  
23 *is an affirmative action plan that should be put*  
24 *in place to do the work of the city. But because*

1 of people who did some really crazy hiring and  
2 some really crazy acts, our City Manager told me  
3 he didn't know anything about affirmative action.  
4 Can you do it? No. It is for the city to do. So  
5 here we are, the City of Fairmont, and I have the  
6 numbers for that, too, we have for the City of  
7 Fairmont 173 employees and we have nine African-  
8 Americans and they're trying to get rid of two of  
9 them. Of that 173 it is 142 males, of course, and  
10 31 women. What's wrong with the picture; what is  
11 wrong with the picture? With the school board,  
12 with Fairmont State College turning out teachers  
13 every day. What is wrong with the fact that is  
14 all we have, and what's wrong with us that we're  
15 not seeing what is wrong? So we have those few at  
16 the city, and I know for a fact and will stand up  
17 for it, because I am of the age and of the mind  
18 set that I have nothing to hide and I ain't  
19 hiding. So I feel that when your city manager  
20 instructs your secretary to file 13, or waste  
21 basket 13, black applications, and it's being  
22 done, then that is why we don't have any more.  
23 Its not because they're not qualified, they just  
24 don't get there. We need to do something about it

1 *and groups like this should insure that we do*  
2 *something about it. Not to just have a meeting*  
3 *and put it on a piece of paper and file it away.*  
4 *At this time we need to let the rubber meet the*  
5 *road, because it is sad that is all we have for*  
6 *the City of Fairmont. By the way, the Marion*  
7 *County School Board was going to have a death in*  
8 *the family of the board before they give me this*  
9 *paper. It is not worth anything. They had every*  
10 *kind of excuse in the book, what do you want with*  
11 *it. I want to know how many is in this school. I*  
12 *want to know why you're not hiring. Well, Ms.*  
13 *Meade, none apply. Then why do we encourage kids*  
14 *to go to school to be teachers? I said, you were*  
15 *just on the TV the other day. So if you're*  
16 *encouraging people to go to school, and they were*  
17 *talking about African-Americans and other*  
18 *minorities, that we need more, but you're not*  
19 *hiring them. African-Americans have the*  
20 *responsibilities, too. Sometimes I feel that once*  
21 *we reach a certain place in life, and we feel we*  
22 *have been accepted by them, that we no longer take*  
23 *on the responsibility of our own. We need to do*  
24 *that. We need to say, I have arrived, I'm proud*

1 *that I've arrived, I've worked hard to arrive, but*  
2 *I'm not going to forget everybody else out there,*  
3 *and that is what happens all too often. We play*  
4 *our own little game and then we wonder why there*  
5 *is so much racism. It's not racism. It's*  
6 *whatever you want to call it. I haven't found a*  
7 *word yet. So there is a whole big problem. We*  
8 *have racism because sometimes, and we have a lot*  
9 *of it, God knows, but we have so much of it, and I*  
10 *heard a man say this in Wheeling, those people*  
11 *never volunteer for anything, and he wasn't*  
12 *talking to me, but he meant for us to hear, those*  
13 *people never volunteer, you never see them get out*  
14 *and do the run for the heart program, you never*  
15 *see them doing anything to help themselves. And*  
16 *you know, he really wasn't lying. We have a*  
17 *responsibility, too, in this racism game, because*  
18 *I don't think it can be won. I don't see any*  
19 *solution unless we do something other than what we*  
20 *have been doing in the past. That has been*  
21 *nothing. Anyway, I'll get to the other part.*  
22 *Well, I didn't bring the paper, but it's in my*  
23 *head. When you talk about police harassment, if*  
24 *we don't have it, nobody else has it. The police*



1 *have been given carte blanche in this country.*  
2 *They have come up with every excuse in the world*  
3 *to validate what they have been doing, the actual*  
4 *killing of other human beings of color. White*  
5 *America should take the responsibility and quit*  
6 *making excuses for the police departments, quit*  
7 *creating a situation that causes them to follow*  
8 *young black males. Take a black gentleman all*  
9 *dressed up, put him in a BMW and send him*  
10 *downtown. He will be arrested in a minute, until*  
11 *he can clear himself. So, white America, and I'm*  
12 *saying, white America, needs to take a stand. In*  
13 *Fairmont we have a young man, a nice policeman, I*  
14 *thought he was an OK Joe, but that is just what I*  
15 *thought. He run around stalking you and so forth*  
16 *and he is still on the force, getting paid. These*  
17 *are the things we, as citizens, should stop. I*  
18 *know. The civil service, right now, has a clause*  
19 *in there that they can use to protect us. But we*  
20 *need to do something as citizens. This may not be*  
21 *what I am suppose to be doing, but this is what I*  
22 *think I ought to do. But what I'm saying is we,*  
23 *and we have so much responsibility that we don't*  
24 *do, because sometimes we listen to the wrong*

1 folks. Just because you put on a suit and tie  
2 don't mean you know anything. And they will tell  
3 us, you know, that everything will get worked out.  
4 Well, when? In my lifetime, what time I have left  
5 I would like to know if it is okay if I go in a  
6 store and decide to browse for a while. I want to  
7 know if it is okay. I can browse. I want to know  
8 if it is going to be okay if I go in and decide to  
9 try on something without being besieged with these  
10 clerks, who say, may I help you, may I help you.  
11 I don't like to be greeted in the door like that  
12 and say, may I help you. Allow me to go into the  
13 store like my sister, I have a friend that's like  
14 a sister, let us both go in and browse. I'm tired  
15 of being mistreated as an African-American and I  
16 ain't about to take it no more. I have took it  
17 for years, my kids have had to take it, now I've  
18 got grand kids. The schools they go to, that  
19 they're suppose to be treated as equals, are not  
20 being treated - we've got incompetent teachers,  
21 very incompetent teachers. They know I feel they  
22 are incompetent. I made a personal point of going  
23 to the school individually, letting you know what  
24 I thought your brain capacity was. It wasn't

1 *much. But any way to think I have to subject my*  
2 *grand kids to these people, who are racists and*  
3 *they don't mind coming out because they've got a*  
4 *system that protects them. The school board*  
5 *protects them. They can come up with more*  
6 *excuses. They told me that one of the teachers,*  
7 *well, she's young. She is a teacher. She's not a*  
8 *baby. Being young does not allow her to*  
9 *discriminate, does not allow her to call little*  
10 *bright kids "tar baby". Being young does not*  
11 *allow her to act stupid. So this is what the*  
12 *school board said, "well, she's young". That*  
13 *ain't going to work. But see, this is what we*  
14 *get, because then we fall behind and they're*  
15 *suppose to be the school board, the protectors.*  
16 *When they make stupid statements, then where else*  
17 *do you go? People have to come back to you guys.*  
18 *Somebody has to stop it; somebody has to say,*  
19 *okay, we're going to take the responsibility for*  
20 *this. You take the police department. Oh, boy.*  
21 *We've got situations where, at McDonald's in*  
22 *Fairmont, white boys and girls can gather around*  
23 *and shoot their music in their cars and they can*  
24 *have a ball, but a fact, when I tell you, and I*

1 *want this understood, anything I say in this room*  
2 *I can back it up, all the way, not half the way,*  
3 *nothing to give you any room for doubt, I can back*  
4 *it up all the way. The white boys can come to*  
5 *McDonald's and play around and play their music.*  
6 *They have a ball. Do you know what happens at*  
7 *McDonald's if a black kid goes in there and sits*  
8 *down to eat. The manager with a policeman will*  
9 *tell him or her, you have eaten long enough, let's*  
10 *go. It didn't happen once, it didn't happen*  
11 *twice, it happens all the time. Its time for*  
12 *black people to go out and to protect their*  
13 *children. You know, sometimes I wonder if our*  
14 *kids act up because we don't show any signs of*  
15 *protection. We excuse the behavior of others,*  
16 *too, because we don't want to get involved, but*  
17 *sometimes our children need to know that my mom*  
18 *and dad are there to protect me. Now, if we find*  
19 *you in the wrong, then that is another kind of*  
20 *protection. You know, find out the facts and then*  
21 *protect your child. Maybe we won't have so much*  
22 *new problems if they know we are protecting and*  
23 *loving our kids. That is not the only thing that*  
24 *happens at McDonald's. With the manager, when a*

1 *black boy, and we found this out and then we*  
2 *checked it out, then we used somebody to do it to*  
3 *see for a fact, he bought dinner for four people.*  
4 *The manager asked him where did he get that money,*  
5 *and the policeman has resigned now, he was so*  
6 *inept that he had to, but he resigned. Marion*  
7 *Deano is his name. He resigned because he was so*  
8 *corrupt. And he resigned because when the manager*  
9 *asked the kid, where did he get the money, the cop*  
10 *was right there and throwed the kid out. Do our*  
11 *kids deserve this kind of treatment? No. Now,*  
12 *he's not going to give him a job. They don't have*  
13 *to worry about getting a job, but there he wanted*  
14 *to know where he got his money. They won't give*  
15 *our youth a job. It's time our youth begins to*  
16 *feel the same freedom and things that the other*  
17 *kids want. Let's do what is right, just basic*  
18 *right. If we do what is basically right we can't*  
19 *go wrong in the future, just basically what is*  
20 *right. Stand up for our youth all the way. I*  
21 *want to say one other thing. Sometimes we get to*  
22 *where we're going to get and we get there honestly*  
23 *and legitimately, and they make you feel you are*  
24 *better than your brother and your sister, but let*

1 *me tell you something else. That is great as long*  
2 *as you don't step down on somebody else, as long*  
3 *as you don't keep putting down somebody else's*  
4 *kids, as long as you are legal, you don't have to*  
5 *mingle with nobody else. You can choose to be an*  
6 *individual, but being bourgeois, that is a word we*  
7 *use, does not give you the right to come down on*  
8 *your brother. I'm saying that for one other*  
9 *thing, "Sam". Ever body heard of Sam? Sam is*  
10 *against mandatory minimum sentencing law, a*  
11 *system that came into the federal government in*  
12 *1986. They could not handle the drug problem.*  
13 *The government, or whatever, was bringing in too*  
14 *much and then they were disseminating it out into*  
15 *the black neighborhoods, and blah, blah. Then our*  
16 *kids got involved. They brought all this crack*  
17 *cocaine into the poor neighborhoods, so they*  
18 *learned to take the crack cocaine and cracked it*  
19 *up and cooked it with baking soda, they called,*  
20 *you know, then they got them some crack cocaine*  
21 *and that was a cheap way of getting something,*  
22 *five dollars a rock, or whatever. They came in*  
23 *1986 and the put on these harsh laws, mandatory*  
24 *minimum sentences. You know who fell under those*

1 *laws? And I know the first answer is going to be,*  
2 *well, they shouldn't have did it. You have to*  
3 *look at that long range plan that started years*  
4 *ago. Do you know who is in the jails, whether*  
5 *they should or shouldn't did it? Most of our*  
6 *youth, 91 percent of our youth under the age of 30*  
7 *are in the jails of this country and this country*  
8 *has imprisoned more young people than any other*  
9 *country. We've got to think about that. We might*  
10 *talk about racism, we may talk about all these*  
11 *problems, but we got to deal with the whole*  
12 *problem. Can you imagine that many of our*  
13 *youth - we don't have boys in the communities any*  
14 *more, so without boys we don't have - no, I'm not*  
15 *going there, but I am just going to say that we*  
16 *need to be concerned about our black boys in the*  
17 *prison system. You know what I hear, and I hear*  
18 *from African-Americans, they're the hardest*  
19 *against our boys than anybody. Yes, I'm going to*  
20 *say it. They are the hardest against our boys.*  
21 *The reason is I think they are scared and don't*  
22 *understand. And the other people have put them in*  
23 *jail, just like this. Nothing, it doesn't mean*  
24 *anything. I met with the US Commission on*

1 *Sentencing and they talk about it as if it's*  
2 *nothing, but we are talking about human beings.*  
3 *We're talking about racism, we're talking about*  
4 *cleaning it up. We've got this advisory group.*  
5 *Hopefully they'll do something, West Virginia*  
6 *style. It's got so much, but it's got so much*  
7 *other prejudice along with racism that it is a*  
8 *lost cause. It is going to be hard to bring it*  
9 *around so people understand what is going on and*  
10 *live a good decent, clean life. I'm through.*  
11 *MR. HINTON: Thank you. We want to thank all*  
12 *the panelists, and at this time we will open up*  
13 *for questions from members of the Committee.*  
14 *Before we start we will take a very short break.*  
15 *Whereupon a brief recess was had and upon*  
16 *reconvening the forum continued as follows:*  
17 *MR. HINTON: Mr. George, I noticed it says*  
18 *"MBC". I was wondering what that stands for.*  
19 *MR. GEORGE: Montgomery Beverage Company.*  
20 *MR. HINTON: Do any of the other members have*  
21 *any questions of the panel?*  
22 *MR. SWIGER: I've got a statement and some*  
23 *questions. First of all, Ms. Meade, I appreciate*  
24 *you coming. You speak with passion. You and*



