

**Hearing
before the
United States
Commission on Civil Rights**

**AGE DISCRIMINATION IN
FEDERALLY-ASSISTED PROGRAMS**

**HEARING HELD IN
SAN FRANCISCO,
CALIFORNIA**

JUNE 27-28, 1977

VOLUME I: Testimony

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U. S. COMMISSION ON CIVIL RIGHTS

The United States Commission on Civil Rights is a temporary independent, bipartisan agency established by the Congress in 1957 to:

- Investigate complaints alleging denial of the right to vote by reason of race, color, religion, sex, or national origin, or by reason of fraudulent practices;
- Study and collect information concerning legal developments constituting a denial of equal protection of the laws under the Constitution because of race, color, religion, sex, or national origin, or in the administration of justice;
- Appraise Federal laws and policies with respect to the denial of equal protection of the laws because of race, color, religion, sex, or national origin, or in the administration of justice;
- Serve as a national clearinghouse for information concerning denials of equal protection of the laws because of race, color, religion, sex, or national origin; and
- Submit reports, findings, and recommendations to the President and Congress.

MEMBERS OF THE COMMISSION

Arthur S. Flemming, *Chairman*

Stephen Horn, *Vice Chairman*

Frankie M. Freeman

Manuel Ruiz, Jr.

Murray Saltzman

John A. Buggs, *Staff Director*

By the Older Americans Amendments of 1975, the U.S. Commission on Civil Rights was directed to: investigate unreasonable age discrimination in federally-assisted programs; report the findings of the investigation to Congress, the President, and affected Federal agencies; recommend statutory changes or administrative actions based on its findings; and draft general regulations for implementation of the Age Discrimination Act of 1975.

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UNITED STATES COMMISSION ON CIVIL RIGHTS

Morning Session, June 27, 1977

The U.S. Commission on Civil Rights convened, pursuant to notice, at 8:30 a.m., at the Hastings College of the Law, 198 McAllister St., San Francisco, California, Stephen Horn, Vice Chairman, presiding.

PRESENT: Mr. Stephen Horn, Vice Chairman; Mr. Murray Saltzman, Commissioner; Mr. Louis Nunez, Acting Staff Director; Ms. Eileen Bradley, Director, Age Discrimination Study; Ms. Ruthie Taylor, Chief Legal Counsel.

PROCEEDINGS

VICE CHAIRMAN HORN. Ladies and gentlemen, the first portion of the scheduled San Francisco hearing on age discrimination by the United States Commission on Civil Rights is now convened. I will begin by swearing in the clerk and the reporter. If you would rise and please raise your right hands.

[The clerk and court reporter were sworn.]

VICE CHAIRMAN HORN. Ladies and gentlemen, I am Stephen Horn, Vice Chairman, United States Commission on Civil Rights. I would like to welcome you to this hearing, which is the first in a series of four hearings that the Commission is conducting on age discrimination in federally-assisted programs.

Members of the Commission are part time, nominated by the President of the United States and confirmed by the Senate. I am president of California State University-Long Beach.

Presiding with me at this hearing is Commissioner Murray Saltzman, a distinguished rabbi from Indianapolis, Indiana, who is seated on my immediate right.

Other members of the Commission who will not be able to join us today are Chairman Arthur Flemming, former Secretary of Health, Education, and Welfare, and Commissioner on Aging at the present time; Ms. Frankie M. Freeman, attorney from St. Louis, Missouri; Mr. Manuel Ruiz, an attorney and international lawyer from Los Angeles, California.

Also participating in the hearing and seated on my left, are Mr. Louis Nunez, Acting Staff Director of the Commission, Ms. Eileen Bradley, Director of the Age Discrimination Study, Ms. Ruthie Taylor, Chief Legal Counsel for the study, Mr. Marvin Schwartz, staff attorney, and various other members of the staff who are present include Mr. Richard Baca, the General Counsel for the Commission, Mr. James Kretz, Deputy Director of the study, Mr. Bryon Caldwell, Ms. Martha Grey, Ms. Sherron Hiemstra, Mr. Alvin Johnson, Ms. Diane Smith, Ms. Geraldine Smolka, Ms. Shirley Staton, and Mr. Robert Turner.