1 *Leonard George had asked the Committee to act. I*  
2 *want to be clear that we can only do that which we*  
3 *have been empowered to do, and in this particular*  
4 *instance we are here as a fact gathering body and*  
5 *can only gather facts. In Logan, at our last*  
6 *forum, I made the comment that I was one member of*  
7 *the Committee who pays particular interest to*  
8 *facts, personal experiences, things about which*  
9 *you have personal knowledge and those will be most*  
10 *beneficial to us when we prepare our final report,*  
11 *fifteen months from now or whenever that may*  
12 *occur. I am going to ask Mr. George to give us*  
13 *some facts, if he can do so, in a few minutes, but*  
14 *first of all I want to give you a couple*  
15 *experiences that will let you know the importance*  
16 *of factual scenarios about which you've got*  
17 *personal knowledge. I received a call not too*  
18 *long ago about a gentleman who had apparently been*  
19 *arrested because he was of Arabic descent. When I*  
20 *looked into the matter it didn't have anything to*  
21 *do with that. It had to do with him living in*  
22 *someone's house without anyone's permission to be*  
23 *there, and that was just someone's opinion. And*  
24 *Mr. George brought forth some very beneficial*

1 *facts to us earlier, and you gave us some facts in*  
2 *your presentation, and I thank you for those. And*  
3 *I don't doubt for one bit that when you make a*  
4 *statement that you can back it up. So to the*  
5 *extent you have additional facts, I would*  
6 *appreciate those. Mr. George, you indicated that,*  
7 *gave statistics that were appalling with regard to*  
8 *the Monongalia School Board, and I note in your*  
9 *statement that the Board did not keep records on*  
10 *the number of minorities who apply for positions.*  
11 *If we were to go to the Board I do not doubt that*  
12 *one thing we would be confronted with is that*  
13 *either there are not minorities applying or that*  
14 *the minorities are not qualified. I would ask if*  
15 *you know of any specific instances where*  
16 *minorities have applied and have not gotten a job,*  
17 *and to the extent that you don't have those,*  
18 *something that would be helpful for us in the*  
19 *future would be for you or anyone else you know to*  
20 *work together and compile as much information on*  
21 *that as possible. Do you know of anyone that has*  
22 *actually applied and you have good reason to*  
23 *believe they weren't hired because of being a*  
24 *minority?*

1 **MR. GEORGE:** *I don't have personal knowledge*  
2 *of any individual, but I do know that I have been*  
3 *told by the Board that they do not keep records of*  
4 *minorities who apply. I believe I might have that*  
5 *in writing from them in my file, the Freedom of*  
6 *Information Request. I will research that and see*  
7 *if I can get it to you in writing.*

8 **MR. SWIGER:** *I am from Charleston. We are*  
9 *completely shocked to hear the figure that you*  
10 *presented to us earlier. Before I ask you this*  
11 *question, I will remind you that you are in an*  
12 *open and public forum here and it is being*  
13 *recorded. Do you have any ideas or opinions as to*  
14 *why Monongalia is worse than other counties in the*  
15 *state?*

16 **MR. GEORGE:** *I think it is simply because*  
17 *they believe and do get away with it. Just a*  
18 *plain, simple answer. I also, you'll find in the*  
19 *packet that I gave you, all of the backups for the*  
20 *numbers that I gave you, census bureaus, the EEO 5*  
21 *reports and the various reports the school board*  
22 *must file. So all of my numbers come directly*  
23 *from the school board, and are only as accurate as*  
24 *they presented them to the federal government.*

1 **MR. HINTON:** *I want to jump in on one*  
2 *inquiry. I was trying to read through the*  
3 *documentation that you submitted with your*  
4 *presentation, and part of it I couldn't read very*  
5 *well, the terms of, you know, of the*  
6 *classification. I noticed that you said there*  
7 *were six employees and I guess one is in guidance,*  
8 *someone at the supervising principal level, or*  
9 *assistant principal?*

10 **MR. GEORGE:** *Correct. Now keep in mind, I*  
11 *looked at the same forms you looked at and I have*  
12 *not researched anything beyond what the EEO 5*  
13 *form says.*

14 **MR. HINTON:** *Right. Well, the EEO 5 form is*  
15 *required by federal law to submit, and all*  
16 *counties probably do that. I was wondering in*  
17 *regard to sex, the breakdown between male and*  
18 *female and those who were in educational positions*  
19 *and those who were not. And I was looking at*  
20 *something, it was '88 information, I was trying to*  
21 *find a '98 breakdown, because they haven't*  
22 *submitted a report for '99.*

23 **MR. GEORGE:** *If it's not in your file, I can*  
24 *get that for you. It should have been in each*

1 *packet that I handed out there.*

2 *MR. HINTON: Well, I'm assuming this first*

3 *sheet here is '88. It is highlighted.*

4 *MR. GEORGE: Go to the very last page. I*

5 *think the very last page may be '98. I think it*

6 *is in a different styled form.*

7 *MR. HINTON: This will be the '98 one?*

8 *MR. GEORGE: Yes, the '98.*

9 *MR. HINTON: Okay. And, of course, I notice*

10 *it has the 1999 elementary/secondary staff*

11 *information and I was trying to break down here, I*

12 *notice black, non-Hispanic it had two service*

13 *workers. I'm assuming that is accurate?*

14 *MR. GEORGE: Correct.*

15 *MR. HINTON: Then it had two, and I'm not*

16 *sure if that is total in this one category, and*

17 *then they have four over here. I guess that is*

18 *where you get the six from. But I was trying to*

19 *get some feel for - I know the '88 had them broken*

20 *down to elementary and secondary, and I am just*

21 *curious as to current status as to how many of*

22 *them are service personnel, how many are*

23 *educational personnel, how many male, how many*

24 *female, how many in secondary, how many in*

1 *elementary and so forth. I notice the pattern*  
2 *around the state for example, and the reason I'm*  
3 *asking the question I know that in Marion County,*  
4 *for example, it's been many years that we have had*  
5 *a black male teacher in the high school setting.*  
6 *It's been for the last three decades there has not*  
7 *been a black male, full time teacher in all of*  
8 *Marion County. The ones that are teaching are*  
9 *usually female. I know some black males have*  
10 *applied personally. I've talked to them and they*  
11 *may get on the substitute list or get on the part*  
12 *time list, but can't get full time jobs. And I*  
13 *was just wondering what the breakdown was for Mon*  
14 *County.*

15 *MR. GEORGE: I believe I have that for part*  
16 *of the years. I don't have every single year, and*  
17 *I don't always have the same form. I acquire*  
18 *these forms through the Freedom of Information*  
19 *Requests, and to be frank with you the school*  
20 *system is not very forthcoming in regards to those*  
21 *requests, and it usually takes multiple requests*  
22 *to get what I need. Now, the 1999 from, which is*  
23 *the 168A type of report---*

24 *MR. HINTON: Okay.*

1 MR. GEORGE: ---if you look down there and  
2 highlighted for you---

3 MR. HINTON: Right.

4 MR. GEORGE: ---under "Black Male 2", under  
5 "Black Female 4", a total of 6.

6 MR. HINTON: And the black male 2 are service  
7 personnel, as I understand the report?

8 MR. GEORGE: That is correct.

9 MR. HINTON: They have no black males at all  
10 teaching in Mon County.

11 MR. GEORGE: That is my understanding.

12 MR. HINTON: Okay. I just note that, you  
13 know, when blacks do get hired, they will hire  
14 females and they don't hire them very well. And  
15 one of the things you said in your report, which I  
16 do appreciate, is the lack of black role models  
17 for the black students. But what is more  
18 important to me is that they are important role  
19 models for white students more so than they are  
20 for black students, because they're going to lead  
21 and the white students will impact more black  
22 lives than the black students will, and therefore,  
23 they need the black influence more so than the  
24 black students do, I think.

1 **MR. GEORGE:** *I agree with you wholeheartedly,*  
2 *and that is why I put the line in there, as all*  
3 *the students go out into the world, our students*  
4 *are not well trained in relation with people of*  
5 *different color and of different handicaps. We're*  
6 *living in the 1950s here in Monongalia County with*  
7 *regard to our school system.*

8 **MR. HINTON:** *Ms. Roper.*

9 **MS. ROPER:** *There are no black teachers in*  
10 *Morgantown?*

11 **MR. GEORGE:** *Not reported on the documents*  
12 *that the Monongalia School Board gave to me.*

13 **MS. ROPER:** *Does anybody else know? I*  
14 *thought there was a principal.*

15 **MR. GEORGE:** *It's not showing up on the 1999,*  
16 *168A Form. It's listed as two service workers on*  
17 *Line 16.*

18 **MR. HINTON:** *Well, what they do have, black*  
19 *females are showing up on the report for this*  
20 *year.*

21 **MR. GEORGE:** *That is true.*

22 **MR. HINTON:** *So what we have, so you will*  
23 *know, there is one black female listed as a*  
24 *elementary class teacher, one as a secondary class*



1 *teacher, and then one as assistant principal, non-*  
2 *teaching, and one in guidance. And as I*  
3 *understand the report there are two black service*  
4 *personnel employees.*

5 *LADY IN AUDIENCE: There is one black male at*  
6 *University High.*

7 *MR. HINTON: How long has he been there?*

8 *LADY: Twenty five years.*

9 *MR. HINTON: Then he should be on the report*  
10 *then. It is amazing they don't even take credit*  
11 *for somebody that they ought to take credit for.*

12 *MS. ROPER: We might want to try to get those*  
13 *numbers.*

14 *MR. HINTON: But actually, with the Freedom*  
15 *of Information, what really troubles me is that*  
16 *there is a one page form that pretty much looks*  
17 *something like this usually, they submit annually*  
18 *to the federal government, the EEO 5. That is*  
19 *something that should be easily obtained, and that*  
20 *has a real clear breakdown of all the information.*  
21 *I have seen them before from other cities and*  
22 *counties.*

23 *MS. ROPER: I had a question for Dr. Bankole.*  
24 *You said something about double standards for*

1 *students. You said you would answer when we had*  
2 *questions. What is that?*

3 *MS. BANKOLE: That is due to reports to us*  
4 *that they feel that there are double standards at*  
5 *the institution in terms of what is expected of*  
6 *black students versus what is expected of white*  
7 *students. For example, a double standard may be*  
8 *if a student misses any examination, the white*  
9 *student may be able to retake the examination and*  
10 *not suffer any repercussion and the black student*  
11 *may not be allowed to take the examination and*  
12 *there may be direct evidence of that type of*  
13 *behavior in a particular class. So they often cite*  
14 *what they feel is double standards in a classroom,*  
15 *that there is a certain set of rules, policies,*  
16 *procedures and practices that they feel clearly*  
17 *demonstrate that there is some type of favoritism*  
18 *or dis-favoritism on the part of teaching faculty*  
19 *at the institution.*

20 *MS. HART: I feel compelled to make a comment*  
21 *regarding Marion County. I lived in the Fairmont*  
22 *area for 8 years and in 1988 the number was nine*  
23 *and in 1999 that number is still nine. I think*  
24 *maybe it is the number " nine" that---*

1 **MR. HINTON:** *It was ten. Ten is the highest*  
2 *it has been in the last thirty years.*

3 **MS. MEADE:** *Well, when people have applied,*  
4 *and I can only speak about what I know, but when*  
5 *people have applied, you apply on Monday and you*  
6 *get a rejection notice on Tuesday or Wednesday.*  
7 *What does that tell you? It has happened several*  
8 *times. To my knowledge it has happened at least*  
9 *six times. One other thing is, two people went to*  
10 *apply, with sort of a setup to go and apply, and*  
11 *then they went back the next day to say, you know,*  
12 *I want to retrieve my application or I want to*  
13 *check on my application, and your city manager,*  
14 *our city manager I will say, has frequently said,*  
15 *I don't recall getting that application. So at*  
16 *this point I have asked that city council look*  
17 *into why we are having these problems with*  
18 *applications and all. However, we were told, I've*  
19 *been told, and it is in the charter, that we can't*  
20 *do anything about personnel. But I think the*  
21 *question should be asked, somebody needs to find*  
22 *out what is happening to applications from*  
23 *African-Americans, but since city council can't*  
24 *get into personnel it makes it a little difficult.*