The United States Commission on Civil Rights is an independent, bipartisan agency of the United States Government, established by Congress in 1957. It is responsible for investigating allegations that citizens are being deprived of their right to vote by reason of their race, color, religion, or national origin; studying and collecting information regarding legal developments which constitute a denial of equal protection under the Constitution in such fields as voting, education, housing, employment, use of public facilities, transportation, and the administration of justice; appraising Federal policies and laws with respect to equal protection of the laws; serving as a national clearinghouse for information with respect to the denial of equal protection of the laws because of race, color, religion, sex, or national origin; and investigating allegations of vote fraud in Federal elections.

The Age Discrimination Act of 1975 was enacted on November 28, 1975, as part of the Older American Amendments of 1975. The purpose of the act is to prohibit unreasonable discrimination on the basis of age in programs or activities receiving Federal funds. The act provides that no person in the United States shall on the basis of age be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

Enforcement of the act has been postponed, however, until January 1, 1979. During the interim, at the request of Congress, the Commission on Civil Rights is conducting a study of unreasonable age discrimination in federally-funded programs. The age discrimination study is intended to uncover specific examples of instances where persons qualified in all other respects are excluded from full participation in these programs.

The act does not apply to programs or activities intended by Congress to benefit a particular age group, such as Head Start. It does not apply to those programs which necessarily take age or age-related characteristics into account, such as delinquency prevention or family planning efforts. With the exception of those programs funded under the Comprehensive Employment and Training Act [CETA], the Age Discrimination Act does not apply to employment practices.

The act charges the Commission to identify with particularity those programs and activities at the Federal, State, and local levels which

receive Federal funds and which deny access to otherwise qualified individuals on the basis of age; determine the nature, cause, scope, and extent of any findings of discrimination based on age; assess the reasonableness of the finding of discrimination; elicit the views of interested parties, including Federal officials, on issues relating to age discrimination, and the reasonableness of using age to distinguish among potential program participants or beneficiaries; and weigh the social, economic, and administrative consequences of alternative solutions to enforcing a ban on unreasonable age discrimination.

The Commission must submit a report of its findings and recommendations for statutory or administrative changes and a set of general, recommended regulations for consideration by the President, the Congress, and affected Federal departments and agencies.

The act specifically directs the Commission in carrying out its study to hold public hearings to seek the views of those administrators, consumers, and other interested parties involved in the implementation of federally-funded programs.

The first hearing follows an extensive field review of eight federally-assisted programs: the food stamp program, Medicaid, the community health centers program, the community mental health center program, the vocational rehabilitation program, the Comprehensive Employment and Training Act program, the social services program under Title XX of the Social Security Act, and the legal services program. These programs were selected because they represent some of the more significant Federal initiatives in the area of social and health service delivery and make up a large portion of the Federal, State, and local social and health services budget.

In addition, the Commission has looked into the field of education, emphasizing the admission policies of graduate institutions and professional schools, admission policies and financial aid procedures of undergraduate institutions, and targeting of appropriations at the elementary and secondary education levels.

Commission staff have interviewed local program administrators and service providers, State government administrators, and regional Federal offices' staff responsible for overseeing and enforcing implementation of program statutes, regulations, and policies. These interviews took place in six cities, and their respective State capitals and Federal regional offices. They include San Antonio, Texas; St. Louis, Missouri; Jackson, Mississippi; Seattle, Washington; Augusta, Maine; and Chicago, Illinois.

In these interviews, the Commission focused on the steps involved in the process of deciding how to allocate funds and other resources among competing interests and whether and to what extent age was a factor in these decisions. For our purposes, we have defined age discrimination as any act or failure to act or any law or policy which results in or constitutes unequal treatment on the basis of age.

The field work, combined with inhouse policy and data analysis, has in fact identified widespread age discrimination; however, the Commission has not resolved the issue of unreasonableness; that is, those standards which should be employed in assessing the lawfulness of the policies, practices, and procedures which give rise to age discrimination.

The purpose of this hearing, then, is to build on and expand the body of information we've acquired from the field review which establishes the existence of age discrimination; to receive testimony from persons who are in a position to explain program behavior which causes or contributes to selecting out potential clients, beneficiaries, or participants on the basis of age; to solicit viewpoints as to what constitutes those exceptional conditions under which the justifications for distinguishing among potential clients, beneficiaries, or participants on the basis of age might be considered reasonable; and to secure recommendations on suggested general regulations and Federal enforcement procedures to implement the act.

The witnesses we have called for these hearings are not being requested to testify on the operation of their program per se, but on the extent to which their program experience is consistent with or different from our findings in other geographic areas and whether age is so central to a program's operation that it merits exemption under the act. We are certain that the testimony of these witnesses and those at the three other hearings that the Commission will hold during the upcoming months will be invaluable in framing our recommendations for implementing the Age Discrimination Act.

The session we begin today will be a public session. The witnesses we will hear have been subpoenaed by the Commission, and the schedule, as you will note from the agenda, has been planned in advance. However, there will be a session at which persons who have not been subpoenaed, but feel they have relevant testimony, may appear and speak. This session is scheduled for Tuesday, June 28, 1977, between 4 and 5 p.m. Persons who desire to appear at that session must contact the Commission staff in Room 450 of this building. Appearances will be allotted on a first-come, first-served basis, and each person will be allowed 5 minutes until the time is exhausted.

I would like to emphasize that a Commission on Civil Rights hearing is intended to explore problems and relationships in such a manner as to allow us to formulate appropriate recommendations for implementation of the Age Discrimination Act. Throughout the Commission's 18-year history it has always sought to conduct its hearings in an objective manner. The same objectivity will prevail at this hearing.

Federal law protects all witnesses subpoenaed to appear before the Commission. Commission procedures require the presence of Federal marshals at its hearings in order to help assure an atmosphere of dignity and decorum in the conduct of its proceedings.

As required by law, notice of the hearing was published in the *Federal Register* on May 23, 1977. A copy of this notice will be in-

troduced into the record at this point as Exhibit 1. Without objection it is so introduced.

Commissioner Saltzman will now explain the rules that govern these proceedings. Commissioner Saltzman?

COMMISSIONER SALTZMAN. Thank you, Dr. Horn.

At the outset, I should emphasize that the observations I am about to make on the Commission's rules constitute nothing more than brief summaries of the significant provisions and the rules themselves should be consulted for a fuller understanding. Staff members will be available to answer questions which arise during the course of the hearing.

In outlining the procedures which will govern the hearing, I think it is important to explain briefly a special Commission procedure for testimony or evidence which may tend to defame, degrade, or incriminate any person. Section 102(e) of our statute provides, and I quote:

If the Commission determines that evidence or testimony at any hearing may tend to defame, degrade, or incriminate any person, it shall receive such evidence or testimony in executive session. The Commission shall afford any person defamed, degraded, or incriminated by such evidence or testimony an opportunity to appear and be heard in executive session with a reasonable number of additional witnesses requested by him or her before deciding to use such evidence or testimony.

When we use the term executive session we mean a session in which only the Commissioners are present in contrast to a session such as this one, which the public is invited and present.

In providing for an executive or closed session for testimony which may tend to defame, degrade, or incriminate any person, Congress clearly intended to give the fullest protection to individuals by affording them an opportunity to show why any testimony which might be damaging to them should not be presented in public. Congress also wished to minimize damage to reputations as much as possible and to provide persons an opportunity to rebut unfounded charges before they were well publicized. Therefore, the Commission, when appropriate, convenes in executive session prior to the receipt of anticipated defamatory testimony. Following the presentation of the testimony in executive session, and any statement in opposition to it, the Commissioners review the significance of the testimony and the merit of the opposition to it. In the event we find the testimony to be of insufficient credibility, or the opposition to it to be of sufficient merit, we may refuse to hear certain witnesses even though those witnesses have been subpoenaed to testify in public session.

An executive session is the only portion of any hearing which is not open to the public. The hearing which begins now is open to all, and the public is invited and urged to attend all of the open sessions. All persons who are scheduled to appear who live or work in California,

or within 50 miles of the hearing site, have been subpoenaed by the Commission. All testimony at the public sessions will be under oath and will be transcribed verbatim by the official reporter.

Everyone who testifies or submits data or evidence is entitled to obtain a copy of the transcript on payment of costs. In addition, within 60 days after the close of the hearing, a person may ask to correct errors in the transcript of the hearing of his or her testimony. Such requests will be granted only to make the transcript conform to testimony as presented at the hearing.