1 **MR. HINTON:** *I have a question to anyone on*  
2 *the panel as it relates to education outside of*  
3 *Marion County. I am familiar with what happens in*  
4 *Marion County, because I have lived there all my*  
5 *life, and I have noticed over the years that a*  
6 *person will be hired in some other capacity, you*  
7 *know, for example as athletic director, as a*  
8 *matter of fact two in particular at Fairmont*  
9 *State, or someone may work for some corporation*  
10 *and their spouse is a school teacher, and it*  
11 *doesn't take long for that white female spouse to*  
12 *get a job teaching in the system when they get to*  
13 *the county. I am wondering, is that the common*  
14 *practice in Mon County or Harrison County where*  
15 *you have some white male who is transferred in*  
16 *here, maybe somebody here at the university who is*  
17 *hired as a professor, whose wife quickly gets a*  
18 *job in the system. Does that kind of thing happen*  
19 *here, or Harrison County, for that matter?*

20 **MS. MARSHALL:** *Mr. Chairman, I believe it*  
21 *happens here. Sometimes I feel when they're*  
22 *seeking an applicant for a certain position that*  
23 *possibly that is one of the little drawbacks or*  
24 *something that they promise in order to get that*

1 *person to come into the area.*

2 *HINTON: I see a consistent pattern and I*  
3 *don't know how qualified or unqualified these*  
4 *persons are, but it seems to me that they got the*  
5 *job because to whom they were married, and they*  
6 *got it quickly in some instances. And I was*  
7 *wondering why can't black folks get jobs who are*  
8 *qualified and who live here. I understand that*  
9 *you got a big decrease. I mean when they had nine*  
10 *hundred and some employees, I understand, and they*  
11 *had 15 blacks in the system and it went down to 6*  
12 *from 15, and then yet the employees went up from*  
13 *nine hundred and something to 1281. That is mind*  
14 *boggling. Ms. Bankole, does WVU put out many*  
15 *blacks who are in the teaching program, are you*  
16 *aware of that?*

17 *MS BANKOLE: You mean produce?*

18 *MR. HINTON: Yes, ma'am.*

19 *MS BANKOLE: I really can't speak to that. I*  
20 *don't have the statistics, I don't have the*  
21 *numbers. Maybe somebody in the audience might*  
22 *have the numbers in terms of that. But I will*  
23 *make the comment that it is discussed quite a bit*  
24 *in the African-American community at WVU about*

1 *what transpires when an individual is recruited,*  
2 *interviewed, negotiations take place, person is*  
3 *hired and the appearance, and let me, you know, be*  
4 *real clear about that, because I do not have the*  
5 *statistical data, but the discussions*  
6 *statistically are quite frequent, and the*  
7 *discussion is that when negotiations take place*  
8 *among nine black people, usually there is*  
9 *something in there for the spouse. A place is*  
10 *made somehow, created, or what I have direct*  
11 *evidence in seeing is that documents are*  
12 *circulated asking departments and unit heads, here*  
13 *is the vita of the spouse of a person we are*  
14 *hiring to be a professor in chemistry, and this*  
15 *person has a background and they submit a vita and*  
16 *there is a pro-active recruitment effort, and the*  
17 *frequent dialogue that takes place is that too*  
18 *many times, when African-Americans are recruited*  
19 *and negotiations are taking place and the hiring*  
20 *is done, there is no place and no concerted effort*  
21 *to place that spouse or be of any assistance, or*  
22 *give the appearance that such a thing is being*  
23 *done.*

24 **MR. HINTON:** *Does that happen as far as*

1 *placement of the spouse, is that in the public as*  
2 *well as the private sector, these attempts?*

3 *MS. BANKOLE: Well, I know first hand that the*  
4 *efforts are made both public and private to help*  
5 *place that person. I really can't tell you*  
6 *whether or not it is just a network that may be*  
7 *closed to some people. You know, I don't know,*  
8 *but I know that many of us can cite dual career*  
9 *couples at WVU and they're predominantly white and*  
10 *they're able to negotiate that very successfully.*  
11 *And the complaints that come down is that African-*  
12 *Americans aren't given the opportunity to*  
13 *negotiate. It is a non-negotiable issue. You*  
14 *take this position and you come on if you're*  
15 *coming. But if you really want a rising star, you*  
16 *know, in terms of a professor or a director or*  
17 *administrator, then you make every effort to*  
18 *assist with that spouse.*

19 *MR. HINTON: Yes, Mr. George.*

20 *MR. GEORGE: I just wanted to remind you that*  
21 *in West Virginia, and I know particularly in*  
22 *Monongalia County, every single employee that the*  
23 *county school board hires has to be voted on by*  
24 *the county school board members. So there is a*

1 *direct hand that they choose and make that final*  
2 *decision as to who is employed and who is not*  
3 *employed.*

4 *MS. MEADE: Mr. Hinton, would you like to*  
5 *have a copy of the report on the Marion County*  
6 *schools?*

7 *MR. HINTON: Is that the EEO 5 for Marion*  
8 *County?*

9 *MS. MEADE: Yep.*

10 *MR. HINTON: Yes, we definitely would like to*  
11 *have that. You may submit that.*

12 *MR. SWIGER: And additionally, if at anytime*  
13 *in the future anyone that is going to be on the*  
14 *panel, either this morning or this afternoon, as*  
15 *well as the audience, if you have other*  
16 *information or documents that you would like to*  
17 *submit to the Commission, give it to any member of*  
18 *the Commission and we will see that everyone sees*  
19 *a copy of it and it will be taken into*  
20 *consideration and utilized when we finally prepare*  
21 *our two year report.*

22 *MS. HART: In response to Mr. Lee's question*  
23 *that he asked regarding the situation at Eat N'*  
24 *Park, might I suggest that you contact Mr. James*



1 *Talvert, and manage that Eat N' Park situation*  
2 *through your State NAACP, and solicit assistance*  
3 *from Delegate Charlene Marshall and other*  
4 *legislators. I think the bigger you make that, and*  
5 *contacting the corporate headquarters the more*  
6 *action oriented they might be in helping you solve*  
7 *that situation.*

8 *MR. HINTON: Ms. Bankole, I know you are with*  
9 *the Center for Black Culture and Research, and you*  
10 *were talking about numerous things, citations that*  
11 *you were familiar with as it related to students*  
12 *of color, and your inference on black students,*  
13 *which I appreciate. I am just curious, are*  
14 *similar kind of problems happening with other*  
15 *minority students? I know WVU has, you know,*  
16 *significant world wide student population, people*  
17 *from other countries. I know at Fairmont State*  
18 *College we have a number of students from Asia,*  
19 *and we're growing in numbers there. But I am*  
20 *curious, are they experiencing the same kind of*  
21 *problems in the stores or at the schools? I was*  
22 *just wondering what other students are having?*

23 *MR. BANKOLE: Yes, sir. Its interesting, you*  
24 *know, the Center for Black Culture and Research,*

1 *as I indicated before in my statement, is*  
2 *perceived as a body that should be responsive to*  
3 *issues of discrimination at WVU, and that is,*  
4 *indeed, not it's function, but it does serve to*  
5 *try to be a resource. What happens is that not*  
6 *just African-American students, but all students,*  
7 *feel like the Center for Black Culture and*  
8 *Research is the place to come and report. I*  
9 *mentioned this to our Director of Social Justice,*  
10 *Jennifer McIntosh, in a meeting, and she is well*  
11 *aware that the Center is often utilized sort of*  
12 *like a place to do that and she has counseled me*  
13 *on what to do when that occurs. However, in terms*  
14 *of the Asian community those students do not reach*  
15 *out to the Center in that way. But students who*  
16 *classify themselves, or who are classified as*  
17 *being of Hispanic descent tend to do that. Also,*  
18 *students who are identified Eastern Indian*  
19 *extraction tend to do that with the Center for*  
20 *Black Culture. They feel a sense of support, that*  
21 *somebody there will listen to me. And so those*  
22 *particular students do that. Women students do*  
23 *that, particularly white women and also gay and*  
24 *lesbian students do that as well, although there*

1 *are other bodies, other entities to address their*  
2 *needs and to provide resources. So in that*  
3 *respect it is very true.*

4 *MR. MEADE: You know, I neglected to mention*  
5 *that in Fairmont that maybe the problem of*  
6 *harassment is due to, from what I understand, is*  
7 *that there is poor training of our police*  
8 *officers, as well as the fact that there are no*  
9 *blacks, there absolutely are no black officers,*  
10 *and I think we have one woman. There are women in*  
11 *the office working, but as a police officer there*  
12 *are no women anymore. And there are no blacks on*  
13 *the force at all, whatsoever. There are three*  
14 *openings coming up and I think one has all ready*  
15 *been filled, but the possibility of having two*  
16 *black officers, I doubt if they will be hired, and*  
17 *that is unfortunate, you know. That is another*  
18 *reason why, perhaps, things happen, there is*  
19 *nobody that can -- young blacks or any blacks can*  
20 *relate to anyone on the force because there is*  
21 *nothing there to represent them or look like them,*  
22 *or whatever.*

23 *MR. HINTON: Do we have any other questions*  
24 *from anyone on the Committee?*

1 **MR. MAJUMDER:** *I have just one. I asked this*  
2 *question this morning. I'm just curious. What is*  
3 *the process available to people who either feel,*  
4 *or otherwise feel, that their rights are violated*  
5 *and they're not properly treated, is there some*  
6 *kind of communication mechanism that the people*  
7 *know they can go somewhere, such as the Office of*  
8 *Social Justice, or Equal Opportunity Commission,*  
9 *what is this mechanism for filing your discontent*  
10 *of complaints? It is true about the board of*  
11 *education, does such mechanism exist that if*  
12 *someone feels that I applied on Monday and my*  
13 *response came on Tuesday that you do not qualify,*  
14 *and I am sure that person felt it was not even*  
15 *reviewed properly; is there any way to complain*  
16 *about it?*

17 **MS. MEADE:** *I don't know. I don't know if*  
18 *there is any where to go to complain about it.*

19 **MR. HINTON:** *You can't go to the school*  
20 *board.*

21 **MS. MEADE:** *You definitely can't do that.*  
22 *Frankly, I don't know.*

23 **MR. LINDELL:** *Yes, there are places you can*  
24 *go. You can't go to the school board. You can*

1 *file charges with either the State Human Rights*  
2 *Commission or you can file charges with the United*  
3 *States Equal Employment Opportunity Commission.*

4 *MS. MEADE: You can.*

5 *MR. LINDELL: Yes, ma'am.*

6 *MR. MAJUMDER: I think it is very important*  
7 *and particularly we, as a group, it is a civil*  
8 *violation. Now, these actions are definitely*  
9 *wrong, but still does not attain that level of*  
10 *somebody violated my rights. If that happens we*  
11 *should not stop, but we will stop if we don't know*  
12 *where to go. That is what I was asking. Yes, Mr.*  
13 *George.*

14 *MR. GEORGE: One experience that I have had is*  
15 *with the Department of Education's Civil Rights*  
16 *Department, in advising parents to go to them. I*  
17 *have found that agency operates extremely slowly,*  
18 *and when they do make a finding and it is against*  
19 *a local school board, all the local school board*  
20 *has to do is make a statement that they are in the*  
21 *process of correcting the problem. Then the whole*  
22 *matter is left at that. And the problem usually*  
23 *never gets corrected, they simply make a statement*  
24 *that they're working on correcting the problem and*

1 *it remains just simply a problem.*

2 *MS. MEADE: I want to say something.*

3 *MR. HINTON: Yes, ma'am.*

4 *MS. MEADE: I would like to be able to thank*  
5 *that young man right back there and the group, or*  
6 *whomever, who was so gracious as to help me get*  
7 *into the University because I am handicapped and I*  
8 *really appreciate what you did. I didn't have*  
9 *that worry even before I left home, because I made*  
10 *arrangements before I left, and they were very*  
11 *nice and very prompt and I appreciate it.*

12 *MR. HINTON: Thank you for mentioning that.*  
13 *We want to thank the panelists for coming and*  
14 *sharing. Of course, we will be putting together a*  
15 *report. We have three more forums. If there is*  
16 *anything additional that you would like to submit*  
17 *to us you have until July 12th to send that*  
18 *written information in to Marc Pentino in*  
19 *Washington, D.C. At this time we would ask you to*  
20 *vacate your seats. We have an open forum. I have*  
21 *three people that have signed up for the open*  
22 *forum. This young gentleman here, you held your*  
23 *hand up, but we can include you in the open forum.*  
24 *I want to thank the panel. Help me give this*

1 *panel a round of applause.*

2 *Well, we will start with Mr. Berry, Ms. Neal,*

3 *Mr. Bunner and I saw the hand of Mr. Medley, who*

4 *will be fourth and then Ms. Bunner will be our*

5 *last person of the open forum. I will ask you*

6 *again to spell your name and give the correct*

7 *spelling so we can make sure we have it*

8 *accurately.*

9 *MR. BERRY: My name is Dewey Berry. D-e-w-e-y*

10 *B-e-r-r-y and I sit on a number of state and*

11 *federal policy planning councils, primarily for*

12 *providing community mental health services, but*

13 *also for providing rehabilitation for the*

14 *disabled. I wish to concur with the black*

15 *community regarding problems with the police here*

16 *in West Virginia. I will give an example since I*

17 *live in Nicholas County and the LaRose family*

18 *managed to steal between twelve and fourteen*

19 *million dollars and were never prosecuted under*

20 *state law. In the case of Summersville police,*

21 *they have a habit of conducting warrantless*

22 *searches without probable cause. This is a common*

23 *problem here in Appalachia because most of the*

24 *people are unfamiliar with the 1995 Supreme Court*

1 *ruling. The county prosecutor's office*  
2 *unfortunately has the habit of accepting perjured*  
3 *testimony, and to a certain extent engages in*  
4 *malicious prosecution of individuals, especially*  
5 *if they're poor and young. I am talking primarily*  
6 *about minor drug offenses, which they may charge*  
7 *an individual with a more serious offense in order*  
8 *to secure a guilty plea to a lesser offense. By*  
9 *the way, I was born in the most remote part of*  
10 *Appalachia, in a long cabin and the last community*  
11 *in West Virginia to have it's mail delivered on*  
12 *horse back. And I have 16 years of college.*  
13 *Because I am disabled I haven't worked for 23*  
14 *years except as a psychoanalyst with long term*  
15 *mentally ill. This I do on a voluntary basis*  
16 *because I'm not professionally registered in West*  
17 *Virginia, even though I have the education and*  
18 *training to work as such. Okay, let's start with*  
19 *the DHHR, and this is something I am familiar*  
20 *with. They have repeatedly refused individuals on*  
21 *social security disability---*  
22 *MR. HINTON: When you say DHHR, I am pretty*  
23 *much familiar with what you are talking about, but*  
24 *I'm not sure everyone does. Would you tell us*



1 *what agency you are talking about.*

2 *MR. BERRY: This is the Department of Health*

3 *and Human Resources, state level, in Charleston.*

4 *Social security mandated that this agency provide*

5 *Medicaid services and funds to those individuals*

6 *who fell beneath the poverty level. For those of*

7 *us who are disabled, this is a substantial help.*

8 *Last year with an income of \$8000 I paid out \$4000*

9 *from my own pocket for medication. Anyway, social*

10 *security said that the Department of Health and*

11 *Human Resources here in West Virginia was to*

12 *provide Medicaid for individuals, such as myself,*

13 *who met other asset qualifications. This has*

14 *especially affected individuals in the black*

15 *community who have not had a chance or opportunity*

16 *to earn sufficient income before becoming*

17 *disabled. The Department of Health and Human*

18 *Resources has had this policy in place for perhaps*

19 *25 years. I can remember when I was first*

20 *disabled back in 1977, I applied for Medicaid and*

21 *was refused on the grounds that I had other*

22 *assets. There was never a description of what my*

23 *other assets were, other than the clothes on my*

24 *back and a six year old car. Okay. We go from*

1 *there to vocational rehabilitation, where I sit on*  
2 *the Governor's Committee on Disabilities. The*  
3 *Department of Vocational Rehabilitation routinely*  
4 *refuses all requests from the mentally ill for*  
5 *services. I have been through this with them*  
6 *before I was on the Governor's Committee four or*  
7 *five times. It appears from my discussions with*  
8 *other mentally ill individuals, I previously set*  
9 *on the Board of Directors for the Mental Health*  
10 *Consumers Association for ten years, that this is*  
11 *standard policy not to provide any type of*  
12 *services which might enhance the life of a*  
13 *mentally ill individual. Again, this is against*  
14 *federal policy and law, both civil rights and*  
15 *constitutional, to the best of my understanding.*  
16 *I wish to add at this point, would someone from*  
17 *the College of Law here assist me, I would like to*  
18 *develop a rehabilitation plan for those*  
19 *individuals incarcerated in state prisons, to*  
20 *provide drug counseling and therapy, psychiatric*  
21 *counseling, vocational rehabilitation and basic*  
22 *educational programs to see that the young people,*  
23 *both black and white are returned to society with*  
24 *the chance to get on with their lives. I would be*

1 *happy to assist in this and have been told by*  
2 *vocational rehabilitation that they would consider*  
3 *such a program in the state prisons were I to*  
4 *present an outline for implementing such a program*  
5 *for the prisoners. I would also support sentence*  
6 *reduction or even going beyond that. I don't like*  
7 *seeing young people in prison for what I suppose I*  
8 *consider status crimes. I'm not sure when a group*  
9 *of well connected individuals, when the LaRose*  
10 *family can get by with trying to steal everything*  
11 *in the state and not to be subject---*

12 *MR. KUSIC: Mr. Chairman, I want to object.*  
13 *I think at the beginning you mentioned about not*  
14 *making comments about individuals---*

15 *MR. BERRY: I wasn't here at that time.*

16 *MR. KUSIC: Okay. I think it is a fact that*  
17 *the people he is talking about were convicted*  
18 *under federal law.*

19 *MR. HINTON: Okay.*

20 *MR. BERRY: But the state did absolutely*  
21 *nothing.*

22 *MR. KUSIC: I don't want to argue with you.*

23 *MR. BERRY: The state never does anything.*

24 *MR. KUSIC: This was a federal crime.*

1 **MR. BERRY:** *It is also a state crime.*

2 **MR. HINTON:** *Well, that is a matter of choice*  
3 *and I understand that. You mentioned that fact*  
4 *earlier, but I thank you for that clarification*  
5 *because I thought it was going unpunished*  
6 *altogether. That is the inference I got from your*  
7 *earlier statement. If you would like you can move*  
8 *on to another topic.*

9 **MR. BERRY:** *The Office of Behavioral Health*  
10 *Services here in West Virginia displays a general*  
11 *insensitivity to the civil rights of the mentally*  
12 *ill. I will give for example one of my own*  
13 *experiences. Eighteen years ago I had a*  
14 *psychologist try to kill me while in the course of*  
15 *a therapy session, using a sophisticated*  
16 *psychological technique, called a "Mind Virus".*  
17 *This resulted in my total disability and the*  
18 *response upon my complaint to the OBHS was that I*  
19 *had the right to psychiatric treatment, that I had*  
20 *the right not to have someone try to kill me in*  
21 *the course of therapy, and they all most*  
22 *succeeded. The general situation for long term*  
23 *mentally ill here in West Virginia is that they*  
24 *are subject to very harsh regiments of psychiatric*

1 *treatment, totally disregarding their wellbeing or*  
2 *long term outcome. In fact it is the worse that I*  
3 *have come across in the United States. Despite*  
4 *repeated and continual protests filed primary with*  
5 *OBHS, this is the Office of Behavioral Health*  
6 *Services, there has, to the best of my knowledge,*  
7 *never been any attempt to correct the problems*  
8 *associated with psychiatric treatment here in West*  
9 *Virginia. Now, I would like to address the legal*  
10 *community here, if there is anyone present.*

11 *MR. HINTON: Let me ask if you might be brief*  
12 *about the legal community. It is late in the day*  
13 *and we have four more people that we want to*  
14 *present and we may have some questions from the*  
15 *Committee. Go ahead and make some brief comment*  
16 *about the legal community. I'm a member of that*  
17 *legal community, but I have thick skin.*

18 *MR. BERRY: Essentially the legal community I*  
19 *am familiar with here in West Virginia totally*  
20 *disregards the needs of the poor, the disabled,*  
21 *they're chasing the buck. To the best of my*  
22 *knowledge in Nicholas County there has never been*  
23 *a free legal representation for any person that*  
24 *might have a complaint that should be brought*

1 *before the bar. I leave it with that. I pass the*  
2 *torch to whoever's next.*

3 *MR. HINTON: Next we have, the person \*\**  
4 *registered is Bredga Neal.*

5 *MS. NEAL: What I'd like to talk to you all*  
6 *about today is the use of service dogs for*  
7 *nontraditional services. As most of you have*  
8 *guessed by now, I'm not blind, but I do have a*  
9 *service dog. His name's Bubby. Bubby's been with*  
10 *me approximately two years. And he's a diabetes*  
11 *alert dog. He can tell whether or not my sugar is*  
12 *high or low. He's trained to identify whether or*  
13 *not my ketones are spilling, and he can smell the*  
14 *ketones when my sugar is high. When it's low I*  
15 *get a tremor of the hand that he can identify and*  
16 *alerts to differently. He's alerted twice today,*  
17 *if you all noticed. You probably didn't, but he*  
18 *has. What I'd like to talk about real quickly is*  
19 *myself as a simple case study. I, as of March*  
20 *1st, was working for a human service agency, had*  
21 *twenty years experience, was only one of a hundred*  
22 *and fifty persons in the State of West Virginia*  
23 *holding my level of license in social work, had*  
24 *been getting excellent written evaluations for my*

1 *job. My office had the highest productivity of*  
2 *any place in the agency and the quality of the*  
3 *services there were good, according to the*  
4 *consumer's organization and according to chart*  
5 *reviews.*

6 *Well, having a service dog isn't an easy*  
7 *thing. When I first got Bubby, the agency I work*  
8 *for called the organization that Bub is registered*  
9 *with and started asking questions like, "Can a dog*  
10 *really detect diabetes? Can a dog do this? Can a*  
11 *dog do that? And, since I worked and was on the*  
12 *board of the service dog organization, they*  
13 *referred it to me to talk to the personnel*  
14 *director, about her sister, supposedly, that had a*  
15 *problem with a diabetes and needed a service dog.*  
16 *They attempted to separate me from my dog, telling*  
17 *me that my dog would have to stay in a certain*  
18 *area and couldn't leave my office; that I could*  
19 *not see clients with the dog in the room. I was*  
20 *not allowed to take the dog to the main office.*

21 *Bub was service dog of the year in West*  
22 *Virginia last year through National Delta Society.*  
23 *We won a national award for education of being*  
24 *differently-abled in the Jackson County Schools*

1 *through Delta Society. He has been all over the*  
2 *country. He's presented at the National Mental*  
3 *Health Association. We present all over. You all*  
4 *have seen him today and seen that he's just very*  
5 *disruptive. I'm sure that you're having trouble*  
6 *concentrating right now because -- I'm being*  
7 *sarcastic. He is a very good fellow.*

8 *MR. HINTON: Of course, his physical size*  
9 *could be intimidating to some people, though.*

10 *MS. NEAL: I have been told that he's too*  
11 *big, but he can't help that.*

12 *MR. HINTON: Right. I mean, he's not made*  
13 *any sounds that I've heard audibly today, but I do*  
14 *know that his size, I mean, some people just have*  
15 *a fear of certain species and I'm sure that dogs*  
16 *are one of those, you know.*

17 *MS. NEAL: Right.*

18 *MR. HINTON: I mean, and to that extent they*  
19 *have a disability, too.*

20 *MS. NEAL: Well, when you come to a part*  
21 *where somebody has a disability -- and Bub never*  
22 *goes up to somebody unless I tell him he can. He*  
23 *has a command called "say hello", which means that*  
24 *he goes up to the person. He's not supposed to do*



1 *that without it. That leads me on to recently*  
2 *there was a downsizing at work. They had the*  
3 *choice of three persons who did the same job. One*  
4 *of the persons has a lesser degree and a*  
5 *Bachelor's level license; one of the persons had*  
6 *only worked for the agency less than six months; I*  
7 *had worked there for four years, have a Master's*  
8 *level license that allows me to supervise staff*  
9 *and do some things that some of the other folks*  
10 *couldn't. But, I'm the one that's unemployed*  
11 *right now. And when I forcefully asked why? I*  
12 *was told, "I don't want that damned dog going from*  
13 *office to office," because, going from office to*  
14 *office, since there was going to be a reduction in*  
15 *staff, somebody was going to have to travel*  
16 *between three offices, whereas before, I was only*  
17 *in one. I leave you to draw your own conclusions*  
18 *from that. What, as fighting this, I've talked to*  
19 *Mr. Lindell and we're in the process of doing*  
20 *that. This only happened April 1st, so it's very*  
21 *new and very close to my heart right now. One of*  
22 *the main problems we're having with this is*  
23 *there's no standard for service dogs nationally,*  
24 *none whatsoever. There are people in the State of*