All witnesses are entitled to be accompanied and advised by counsel. After the witness has been questioned by the Commission, counsel may subject his or her client to reasonable examination within the scope of the questions asked by the Commission. He or she may make objections on the record and argue briefly the basis for such objections.

Should any witness fail or refuse to follow an order made by the Vice Chairman, his or her behavior will be considered disorderly and the matter will be referred to the United States Attorney for enforcement pursuant to the Commission's statutory powers.

If the Commission determines that any witness' testimony tends to defame, degrade, or incriminate any person, that person or his or her counsel may submit written questions which, in the discretion of the Commission, may be put to the witness. Such person also has the right to request that witnesses be subpoenaed on his or her behalf.

All witnesses have the right to submit statements prepared by themselves or others for inclusion in the record provided they are submitted within the time required by the rules. Any person who has not been subpoenaed may be permitted in the discretion of the Commission to submit a written statement at this public hearing. Such statement will be reviewed by the members of the Commission and made a part of the record.

Witnesses at Commission hearings are protected by the provision of Title XVIII, United States Code, section 1505, which makes it a crime to threaten, intimidate, or injure witnesses on account of their attendance at Government proceedings. The Commission should be immediately informed of any allegations relating to possible intimidation of witnesses. Let me emphasize that we consider this a very serious matter, and we will do all in our power to protect witnesses who appear at the hearing.

Copies of the rules which govern this hearing may be secured from a member of the Commission staff. Persons who have been subpoenaed have already been given their copies.

Finally, I should point out that these rules were drafted with the intent of ensuring that Commission hearings be conducted in a fair and impartial manner. In many cases, the Commission has gone significantly beyond congressional requirements in providing safeguards for witnesses and other persons. We have done that in the belief that use-

ful facts can be developed best in an atmosphere of calm and objectivity.

This hearing will be in public session today and tomorrow. Daily sessions will run from 8:30 a.m. to 5 p.m., with 1-1/2 hours for lunch.

On Tuesday, the final day of this hearing, the time between 4 and 5 p.m. has been set aside for testimony from persons who have not been subpoenaed, but who wish to testify. As noted by Vice Chairman Horn, persons wishing to appear at that open session should be in contact with members of the Commission staff in Room 450 today and tomorrow. This hearing will conclude at 5 p.m. Tuesday afternoon. Thank you.

VICE CHAIRMAN HORN. Thank you very much, Commissioner Saltzman.

It's now my pleasure to welcome to this hearing the Chairman of the California State Advisory Committee, Mr. Herman Sillas. Mr. Sillas is a distinguished citizen of this State, attorney, now the State director of the department of motor vehicles, who has headed the volunteer committee that is authorized for the Commission in each State and the District of Columbia. We are honored to have you with us.

**WELCOMING STATEMENT OF HERMAN SILLAS, CHAIRMAN, CALIFORNIA
ADVISORY COMMITTEE TO THE U.S. COMMISSION ON CIVIL RIGHTS**

MR. SILLAS. Thank you very much, Commissioner Horn and Commissioner Saltzman.

On behalf of the Commission's western regional office, I am welcoming you here, and also for the staff of the State of California, and wish to congratulate you for picking California as your first location for your public hearing on age discrimination.

The State Advisory Committee is established by the Commission on Civil Rights pursuant to the Civil Rights Act of 1957, as amended in 1964. It is the function of our State Advisory Committee to advise the Commission on any knowledge or information it has of any alleged violation of the right to vote and on legal developments concerning denial of equal protection of the laws, to advise and assist the Commission in matters of mutual concern, and to act as a factfinding body to the Commission. The committee is comprised of representatives of all ethnic and cultural groups in California and represents a diversity of ages, and, I might add, I believe is one of the larger committees now serving the Commission.

Since the establishment of the U.S. Commission on Civil Rights in 1957, this is its first hearing on the issue of age discrimination. Identifying and combating discriminatory practices which work to deny any citizen his or her rights under the laws on the basis of race, religion, sex, or national origin is the mission of our agency. The Age Discrimination Act of 1975 represents the first clear, though limited, opportunity for the Commission to become involved in another area of critical concern, denial of rights and benefits on the basis of age.