1 *West Virginia presently taking dogs in as service*  
2 *dogs, saying they're service dogs, that have never*  
3 *had obedience training, that have fleas, that*  
4 *smell bad, have never had a health check, have no*  
5 *identification to show that they are a service*  
6 *dog. These low standards are affecting my ability*  
7 *to use my dog, because my dog meets National Delta*  
8 *Society standards, which I'd love to see adopted*  
9 *as national standards.*

10 *MR. HINTON: I missed the connection there.*  
11 *How are those low standards affecting?*

12 *MS. NEAL: By not having standards how can I*  
13 *say yes, my dog is qualified to be a service dog;*  
14 *yes, my dog is able to perform as one? Without*  
15 *those standards I'm in a Catch 22.*

16 *MR. HINTON: But did I understand that other*  
17 *people are being allowed to use their dogs who*  
18 *aren't as qualified as your dog?*

19 *MS. NEAL: There are people using dogs that*  
20 *have never had obedience training, who are not*  
21 *spayed and neutered.*

22 *MR. HINTON: Yeah, but what I'm trying to get*  
23 *at is how is that related?*

24 *MS. NEAL: Not in my agency. I'm talking*

1 *about all over.*

2 *MR. HINTON: Yeah, but your point was that*  
3 *these unqualified dogs are being allowed to be*  
4 *used as service dogs, who are less qualified than*  
5 *your dog.*

6 *MS. NEAL: Uh-huh.*

7 *MR. HINTON: And your dog isn't. And I can't*  
8 *understand how the lack of standards is keeping*  
9 *you from using your dog.*

10 *MS. NEAL: The lack of standards is causing*  
11 *me difficulty in using my dog because people*  
12 *question service dogs. When you have people*  
13 *coming into Krogers, in a small town, with a*  
14 *service that doesn't meet standards, then you come*  
15 *in with your service dog that does meet standards,*  
16 *they compare the two. The agency that I worked*  
17 *for did have some trouble with people bringing*  
18 *service dogs in that didn't meet qualifications at*  
19 *one time, and told them to leave and whatever.*

20 *MR. HINTON: Creating stereotype standards?*

21 *MS. NEAL: Huh?*

22 *MR. HINTON: Are these other dogs creating*  
23 *stereotypes for the qualified dogs?*

24 *MS. NEAL: Yes.*

1 **MR. HINTON:** *Okay. Okay.*

2 **MS. NEAL:** *Yes, he's been discriminated*  
3 *against.*

4 **MR. HINTON:** *Okay.*

5 **MS. NEAL:** *Because of the lack of saying what*  
6 *it is.*

7 **MR. HINTON:** *Okay.*

8 **MS. NEAL:** *I'm sorry; it is confusing.*

9 **MR. HINTON:** *Okay.*

10 **MS. NEAL:** *So, I did bring with me a copy of*  
11 *the state law regarding service dogs and the*  
12 *federal law regarding service dogs. I'd like to*  
13 *give you a copy of those to consider, to look at.*

14 **MR. HINTON:** *Sure.*

15 **MS. NEAL:** *And I'd also suggest that if you*  
16 *have a chance, if you have the ability to get onto*  
17 *the web look at deltasociety, which is one word,*  
18 *dot org [deltasociety.org]. And they have a*  
19 *service dog center and they specifically have a*  
20 *training program and what a service dog should be.*

21 **MR. HINTON:** *Is that case sensitive?*

22 **MS. NEAL:** *Yes, the cases also.*

23 **MR. HINTON:** *No, the web address, is it case*  
24 *sensitive; small caps?*

1 **MS. NEAL:** *It's all small letters.*

2 **MR. HINTON:** *Okay. Next we have Mr. William*  
3 *Bunner*

4 **MR. BUNNER:** *My name's William Bunner, B-u-n-*  
5 *n-e-r. I'm a resident of Monongalia County, West*  
6 *Virginia, lifelong. I'm just a few weeks shy of*  
7 *my fiftieth birthday and I have been legally*  
8 *disabled since 1995. A disability which has*  
9 *rendered me -- a physical disability which has*  
10 *rendered my diabetic condition much worse. I've*  
11 *been diabetic for about thirteen years. It is not*  
12 *a condition relative to my obesity, although I've*  
13 *always been obese from Day One. That's, I'm told,*  
14 *due to the fact that I'm part native American and*  
15 *inherited those genetic flaws from my Delaware*  
16 *ancestors who got exterminated trying to defend*  
17 *their land here a couple hundred years ago.*

18 *I serve on several U. S. Department of*  
19 *Agriculture Committees and Boards relative to*  
20 *civil rights compliance. And, I know, I don't*  
21 *want to defend the USDA's performance,*  
22 *particularly their performance in most southern*  
23 *states. I will say, though, I had a person ask*  
24 *me, a technician - we have a young African-*

1 *American technician - graduate of the University*  
2 *of Alabama, who works here in our three-county*  
3 *area, which is Monongalia, Marion and Preston, and*  
4 *she says to me, "Why aren't any of your soil*  
5 *conservation cooperators or people who request*  
6 *service persons of color?" And I said, "Beats me.*  
7 *After fifteen years that still beats me as a*  
8 *question." I will say, out of some thirteen*  
9 *hundred cooperators - and we don't have 1300*  
10 *farmers, you don't have to be a farmer to be a*  
11 *soil district cooperator - we do have a handful of*  
12 *disabled persons. We have three people who are*  
13 *declared to be native Americans, who all happen to*  
14 *be cousins of my. And we have two Hispanic*  
15 *cooperators in Marion County. We do not have any*  
16 *black cooperators, and I don't know why that is.*  
17 *Be that as it may---*

18 *MR. HINTON: What is a cooperator?*

19 *MR. BUNNER: A person who signs up -- to be a*  
20 *cooperator you have to own at least three acres of*  
21 *land, you have to agree to, if you are going to*  
22 *modify your land or use it in any way, use good*  
23 *agricultural practices and as a result you obtain*  
24 *free service, free technical service from the U.*

1 *S. Department of Agriculture. And so, like I say,*  
2 *this young woman was here doing primarily soil*  
3 *testing and asked the question why no black*  
4 *cooperators and I couldn't give her the answer to*  
5 *that.*

6 *MR. HINTON: Do you know how many black*  
7 *people own three acres of land?*

8 *MR. BUNNER: I don't know. I, yes, there are*  
9 *black persons who do own more than three acres of*  
10 *land. I happen to know a couple of them.*

11 *MR. HINTON: In these three counties?*

12 *MR. BUNNER: Yes. Yes. As a matter of fact,*  
13 *the ones -- I know one in Preston and at least two*  
14 *in Monongalia who haven't sought service or any*  
15 *assistance for whatever reason. I can't honestly*  
16 *say about Marion County, although I would surely*  
17 *think that there are, that there's someone there*  
18 *who is black and has three acres of land.*

19 *MR. HINTON: I would doubt it.*

20 *MR. BUNNER: There may not be. I think that*  
21 *she was rather surprised to see that in this area.*  
22 *And, another ironic thing is, over the fifteen*  
23 *years we've -- we hold public hearings every three*  
24 *years relative to civil rights, disability and*

1 *other issues. Maybe it's a good sign we've never*  
2 *had anyone come forward with a complaint based on*  
3 *discrimination in this district. And I might add,*  
4 *our next public hearing will be announced in the*  
5 *paper here for the three-county district next,*  
6 *it'll be held within the next month. We are also*  
7 *building a new ADA compliance structure for*  
8 *Preston County. We already meet ADA requirements*  
9 *in Monongalia and Marion County. Preston County*  
10 *is probably the most dilapidated and out of*  
11 *compliant building we have in the whole State of*  
12 *West Virginia, and it will be replaced next March.*

13 *I didn't come here with the intention of*  
14 *saying anything; I came here with my sister. But*  
15 *things have -- I want to make a number of quick*  
16 *observations about things. A very good friend of*  
17 *mine, former college roommate, a gentleman who's*  
18 *well known politically in West Virginia, who now*  
19 *is a resident of Maryland, his wife, twelve years,*  
20 *Special Education teacher, extremely qualified,*  
21 *when he was here in school at WVU a couple years*  
22 *ago, she applied for a Special Ed job relative to*  
23 *the home care of a particular child. And I'll*  
24 *state it, I believe it was Mrs. Justice's child.*



1 *She was told by the person's at the Board of*  
2 *Education office, "You don't want this job. You*  
3 *really don't want this job. And if you want this*  
4 *job as bad as you say you want this job, we'll*  
5 *find a pretext not to hire you into this job." I*  
6 *want to say, the Monongalia Board of Education -*  
7 *maybe I'm concurring with a lot of people here -*  
8 *is as bad as you've heard today. Yes, it's true,*  
9 *they've always dealt in this deal: If the*  
10 *university hires the husband the wife's found a*  
11 *job. That's gone on for years. There's also been*  
12 *a long, ongoing preference dating to the 1950s to*  
13 *hire Roman Catholic teachers in this school*  
14 *system. Now, I'm not a religious person or an*  
15 *irreligious person, but that dates back to the*  
16 *times when Dr. Z. A. Clark was the superintendent*  
17 *of schools and he was a devout Catholic. This is*  
18 *also at a time when St. Francis provided K to 12*  
19 *in Monongalia County. Yes, it is quite true; they*  
20 *deliberately after ADA was passed moved the board,*  
21 *moved the Special Education office, Dr. Lombardi*  
22 *deliberately moved her office to the top floor of*  
23 *that new building to discourage people from coming*  
24 *there; made it very difficult. I'm surprised. I*

1 *thought, gee, maybe after Dr. Lombardi retired*  
2 *some of these problems with the Board of Education*  
3 *would disappear.*

4 *I would like to correct something,*  
5 *after Mr. George's comments having to do with the*  
6 *census reports. I think you should note - and I,*  
7 *I believe it's absolutely deplorable - at one time*  
8 *when I was a child here in the schools in the '50s*  
9 *in this county, there were a number of black*  
10 *teachers. Of course, most of them had come*  
11 *directly from the old Monongalia High School and*  
12 *so on. There are very few today. But as to our*  
13 *black population, I think it should be noted that*  
14 *there are 800 people on the overall population*  
15 *list, 325 of whom are black, that are actually*  
16 *incarcerees [sic] of the Kennedy Center. And*  
17 *perhaps that number, that entire 800, should be*  
18 *deducted from any consideration of the overall*  
19 *census figures. It still doesn't say much if you*  
20 *only have six blacks working in a school system*  
21 *with all those other thousands. The school board*  
22 *is just part of the problem.*

23 *Two other areas that I feel are*  
24 *serious problems in this community; one is the*

1 *City of Morgantown, and their general attitude --*  
2 *the second is public accommodations in general.*  
3 *Now, let me go to the public accommodations. Went*  
4 *into Eat 'n Park with my sister, who suffers from*  
5 *severe chronic bronchitis, which she's had since*  
6 *she was a young child. We asked to be placed in a*  
7 *non-smoking section and they put us in the non-*  
8 *smoking section, but we were here and the smoking*  
9 *section was like right there, six feet away. We*  
10 *asked to moved to another part and they said,*  
11 *"You'll sit where we damn well tell you. If you*  
12 *don't like it you can leave." Now, keep in mind,*  
13 *I'm not black and they still addressed me that*  
14 *way. So we left. We didn't go back to Eat 'n*  
15 *Park for a year or so, and only then at the*  
16 *request of a friend of ours who said, "Hey, I'm*  
17 *paying."*

18 *I went into Burger King one*  
19 *Saturday, after having been there several times,*  
20 *and a person comes up to me and you know, I weigh*  
21 *349 pounds. I used to weigh over 400; my weight*  
22 *fluctuates. Manager comes up to me and says, "We*  
23 *don't like fat people coming in here to Burger*  
24 *King. It hurts our image." Well, needless to*

1 *say, he got rid of me. I haven't been back.*  
2 *That's the Burger King over here on Patteson*  
3 *Drive. Now, that's typical. I went into a*  
4 *McDonald's last night - and it's a very good place*  
5 *- only to see one of the employees say when a*  
6 *family of African-Americans with very young kids*  
7 *came in, and these, I mean, I'm talking kids four*  
8 *or five years old and the kids are dropping french*  
9 *fries and gomming it all over the table - and*  
10 *their answer was, and this was an employee of the*  
11 *company that says - "See how 'they' behave when*  
12 *'they' come into places like this?" And I thought*  
13 *that was very typical. And not the fact that we*  
14 *were talking about -- and we all knew that "they"*  
15 *didn't mean the fact it was little children, and*  
16 *that's what it was, little children who do make a*  
17 *mess when they go to fast food restaurants. The*  
18 *"they" referred to the fact that those were young*  
19 *children.*

20 *Now, I'm very glad that we've got some*  
21 *beaurocratic folks here from the City of*  
22 *Morgantown. I'd like to address their conduct.*  
23 *You know, I've been told - I have a law degree;*  
24 *haven't practiced in a few years. If it weren't*

1 *for my disability I don't know if I'd be*  
2 *practicing anyway because I'm currently working on*  
3 *my PhD in environmental history at WVU. I own*  
4 *property in this town. I'm told that I can't go*  
5 *to the, or make any comment post, city council*  
6 *meeting because I'm a freeholder; I'm not a*  
7 *citizen and voter of the town. Therefore I'm*  
8 *excluded from any kind of participation. I was*  
9 *told this by a person from the city manager's*  
10 *office. I don't know that that's entirely true.*  
11 *I haven't tested it, but I do know that we have a*  
12 *93-year-old gentleman who likes to talk sometimes*  
13 *about things he don't know what he's talking*  
14 *about. And, his forcible removal from*  
15 *Morgantown's council meetings has often had a*  
16 *chilling effect on the citizens of the community*  
17 *and I think that's a very bad thing. My big*  
18 *criticism, and I want to make this very clear, and*  
19 *this is a very bizarre instance - and a former*  
20 *mayor is here. I own a house that due to my*  
21 *disability and financial constraints I haven't*  
22 *been able to get into compliance. I received this*  
23 *house as an award of the federal bankruptcy court*  
24 *when a client of mine went bankrupt back in 1988.*

1 *The house has stood unoccupied. I have had an*  
2 *ongoing difficulty with the City of Morgantown*  
3 *trying to refurnish this house. This house, when*  
4 *I borrowed money in 1989, was appraised at*  
5 *\$13,000. It is equal or better shape than it was*  
6 *in 1989. Two years ago I received an offer from*  
7 *an individual who just happened to be an African-*  
8 *American, who offered me \$2,000 for my house. I*  
9 *was later told, when I reported a broken window in*  
10 *my house, "Gee, if you'd just sell that house to*  
11 *so and so your problems with the house would go*  
12 *away." I would like not to think that Morgantown*  
13 *practices reverse discrimination.*

14 *That's not the big problem I have with*  
15 *the city, though. The big problem is, the big*  
16 *problem is two things; I did a study for a*  
17 *geography class at WVU on Morgantown crime*  
18 *statistics. I took all the crime statistics for*  
19 *the year 1997 for the entire city in all*  
20 *categories and I mapped them. And then I delved*  
21 *into the actual solved rate of certain cases;*  
22 *burglaries, breaking and enterings and the like.*  
23 *The solved rate for crimes in areas occupied by*  
24 *poor people, by the so-called Asian-American*

1 *ghetto part of Morgantown - and that I'm talking*  
2 *about Dallas, Oak Street, that section that's near*  
3 *campus where you have a very heavy crime rate, but*  
4 *almost no crime has ever been solved there. In my*  
5 *neighborhood, where I own my house, on Brockway*  
6 *Avenue in Lower Greenmont, which was the*  
7 *traditional Italian neighborhood of the city, and*  
8 *now it's mostly students, and elderly folks, and*  
9 *African-Americans, and poor people like me that*  
10 *are too poor to fix their house up to move in,*  
11 *crimes aren't solved there either. The police*  
12 *department has made it very clear by the lack of*  
13 *the solve rate that attention is given to solving*  
14 *crimes in the relatively prosperous areas of the*  
15 *community. Crimes are reported much more*  
16 *frequently in the poor areas of the community, and*  
17 *little or no attention is given to dealing with*  
18 *them.*

19 *MR. HINTON: Mr. Bunner, let me just ask you*  
20 *if you can kind of capsulize your remaining*  
21 *comments. We've got two more speakers and we---*

22 *MR. BUNNER: One more quick thing.*

23 *MR. HINTON: Okay.*

24 *MR. BUNNER: In 1997 public hearing was held*

1 *to dispense or to apply for funds for a low income*  
2 *part of the community of the City of Morgantown.*  
3 *I attended that meeting. It was held one night.*  
4 *The very next night council passed the resolution*  
5 *- and I know they could not have heard what our*  
6 *public comments was - they passed a resolution and*  
7 *applied for money for the poor people of the*  
8 *community. Guess what? That "poor people of the*  
9 *community", that money that was applied for went*  
10 *for a 40 million dollar development project owned*  
11 *by prosperous developers that will have no*  
12 *positive income on the city. City council totally*  
13 *ignored it. And when I went to that public*  
14 *hearing on the old third floor, old council*  
15 *chambers - at that time I could barely walk*  
16 *because I hadn't been out of the hospital long and*  
17 *I had to walk all those steps up there - and when*  
18 *I gave my testimony, which I stated that I thought*  
19 *some of this money should go into assisting low*  
20 *income housing owners. And then to find out the*  
21 *very next night the city passes a resolution - and*  
22 *I know they could not have considered my comments*  
23 *or the comments made by the folks who attended*  
24 *that meeting - that's not -- I mean, Morgantown*



1 *may say they're progressive because they had a*  
2 *black mayor and because WVU is here, but that*  
3 *doesn't make them any more compliant than anywhere*  
4 *else. And I feel that they and the Board of*  
5 *Education of this county are among the worst*  
6 *culprits I've ever seen.*

7 *MR. HINTON: Okay. Next we have Mr. -- is it*  
8 *Russell Medley?*

9 *MR. MEDLEY: Yes.*

10 *MR. HINTON: Okay.*

11 *MR. MEDLEY: Mr. Chairman, my name is Russell*  
12 *Medley. I'm the Pastor of St. Stephen Baptist*  
13 *Church and I've come today, I didn't originally*  
14 *plan to say anything, but I'm very, very concerned*  
15 *about the red tape that our civil service*  
16 *procedure has. And when I mention red tape, the*  
17 *gentleman a few minutes ago mentioned something*  
18 *about you have places that you can go. Well, we*  
19 *found out that - and I've worked with several*  
20 *people here in the community since I've been here*  
21 *- that if you go to, let's say if you go to EEOC,*  
22 *that it may take you anywhere from two to five*  
23 *years to get your case heard. Now, for example,*  
24 *if I'm a young man hoping to move up in my*

1 *company; if I am, let's say, at middle management*  
2 *and let's say I get demoted because of some type*  
3 *of racial issue, now if it takes me five years to*  
4 *get my case presented it stands for good reason*  
5 *that I'm gonna lose a lot of time moving up the*  
6 *corporate ladder. And that's one of the concerns*  
7 *that I have that I would like the commission to*  
8 *look into; how can we cut out some of this red*  
9 *tape.*

10 *We was working with a young lady who*  
11 *worked in the mines and she's still having*  
12 *problems, she and her sister, where they had a*  
13 *problem that they're on disability. They sent*  
14 *their paperwork in to the disability office down*  
15 *at Charleston and they keep getting sent back.*  
16 *They were laid off their jobs. They still don't*  
17 *have their jobs. We had a meeting with the labor*  
18 *relations committee because the sisters felt like,*  
19 *and they were not treated properly by the union.*  
20 *And the labor relations people said the only thing*  
21 *they could do was sort of slap the union's hand.*  
22 *So when we mention these different types of*  
23 *commissions, you know, I really question our*  
24 *country's ability to enforce the things that they*

1 *say we can do. And I think we also have*  
2 *conspiracy going on to make us think that they're*  
3 *doing something when they're not. Because, if it*  
4 *takes you anywhere from two to five or six years,*  
5 *in some cases seven, then you're - and in some*  
6 *places you have a statute of limitations of five*  
7 *where something has to be said or done - that is a*  
8 *very, very long time for a person to be going*  
9 *around suffering with a problem; that either they*  
10 *may have the food taken out of their family's*  
11 *mouths or they may not have a job at all. And*  
12 *this is, this is something that I think the*  
13 *commission should really look into, because I*  
14 *think this is a big, big problem.*

15 *And I always ask God to show me and*  
16 *enlighten me on what I need to know. Recently I*  
17 *talked with a person that works in the EEOC office*  
18 *in Washington, and they said they are literally*  
19 *stacking, they are literally stacking these*  
20 *complaints in the ceiling. So, when will these*  
21 *people be heard? I mean, so if you come here and*  
22 *we share - and I hope this is not going on down in*  
23 *-- this is the state, right, you all are the state*  
24 *people; am I right?*

1 *MR. HINTON: We're the state advisory*  
2 *committee to a federal commission.*

3 *MR. MEDLEY: Okay. And so I'm just trying to*  
4 *say, you know, if we come saying things like this*  
5 *mother was saying a little while ago, if you come*  
6 *and we talk and we talk, how can a person be heard*  
7 *and how can some action be taken? I mean, I think*  
8 *that---*

9 *MR. HINTON: I don't want to disillusion you,*  
10 *but all we can do is report what we hear and we*  
11 *find.*

12 *MR. MEDLEY: And that's what I'm saying.*

13 *MR. HINTON: Okay.*

14 *MR. MEDLEY: So I'm saying, what are we*  
15 *doing? If a person has a problem, then they go to*  
16 *the Human Rights Commission - I've dealt with them*  
17 *- they go to the Human Rights Commission and the*  
18 *Human Rights Commission says all right, you need*  
19 *to go to EEOC. You go to EEOC and EEOC turns*  
20 *around and tells you, all right, it's gonna be*  
21 *anywhere from six to twelve months before we get*  
22 *to you. I've got a problem. I'm trying to feed*  
23 *my kids. I just started working for WVU. My*  
24 *supervisor don't like me. He says, "All right,*

1 *you temporary. You fired." And I haven't done*  
2 *anything but maybe ask a question. So now I'm*  
3 *trying to get a job. Now I'm sorta black-balled,*  
4 *so to speak, because they say I'm a loudmouth. So*  
5 *ain't anybody else gonna hire me. In other words,*  
6 *I have to go out and try to create me a job. And*  
7 *so I'm asking what in the world are we doing.*  
8 *And our government has a setup now, especially*  
9 *with the EEOC -- not the EEOC but the EEO, Equal*  
10 *Opportunity - I want to get that right - Equal*  
11 *Opportunity, whatever it is, Commission. Yeah.*  
12 *Where if it's taking two to five years they're*  
13 *sorta snowballing us. There's nothing gonna get*  
14 *done. That person is gonna be -- it's gonna be a*  
15 *long time before something happens. And I believe*  
16 *that we're sitting on a time bomb, I really do.*  
17 *As much as I hate to say it, it seems like that*  
18 *only that's gonna solve some of the problems that*  
19 *we have now is a revolution. I hate to say that,*  
20 *but unless, unless something is done*  
21 *diplomatically so that a lot of this red tape is*  
22 *cut out, especially like these two ladies in the*  
23 *mine.*

24 *Let me share an experience with you.*

1 *These two ladies had somebody put urine in their*  
2 *coffee cups. They had a safety problem with a*  
3 *safety belt that came loose that like to have -*  
4 *maybe you've heard about it - took their lives---*  
5 *MR. HINTON: No, I haven't. No.*  
6 *MR. MEDLEY: ---could have taken their lives.*  
7 *All right. Their boss gave them harder work than*  
8 *some men had and then one of them tripped going*  
9 *out the door because she tripped over something*  
10 *and durn near broke her back and shoulder. All*  
11 *right? And so now she's struggling with this*  
12 *thing, her disability, and every time she sends*  
13 *her paperwork in, supposedly, to a higher*  
14 *authority, it ends right back with the same*  
15 *person. You know, I've talked with her today.*  
16 *And come to find out that she, the paperwork has*  
17 *gone back to the same person and they send her*  
18 *back to the same doctor to be evaluated by her,*  
19 *who the doctor's not even looking at her and yet,*  
20 *sending in a response.*

21 *So, the only thing I'm saying to the*  
22 *commission, I think we've got a lot of red tape*  
23 *going on. I want to tell you I think you all are*  
24 *red tape. And I think this, you know, we're here*