The Congress has given the Commission temporary jurisdiction to study unreasonable age discrimination in federally-funded programs and activities. The Commission is conducting this hearing as part of its study to elicit views on whether and to what extent agencies should be permitted to use age as a basis for deciding who will receive the benefits and services made available under a variety of Federal programs. The Commission must report its findings and recommendations to the President and the Congress and draw up general suggested regulations to guide other Federal agencies in meeting their responsibilities under the act.

As a State government official, I have been concerned with the problems of aging and age discrimination in general and have discussed these matters with other members of the California State Advisory Committee and your staff. However, because the Commission's jurisdiction for age discrimination extends only to gathering facts and making recommendations, the State Advisory Committee's role in this area has been a limited one. If and when age is made a full part of the Commission's jurisdiction, which I might add I'll be glad to look forward to that time, the California State Advisory Committee stands ready to assist the Commission in its factfinding and dissemination responsibilities as it has done and will continue to do in other areas.

The members of the State Advisory Committee are proud to serve not only the U.S. Commission on Civil Rights, but to serve all of the people in the State of California. We hope that in the very near future we can be of service to the Commission, and all of California citizens, including those age groups who may, for various reasons, be deprived of certain basic rights because of their age.

And again, we welcome you. Thank you.

VICE CHAIRMAN HORN. Thank you very much. We're delighted to have you with us and we appreciate the many fine efforts made by you and the volunteer members of your committee.

MR. SILLAS. Thank you very much.

VICE CHAIRMAN HORN. Thank you.

Our next welcome was originally to be by the Mayor of San Francisco, the Honorable George Moscone. He has been delayed in a meeting until approximately 10 a.m. this morning. We will now begin the testimony of our witnesses.

I believe Mr. Schwartz is going to question the morning witnesses, if you will call the first panel.

MR. SCHWARTZ. The first panel of witnesses consists of Mr. Bernard Finkelstein, Reverend Nathaniel Linzie, Ms. Barbara Dudley, and Ms. Laurie Shields. Will those persons please come forward and take their places at the witness table?

VICE CHAIRMAN HORN. You may stand and raise your right hand; we will administer the oath.

MR. SCHWARTZ. Mr. Chairman, I see that Reverend Linzie is not in the hearing room, is Reverend Linzie here? Reverend Linzie?

VICE CHAIRMAN HORN. He might well join us at the appointed time.

[Ms. Barbara Dudley, Mr. Bernard Finkelstein, and Ms. Laurie Shields were sworn.]

**TESTIMONY OF BARBARA DUDLEY, SENIOR CITIZENS LAW PROGRAM,
CALIFORNIA RURAL LEGAL ASSISTANCE, SAN FRANCISCO; BERNARD
FINKELSTEIN, REGIONAL REPRESENTATIVE, NATIONAL COUNCIL ON AGING,
SAN FRANCISCO; AND LAURIE SHIELDS, NATIONAL COORDINATOR,
ALLIANCE FOR DISPLACED HOMEMAKERS, OAKLAND**

VICE CHAIRMAN HORN. Please be seated. Counsel, proceed.

MR. SCHWARTZ. Mr. Finkelstein, I'd like to begin the questioning with you this morning. You are a representative of the National Council on the Aging [NCOA] which has some responsibility for the Title IX program in this city in particular and in this area. Will you please describe for the record the responsibility of the National Council on the Aging for the Title IX program?

MR. FINKELSTEIN. Yes. The Title IX program is a title of the Older Americans Act, which is administered through the Department of Labor. The Department of Labor, historically, has entered into contracts with five national contractors for the operation of a program, senior community service employment program, which is now known under the Title IX. As a national contractor, we obviously are responsible for the administration and operation—

COMMISSIONER SALTZMAN. I am sorry, I am not able—

VICE CHAIRMAN HORN. It's a little difficult to hear. I don't know whether it's the echo in the room or what. Let's try the volume a little.

MR. FINKELSTEIN. As I was saying, under the grant award the National Council on Aging is responsible for the administration and operation of Title IX. We have approximately 40 projects throughout the country. Roughly 2,000 people are employed by the National Council on Aging under Title IX.

MR. SCHWARTZ. I skipped an administrative step this morning; perhaps we should take care of that for all the witnesses right from the beginning. I would like you each to state your full name for the record and your address, organizational affiliations, please, and positions. We'll start with you, Mr. Finkelstein.