1 *to vent our frustrations. And the only reason I*  
2 *know, I'm running into the same problem with these*  
3 *people who have problems. And, you know, the*  
4 *thing is how do we solve these problems without*  
5 *having to, you know, take to the streets? And I*  
6 *think this is the thing that we need to be working*  
7 *toward. I think it's really, really sad when in*  
8 *our capitol that they're taking these same things*  
9 *and putting them literally putting them in the*  
10 *ceiling; EEOC. So, if one of you people sitting*  
11 *out here now have a problem and it gets all the*  
12 *way to Washington, DC; we're gonna have to put*  
13 *yours on Lattas II. And it may not never come out*  
14 *of Lattas II. And how are we gonna solve this*  
15 *problem? And they're told this is the route you*  
16 *have to take.*

17 *I appreciate this gentleman's statement,*  
18 *but it ain't working, you know. And if something*  
19 *ain't working we need to try to fix it. You know,*  
20 *we need to try to cut down the time; you know,*  
21 *three, four months.*

22 *We recently had an experience in my*  
23 *family and the only reason why we was able to do*  
24 *something a little bit different, because we had*

1 *experience before. It had taken us almost four*  
2 *years to get something resolved. And the people*  
3 *presented to us EEOC. Well, in order to get it*  
4 *before someone we went through all the regulations*  
5 *and we're saying, these people here will see it in*  
6 *120 days. Not that they were gonna do anything*  
7 *about, but somebody was gonna see it in 120 days.*  
8 *Thank God some things worked out. But at the same*  
9 *time we cut down a lot of the red tape. And I*  
10 *think a lot of the organizations, commissions,*  
11 *that they have set up are not, is not cutting the*  
12 *mustard. And I would love for this commission to*  
13 *look into us cutting out this red tape.*

14 *MR. HINTON: Well, now again, we can't look*  
15 *into that. We can only report. That's one of the*  
16 *frustrations people are facing as they address*  
17 *the---*

18 *MR. MEDLEY: Yeah.*

19 *MR. HINTON: I mean, we can't, we don't have*  
20 *the power and capacity to look into those things.*  
21 *We can make the proper report that people are*  
22 *frustrated that it's taking too long to have their*  
23 *complaints resolved.*

24 *MR. MEDLEY: Okay.*



1 *MR. HINTON: That's all we can do.*

2 *MR. MEDLEY: Well, let me ask you one other*  
3 *question: Who has the power and who has the*  
4 *authority and the enforcement action to be able to*  
5 *do something about it?*

6 *MR. HINTON: Well, one important thing is*  
7 *that, you know, Congress could provide more*  
8 *funding for a larger staff and have more workers.*  
9 *But, typically, it's been my experience and*  
10 *knowledge that most of these agencies are*  
11 *underfunded, understaffed, and they're barraged*  
12 *with complaints after complaints. And it takes*  
13 *time to process those things. You know, Mr.*  
14 *Lindell works for the Human Rights Commission,*  
15 *and, you know, if they had the money they need to*  
16 *operate they could do a much more efficient job.*  
17 *But I don't think that the country's designed to*  
18 *deal with these issues because funding's a good*  
19 *way to hamper organizations of this nature.*

20 *MR. MEDLEY: Well, they have money available.*

21 *MR. HINTON: I mean, it's available, but*  
22 *they're not getting the money.*

23 *MR. MEDLEY: Right. But what I'm saying --*  
24 *this is what I'm saying. And I think this is what*

1 *needs to be made clear, if I got together some*  
2 *young men and some women and took to the street*  
3 *with some machine guns or whatever, something*  
4 *would get done.*

5 **MR. HINTON:** *Well, historically---*

6 **MR. MEDLEY:** *We'd probably lose our lives,*  
7 *but somebody else along the way---*

8 **MR. HINTON:** *---historically, you go back to*  
9 *the '60s, with all the riots we had, shortly*  
10 *thereafter there was funding for a lot of agencies*  
11 *and programs.*

12 **MR. MEDLEY:** *That's what I'm saying.*

13 **MR. HINTON:** *Yeah.*

14 **MR. MEDLEY:** *I think we should -- we don't*  
15 *have to---*

16 **MR. HINTON:** *And we may get back to that, and*  
17 *I hope not.*

18 **MR. MEDLEY:** *Yeah. And so that's why I think*  
19 *it needs to be made clear, you know, we sit here*  
20 *and we talk. It's like Mother Meade was saying,*  
21 *you know, - I'm younger than she is - but I don't*  
22 *want to be 64 years old, you know, away from my*  
23 *cart and horse.*

24 **MR. HINTON:** *Right.*

1 **MR. MEDLEY:** *I mean, you know what I'm*  
2 *saying?*

3 **MR. HINTON:** *Yes.*

4 **MR. MEDLEY:** *And so I think we really need to*  
5 *address issues of enforcement and authority. And,*  
6 *let's say, if you, you all, if people like you*  
7 *come down, let's say we right here, Monongalia*  
8 *County, all of us that have EEOC problems, you all*  
9 *were able to come in, we look through that stuff,*  
10 *you know, let's say you got a hundred cases,*  
11 *you're gonna be here for a week; you've got to get*  
12 *through those hundred cases at least twenty a day.*  
13 *All right? And make some decision on how*  
14 *somebody---*

15 **MR. HINTON:** *It doesn't work that---*

16 **MR. MEDLEY:** *---can resolve their problem.*  
17 *What did you say?*

18 **MR. HINTON:** *It doesn't work that way.*

19 **MR. MEDLEY:** *I know, but I'm saying maybe we*  
20 *can do something to help make it work that a way,*  
21 *so we won't be going through whatever this young*  
22 *man here is going through. But, you know, so we*  
23 *can resolve some of these issues. I think it*  
24 *takes too long. It shouldn't take a hundred*

1 *years; you know what I'm saying? These locusts*  
2 *come out every 17 years. They even know what time*  
3 *that some of this stuff we've got going on here*  
4 *now. And that's the only thing I'm saying, you*  
5 *know. I won't take up no more of your time.*  
6 *Thank you very much.*

7 **MR. HINTON:** *Okay. And, lastly, we have, Ms.*  
8 *Patricia Bunner.*

9 **MS. BUNNER:** *I'll show my arrogance: I'm the*  
10 *best for last, I guess. I don't know. My name's*  
11 *Patricia Bunner and I live here in Monongalia*  
12 *County and ten years ago I never dreamed that I*  
13 *would be on SSI at \$500 a month cause I was making*  
14 *about \$140,000 a year practicing law. But, all it*  
15 *took was one little whiplash hit and run accident*  
16 *and I'm here. It can happen to you. It can*  
17 *happen to anybody today or tomorrow going home*  
18 *from here. I want you to all be aware that, you*  
19 *know, people will say to me - one of my former*  
20 *Econ. Professors said to me when I said I had a*  
21 *brain injury, he said he thought I was kidding,*  
22 *because nothing appeared to be wrong. I wish that*  
23 *were the case. But approximately six years ago I*  
24 *sustained traumatic brain injury in an auto*

1 *accident and it was just a little auto accident.*  
2 *The nature of this neurological injury was not ,*  
3 *diagnosed accurately until May of last year. In*  
4 *other words, from '93 to '98 I kept going to WVU*  
5 *and they kept diagnosing, but they were on the*  
6 *right track, because my particular injury takes,*  
7 *if you're luck, four to five years to diagnose. I*  
8 *was lucky; they got it in four to five years.*  
9 *They knew something was wrong. I've been on*  
10 *administrative suspension from the West Virginia*  
11 *State Bar because when I started cussing out my*  
12 *clients they figured something was really wrong*  
13 *because the clients hadn't particularly done*  
14 *anything. What they figured is I had manifested a*  
15 *change in personality. I totally lost my ability*  
16 *to balance a checkbook and I still have problems*  
17 *with that. And I've been through a lot of*  
18 *neuropsychiatric testing and my cognitive deficits*  
19 *are such that I have a 48 percent neuro-vegetative*  
20 *state, or so I did when I was last tested two*  
21 *years ago. But what I sustained and what happened*  
22 *to me was the inner part of my brain, which is the*  
23 *amygdala, which is part of the limbic system that*  
24 *controls emotions and sequencing of information,*

1 *and particularly deals with the transformation of*  
2 *information from the right brain to the left*  
3 *brain, was hit internally inside. Just like that.*  
4 *Didn't really know it. Didn't really know*  
5 *anything was really wrong until a year later when*  
6 *I blacked out and don't know what happened. But*  
7 *I'm one of the lucky ones with traumatic brain*  
8 *injury. I'm told that once I'm diagnosed, in six*  
9 *or seven years I will be recovered. I hope that*  
10 *in six or seven years of treatment that I will not*  
11 *only be recovered but be able to get a job again*  
12 *and be able to work. I will probably -- I will*  
13 *never be able to go back to the courtroom trial*  
14 *law, because I cannot think on my feet. My*  
15 *ability to logically think I am told is*  
16 *permanently forget it, it's below normal. I can*  
17 *forget about logic; I just can't do that.*

18 *What I do want to talk about, and I*  
19 *tried to write this down to remember it, cause I*  
20 *can't, like I said, I can't logically think, I do*  
21 *have loss of time. I do forget entire days. And*  
22 *I suffer from sleep disorders. Sometimes it's*  
23 *eighteen or twenty-four hours I sleep. And that's*  
24 *why I'm fortunate that I'm in the graduate program*

1 *in History at WVU because I can do independent*  
2 *studies, like I'm doing this summer. However, I'm*  
3 *on academic probation because I have seven*  
4 *incompletes, cause I cannot complete work in the*  
5 *time period allotted. I have a very*  
6 *understanding department, a very understanding*  
7 *doctoral committee in history. I wish I could say*  
8 *that about West Virginia University Disability*  
9 *Services. I can't say that. In my former life I*  
10 *practiced law in Washington, D. C., New York City*  
11 *and here in Morgantown. But in the process of*  
12 *having the brain injury my IQ dropped thirty*  
13 *points. And I was told by neurology at WVU that*  
14 *there's nothing that they could do for me any*  
15 *further; that I'm just, I'm out here on my own. I*  
16 *draw my once-a-month SSI check and hope for the*  
17 *best. Well, I've always been kind of independent*  
18 *minded, and say what I think and to hell with the*  
19 *consequences, and I still do that. I was told*  
20 *that, you know, I simply had to accept the fact*  
21 *that my cognitive functions would not and could*  
22 *not improve beyond what they'd already improved*  
23 *two years after the accident. In other words, by*  
24 *'95 if I couldn't do it I wasn't going to be able*

1 *to do it. Well, in '96 I re-enrolled at WVU as an*  
2 *undergraduate as a second degree just to get my*  
3 *feet wet and try to go back to school. I*  
4 *contacted this University Disability Services for*  
5 *assistance. Basically, there was none for me and*  
6 *I was told point blank that if I were blind or*  
7 *physically impaired I could get assistance, but*  
8 *since I was neurologically impaired there was*  
9 *nothing they had in their services that they could*  
10 *do for me. And my comment is, just because I*  
11 *don't have a wheelchair, use a cane, I'm not blind*  
12 *or I don't use a hearing aid, folks, I got a real*  
13 *problem, and it's up here, and I can't help it.*  
14 *You know, I'm trying and I really wish that*  
15 *someone would be more aware that there are people*  
16 *walking around that do have disabilities. Maybe*  
17 *they're invisible to you, but they are there. You*  
18 *know, as an attorney I represented several people*  
19 *that had brain injuries and usually in the*  
20 *criminal court system. I wish I knew then what I*  
21 *know now about brain injury and realize, you know,*  
22 *what their personality manifestation was. It*  
23 *wasn't criminal conduct. It was a part of their*  
24 *disorder and fortunately I know it now, but the*



1 *West Virginia court system doesn't understand that*  
2 *you're dealing with, you know, brain chemistry,*  
3 *brain injury; that type of thing. And it's not,*  
4 *you know, it's something that is diagnosable, it's*  
5 *something that's treatable.*

6 *To give you just an idea, I mean, on the*  
7 *good side of West Virginia Disability Services, I*  
8 *mean, I have learned to just go around them. I*  
9 *mean, after -- they did give me a temporary*  
10 *disabled permit when my permanent motor vehicle*  
11 *permit didn't come in in time. But, but for the*  
12 *help, personal assistance of David Satterfield and*  
13 *David Hardesty - by calling him at home, which I'm*  
14 *sure he loved - I wouldn't have been able to get a*  
15 *few services and a few things solved. But I have*  
16 *not received assistance from Disability Services.*  
17 *And I want to speak to three things -- well, two*  
18 *things in particular.*

19 *One: It was in regard to the fact that*  
20 *when I was, in '96, '97 when I was enrolled in Ed.*  
21 *Psych. 3-12, my neurological cognitive reports are*  
22 *on file at Disability Services, where they had*  
23 *been languishing in some file drawer since '96. I*  
24 *needed extra time to take an exam. I came up to a*

1 *final exam -- I had been given, in the mid term I*  
2 *had been given extra time; I was given eight and a*  
3 *half hours. That's how long it took me to get*  
4 *through the statistics exam. I got an 88 on it.*  
5 *But when I went to the final they said three*  
6 *hours; that's it. Well, my 38 combined with the*  
7 *88 gave me a "F". That's fine. You know, I can*  
8 *always take it again, or I can always use my legal*  
9 *degree combined with my Ed. Psych 3-11 statistics*  
10 *or some, oh, re-learned French, because it's back*  
11 *there somewhere, I suppose I could relearn it, for*  
12 *my doctoral requirements in history. But that*  
13 *same semester I had an incident in regard to a*  
14 *Religion 2-90 course, an independent study, which*  
15 *I was taking pass/fail for the fun of it. Since ,*  
16 *I've taken several courses in regard to theology*  
17 *and divinity and when I get my PhD in History I'll*  
18 *have my law degree plus the Divinity Doctorate,*  
19 *and the Theology Doctorate, and either somebody's*  
20 *gonna employ me or the U. S. Government is gonna*  
21 *eat \$138,000 in student loans. It's their choice*  
22 *is the way I look at it. I really would rather*  
23 *work. I came in for a final exam in Religion 2-*  
24 *90. I take a medication and it sends me to the*

1 *bathroom quite often. I had to go to the*  
2 *restroom. I was not allowed back in the exam to*  
3 *finish the final. I had a 79, which is the high*  
4 *of C+ on the mid term, which I didn't study for*  
5 *since it was just pass/fail. But I got an*  
6 *unforgivable "F" because I basically wrote a*  
7 *letter and raised hell, went to the faculty senate*  
8 *to someone I'd known here in town who happened to*  
9 *be president of the faculty senate at the time,*  
10 *and basically raised hell about that particular*  
11 *department, Religion. University Disability*  
12 *Services said they would help me, but I never got*  
13 *any help. Ironically, since I do have chronic*  
14 *obstructive pulmonary disease the religion class*  
15 *was conducted in Armstrong Hall and the asbestos*  
16 *was being removed from the hallway at this same*  
17 *time. You know, I didn't complain about that, but*  
18 *I didn't -- what I didn't really appreciate that I*  
19 *couldn't go back in and finish the final exam*  
20 *because I had to go to the bathroom. And that*  
21 *type of WVU, I don't think, should be tolerated.*  
22 *The fact that it can go on in any department*  
23 *anywhere, I mean, my reaction is, I graduated Phi*  
24 *Beta Kappa, I got Phi Kappa Phi, or whatever it is*

1 *for the top two percent of the graduate students.*  
2 *That's with the two Fs. I can take it. But what*  
3 *really gets me is the fact that those departments*  
4 *I filed an academic with never responded to me.*  
5 *And the one in statistics was an Educational*  
6 *Psychology out there at Allen Hall. You would*  
7 *think people working to teaching Masters and*  
8 *Doctorate level people in Ed. Psych. would know*  
9 *about disabilities. They're trained people in*  
10 *Voc. Rehab. They're trained, they had*  
11 *psychologists and counselors, but they never got*  
12 *back to me. Now, I suppose, if I had nothing*  
13 *better to do I can get around and talk to Dean*  
14 *Ellis or somebody, you know, about something.*  
15 *But, you know, I don't even know if it's worth my*  
16 *while. I may -- if I have nothing better to do*  
17 *one of these days I will, but right now I'm*  
18 *working on my incompletes. I will say that what I*  
19 *find about WVU in particular on Disability*  
20 *Services, I find it about social justice in*  
21 *particular. They put a lot of P.R., the pictures*  
22 *of people in wheelchairs, to using them and to*  
23 *using black people for P.R., and saying, "Oh,*  
24 *we'd made these accommodations." They make it*

1 *look good. And there seems to be a lot of "two*  
2 *for" hiring black women at WVU, which is very*  
3 *noticeable. In fact in a geography class we*  
4 *talked about the fact that there was a lot of "two*  
5 *for" hiring.*

6 *MR. HINTON: When you say "two for" you need*  
7 *to explain that.*

8 *MS. BUNNER: Black female. A lot of two for*  
9 *hiring for window dressing. And that's really*  
10 *what it appears to be; that's my opinion, from*  
11 *what I've seen. I've talked -- a good friend of*  
12 *mine who's done or been an aid to the disabled in*  
13 *Oregon and has since - he's a graduate student in*  
14 *History - he's also done some, worked as an aid*  
15 *part-time, on his own, as a volunteer, due to his*  
16 *experience in lifting people that are in*  
17 *wheelchairs. And he's come to the same*  
18 *conclusion; it's a lot of window dressing. It*  
19 *sounds good; it makes good P.R., but the heart is*  
20 *not there; it's just window dressing.*

21 *If you want to talk about racism, my*  
22 *comment is just go to Fairmont. There's something*  
23 *wrong in the water down there. I spotted that*  
24 *fifteen years ago when I was doing Court-appointed*

1 *work. I mean, you cannot believe what goes on at*  
2 *Fairmont; you cannot. I mean, it is so blatant*  
3 *and it is countywide. Fairmont is the worst. How*  
4 *you can live there, I don't know.*

5 *But, you know, the good service, what I*  
6 *wanted to say is I feel I have been fortunate with*  
7 *WVU because I do have a four-person doctoral*  
8 *committee that, you know, has been cooperative.*  
9 *They've let me take my time turning in stuff. And*  
10 *last semester, contrary to what neuro-psych. told*  
11 *me, I was able to pull a four point average and*  
12 *finish everything on time. First time in three*  
13 *years. They said I couldn't do that. Well, I did*  
14 *it. But I've still got all those incompletes to*  
15 *make up and I wish I could get some assistance in*  
16 *regard to those two Fs that those appeals were*  
17 *filed back there, timely filed whenever, but, you*  
18 *know, they'll languish -- they've been*  
19 *languishing. If they languish forever, so be it.*

20 *MR. HINTON: Ms. Bunner, let me ask you if*  
21 *you can---*

22 *MS. BUNNER: ---I'm getting along with my*  
23 *life.*

24 *MR. HINTON: ---wrap up in a little bit,*

1 *because we've got some people who traveled---*  
2 *MS. BUNNER: West Virginia Voc. Rehab., their*  
3 *psychologist - who's out of Fairmont, by the way -*  
4 *and I won't name his name, he says to me, "What*  
5 *are you wanting? You have a law degree. If you*  
6 *want a job, go get it." I'm sorry folks, but I*  
7 *wouldn't hire me to be your lawyer. I know I*  
8 *can't do courtroom work. I've told the West*  
9 *Virginia State Bar. You know, I'm looking at six*  
10 *more years of treatment. And I know that. And I*  
11 *may never -- to be honest, I doubt that I will*  
12 *ever go back to practicing law. I don't really*  
13 *want to. I can't take the stress. I like my free*  
14 *time too much and there are certain advantages to*  
15 *doing history work.*

16 *But my medications, my medical treatment*  
17 *runs \$25,000 a year, annually. I was asked by the*  
18 *History Department, why don't you apply for a*  
19 *graduate assistantship, teaching history. I'd*  
20 *love to. I can't afford to. If I get an*  
21 *assistantship teaching history, teaching two*  
22 *classes of history, one two, fifty-two, fifty-*  
23 *three, I lose my disability, I lose my medical*  
24 *coverage. And it's just, you know, I've got to*

1 *make a choice. And my choice is, I paid my taxes*  
2 *in the past, now, you taxpayers, you get to pay my*  
3 *medical coverage for now until I get off*  
4 *disability services, cause that's just the way it*  
5 *is. Cause at \$25,000 a year, unless I can find a*  
6 *job out there that gives health care, the reality*  
7 *is, I'm on Medicaid. I'm staying disabled. As my*  
8 *doctor says, "You're not ready to go back to*  
9 *work." Well, as long as he's making \$25,000 off*  
10 *of me, I probably won't be ready to go back to*  
11 *work. I don't know. I mean, I have some doubts*  
12 *about that, but at this point in time it's just --*  
13 *you know, I see a lot of window dressing. I mean,*  
14 *the whole, as far as I'm, you know, from my*  
15 *prospective, the whole US Civil Rights Commission*  
16 *is window dressing. I mean, let's face it. We've*  
17 *got a, we've got a very visible majority their*  
18 *rights are trampled and we've got some very vocal*  
19 *minorities whose rights are trampled on. I think*  
20 *the real problem gets down to people need to be*  
21 *involved with their government and they're not*  
22 *doing it.*

23 *But one thing I will part with is this;*  
24 *last Sunday's paper, yesterday's paper, Dominion*



1 *Post, Morgantown, said that there are 75,000*  
2 *people per year who sustain head injury on*  
3 *bicycles. That's just -- multiply that out and*  
4 *considering that I just had a minor injury, the*  
5 *fact it's running \$25,000 for God knows how many*  
6 *years it's gonna be; think of all those people out*  
7 *there who either are or aren't covered. You know,*  
8 *I'm a member of West Virginia Brain Injury*  
9 *Association and their attitude is, don't even try*  
10 *to go back to work; just stay on your disability.*  
11 *I don't want to do that. I really would like to*  
12 *do something. But, you know, I guess my -- I*  
13 *don't know what my bottom line is; I can't sum it.*  
14 *That's part of my injury.*

15 *MR. HINTON: You don't have the logic*  
16 *anymore.*

17 *MS. BUNNER: My logical thinking is not there.*  
18 *But what I really want to say is thank you for the*  
19 *opportunity. I wish that more people would be*  
20 *aware that disability is more than being in a*  
21 *wheelchair and racial discrimination is more than*  
22 *being black. There's a lot of discrimination out*  
23 *there for a lot of different reasons. It's a*  
24 *shame and I think people need to, you know, do*

1 *something about awareness. It's a shame the media*  
2 *has left and hasn't done enough. Do your job.*

3 *MR. HINTON: Does any member of the committee*  
4 *have any questions for the open forum panelists?*

5 *Well, we'd like to thank you for your*  
6 *participation. And, again, you know, we do not*  
7 *have any enforcement mechanism or power; we're*  
8 *just an advisory committee and we will include*  
9 *your comments in our final report.*

10 *We want to thank you for coming. We*  
11 *want to thank the audience for their patience.*  
12 *And you can be looking in the news that we will be*  
13 *making arrangements for our third forum that will*  
14 *be in another part of the state. But thank you*  
15 *again for coming and this will now conclude our*  
16 *forum.*

17 *WHEREUPON, the meeting concluded.*

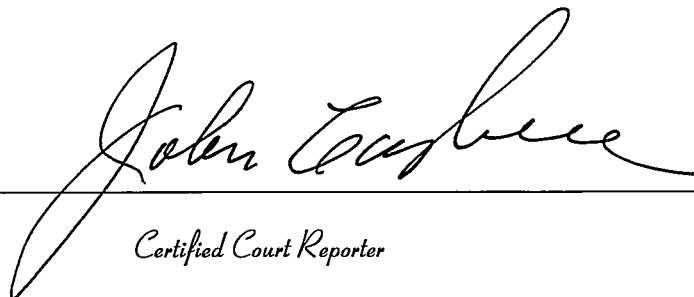
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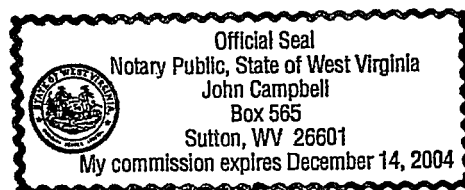
STATE OF WEST VIRGINIA,  
COUNTY OF MONONGALIA, to-wit:

I, JOHN CAMPBELL, a certified court reporter and notary public for the state and county aforesaid, hereby certify that the foregoing is a transcript of the proceedings reported by me, or under my supervision, and herein translated into the English language, with any words unknown to me or my staff spelled phonetically.

I certify further that I am neither, nor is anyone under my supervision, counsel to nor attorney for any of the parties herein and have no pecuniary interest in the outcome of same.

DATED: Friday, July 30, 1999

  
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*Certified Court Reporter*



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