MR. FINKELSTEIN. I am Bernard Finkelstein. I am regional representative of the National Council on Aging; our offices are in San Francisco, 1182 Market Street. I am primarily responsible for the Title IX program in the States of Oregon, California, Nevada, and Texas.

MR. SCHWARTZ. Ms. Dudley, would you identify yourself?

MS. DUDLEY. I am Barbara Dudley. I'm with the Senior Citizens Law Program of California Rural Legal Assistance. Our offices are at 115 Samson Street in San Francisco.

MR. SCHWARTZ. And Ms. Shields?

MS. SHIELDS. I'm Laurie Shields, I am national coordinator of the Alliance for Displaced Homemakers, located at 3800 Harrison Street in Oakland.

MR. SCHWARTZ. Returning to you, Mr. Finkelstein, to follow up on what you told us, the Title IX of the Older Americans Act is a program which is similar in its formation and its objectives somewhat to the CETA program in that they both are employment programs. However, there are some differences and we, in our field work, have been looking at many of the differences between these two programs.

I know that you are familiar with some of them. From your standpoint as a person who's worked closely with Title IX and has had some involvement with CETA, I'd like you to describe the differences between those two programs, including the differences in eligibility between the two programs, differences in the age groups that are served by those programs, and differences in the thrusts which you may see from the statutes and regulations and from your personal observation, please.

MR. FINKELSTEIN. Thank you. Title IX is first of all a categorical program. Title IX is designed to serve persons 55 and over who meet the poverty guidelines as established federally, persons who are out of the mainstream of employment opportunity by virtue of a myriad of reasons, persons who generally are the least likely to be employed through the normal channels of employment. Title IX is limited to the placement of those eligible individuals into community services positions which have a broad definition in public, tax-supported agencies and/or nonprofit agencies.

The thrust of Title IX is threefold and the emphases vary as the years go by. One of the purposes of Title IX is to provide income to those persons who obviously are of the lowest income level. A secondary purpose or second purpose is to provide an employment-training opportunity for those persons who have been out of the labor market and need to have skills renewed or those persons who need to establish and be developed in new skills and employment capability.

Title IX is a part-time program. Presently, no individual may work more than 1,300 hours a year. Wages are paid under Title IX. It is not a training stipend. This was designed specifically into the program for persons who previously had not been covered by social security, and through Title IX many persons have become eligible for social security benefits.

CETA is a noncategorical program in concept, and you will have many witnesses testifying about CETA and its ramifications. The various titles of CETA obviously are designed for age groups and for purposes other than the provision of community service.

I think I'll stop at that point.

MR. SCHWARTZ. Do you notice from your position an interplay between the two programs with regard to the persons who will be served by one or by the other? The question that I am getting at is: does the existence of one program have some form of impact on the operation of the other, in either direction?

MR. FINKELSTEIN. It doesn't have as much interplay as we would like to see it have. I made the comment that Title IX is a categorical program. CETA came into being with a broad concept of general employment and training purpose allocation, a block grant to communities for the purpose of developing employment and training programs. And I personally believe that there's no such thing as a noncategorical program. I think what has happened in the official circles throughout the Federal system, in terms of allocation of funds, is an administrative and perhaps political concept which is akin to the general revenue sharing or general revenue funds that communities have.

The reality is, particularly in CETA, while a sum of money comes to a community, once decisions are made for the utilization of that money, it becomes a categorical program. And in that dimension, we have consistently tried to relate the Title IX program under NCOA to what exists in the communities we function in in relation to the CETA program.

We know, and—that the CETA function, the CETA programs as a whole have generally given very little support to older workers, and in CETA terms an older worker are those in this room, I guess, most of us who are 45 or 40 and over. I don't believe there are any definitive, really accurate statistics, but at best we judge that maybe 3 percent to 5 percent of CETA money is designed to serve persons 45 and older. It is particularly because of the failure of the local prime sponsors to support older worker programs that a program like Title IX must exist and must expand as it has.

MR. SCHWARTZ. Do you have any observations with regard to that last statement that you made about the failure of CETA to serve older Americans as to what the factors would be in that failure of service, why is it that only 3 percent to 5 percent are being served in that age category?

MR. FINKELSTEIN. I have some opinions. I think, one, that the broad concept that a community may utilize CETA funds in the dimensions it chooses has a significant effect upon its failure to allocate a significant sum of money to older persons in the CETA program.

I think what we're talking about, one, reflects society itself; two, reflects the decisions that are made by the prime sponsor, and we must understand under CETA that the political, a political entity or a combination of political entities are in effect the prime sponsors. In that dimension, then, the staff of the CETAs are responsible to and responsive to, I suspect, the stated and unstated directives which come from the political entity of the prime sponsor.

Since there are procedures established by the Department of Labor in relation to utilization of these funds, we hear the word "significant segment." Technically, I suppose a community may utilize all of its CETA money for a particular significant segment. There is no mandate on the prime sponsor to utilize monies to cover all significant segments. And until some of that changes, I think we're going to find a

continuation of the primary use of the monies—we see the public service employment jobs, we see the CETA I and CETA VI being utilized with some pressure coming upon the prime sponsor from the Department of Labor itself and from local jurisdiction for a variety of groupings of people other than the older person.

MR. SCHWARTZ. Ms. Dudley, what is your observation with regard to the interplay between the Title IX of the Older Americans Act and the program which it establishes and your experience with the CETA program and the age groups particularly that are served by those two programs?

MS. DUDLEY. Well, I wouldn't rely on my own observations. I would rely more on the observation of people both in the Department of Labor and in local, either employment development department offices, since they do outreach for CETA, or in the CETA prime sponsor's office. Which is that by and large the CETA administrators and the Department of Labor feel that Title IX is a good excuse to not serve older workers under the other Title I, II, and VI of CETA.

The administrator of the—I forget exactly what his title is, wait a second—of the Office of Comprehensive Employment Development in the Department of Labor, Manning Pierce Quinlan, testified to that effect and said that he felt that the very existence of the Title IX program gave the prime sponsor the out that they wanted to essentially refer at least all people over 55 and in some cases people over 45 to older worker programs or to Title IX programs.

And my feeling is since the Title IX programs are—fall so short of the CETA programs in terms of the number of job slots, the wages, the hours that you can work, and the means by which you survive in life, that this is, in effect, a form of age discrimination. I can give you a good example of that, if you'd like.

MR. SCHWARTZ. Go right ahead.

MS. DUDLEY. This is not the Title IX program itself; it's within CETA. I have a client who was registered in a CETA Title VI program; he was filling a CETA Title VI slot. He's 62 years old. He was referred—the CETA money, you know, it goes back and forth and back and forth, and the prime sponsor will lose some of his money and try and cut people back and then bring them back on.

In the course of this flux, my client was referred to something known as the older worker program, which was not a Title IX program; it was funded under CETA Title I, but it used all the Title IX criteria as most older workers' programs do. Under this program, my client was going to receive, and he is receiving now, minimum wage, \$2.50 an hour, and working 20 hours a week. He has four children at home, plus a wife who's dependent upon him financially. He is only 62 years old. Under CETA he is now doing exactly the same work he was doing in his Title VI slot. He is working side by side with Title VI enrollees who are earning four times as much as he is.

He was forced, because of this form of discrimination, to collect early social security, in other words, to take an actuarially reduced amount of social security, as soon as he turned age 62. So that he will now be receiving \$30 a month less for the rest of his life because he made the mistake of being old enough to be given this opportunity to work in an older worker program.

The people who are hardest hit by these programs are the people between the ages of 55 and 65 years old. Why they are included in the Title IX programs, I cannot understand. Because the income limitations of social security do not apply to people 55 to 65, at least half of the people enrolled in the Title IX programs are between the ages of 55 and 65, and in some ways it's a cruel joke to them to talk about that income that they're getting as an income supplement because they are not eligible for social security yet. And if they're enrolled in one of these Title IX programs, in many ways they wait until age 62 when they will have to start collecting social security early.

And I feel that that, in and of itself, is a form of discrimination. And a very, very small percentage of these people are ever handled in the regular CETA slots, which are much better paid.

MR. SCHWARTZ. What would you propose to do about this interaction, since at the moment we do have the two programs that are established? What would you see as a remedy to address the problem that you have with your particular case and the problem in general?

MS. DUDLEY. Well, I think there are two—first of all, the problem in my case is simple to solve, since both of them are CETA programs. I would say that to pay someone, simply because they're over the age of 55, a quarter of what the other people are getting is age discrimination and I intend to pursue it along those lines.

I think, however, the broader problem of the Title IX programs has to be solved in one of two ways. Either it has to be seen as a supplement for a categorical program, for a certain category of disadvantaged persons, and we have to pursue—and I think this is your job to do in this study—pursue the pressure on the CETA prime sponsors to include a full complement, an equitable complement of older workers in all CETA programs. And I'd like to urge you to look at CETA Title III as well as I, II, and VI because I think that's one of the most hard-hitting areas of discrimination against older workers.

But we have to have older workers served in CETA programs at least in their proportion to the population or to the unemployed population, and it falls far short of that now; and if that takes eliminating Title IX, which I don't particularly want to do, if that's the only way we can force the prime sponsors to deal with older workers, that's what I would do and take that money and put it into CETA instead.

Now, there are many people who will argue that you need a special program for older workers because the CETA prime sponsor simply won't have anything to do with them. That I don't see as a problem. I think that we have shown that we can do affirmative action for other

groups of people who are discriminated against. We can certainly do it for older workers, and if now with this new age discrimination law which you are looking into the regulations for, it seems to me that we have no problem forcing a prime sponsor to serve older workers equitably.

That is assuming we do not allow them off the hook with Title IX. The problem is Title IX is administered also by the Department of Labor, so that even people that I've spoken to within the Department of Labor in Washington assume that that is the CETA obligation for older workers, even though it has nothing to do with CETA. It's also their excuse for never funding any older worker programs under CETA Title III.

MR. SCHWARTZ. In another area in which you've been involved which impacts directly on the CETA program, I am talking about the State employment service and its relationship to the CETA program, I know that you have been involved in a suit against the employment development department in this particular State. I'd like you to go into the reasons that the lawsuit was brought and the age-related problems that you found in bringing it and what you were trying to address with it.

MS. DUDLEY. Well, the lawsuit was brought to enforce a State statute that was passed back in the good old days of high employment or relatively high employment—I don't want to overstate the case. In about 1961, the statute was passed which required the Employment Development Department [EDD] of California to have an older worker program and it specified to some extent what that program ought to consist of. Essentially that statute was passed at the time when there was a beginning recognition of the special problems of older workers. There was in effect for a few years a very good older worker program in the employment development department here in the State.

Then, in 1969, that program was eliminated overnight. It was simply, the manuals were locked up and the specialists were no longer specialists and that was the end of the program, and that was part of an overall push through the Department of Labor, as well as the EDD, to eliminate any special categorical services.

Since that time many, many special categorical services have reappeared, but mysteriously the older worker services had not reappeared. So, because the statute was still on the books, we were able to bring a lawsuit, a petition for mandamus, asking that the employment development department reinstitute its older worker program.

That was a year ago that the suit was filed and we've been in negotiations with EDD since then, and the results so far is that we have agreed on, one, that they will have an older worker consultant in each field office of EDD, they will have an older worker specialist in the central office, and that they will provide services to older workers even though the Department of Labor binds them to a sort of head count in terms of reimbursement for services.

Employment services are 100 percent federally financed. And because of that, the formula of reimbursement that the Department of Labor sets up encourages the local departments, the EDD, to serve only the easily placed, the readily placed, the job ready, whatever you want to call them, and one of the problems with older workers is they are not necessarily job ready and they are not among the easiest to place in this current employment market.

So they have agreed that they will buck the Department of Labor in some ways and attempt to give at least a parity of services to older workers. I am a little worried at the moment because at the same time they're simultaneously instituting something which they're calling employment service redesign, which I had a little trouble tracking down the real meaning of, and essentially what it means is that they're going to be screening applicants at the front desk and having them not even submit applications unless there is some service that EDD can provide them. So it sounds like in some ways what they're giving with one hand they're taking away with the other, and I would really like to, I have not looked thoroughly enough into this redesign, but I have a feeling that it will operate the way many of those screening things do, which is to cream the more difficult to place off so you don't have to include them in your statistics, which is where all the older workers get the short shrift most of the time.

MR. SCHWARTZ. What you are bringing up here is a problem we face in a number of programs, which is that a Federal policy with regard to reimbursement here or with regard to placement or with regard to the operation of the program, successful operation of a program in terms of costs versus benefits, may have some effect on the operation of the program and perhaps an unintended effect. Do you see any other Federal policies with regard to the operations of the State employment services or the CETA program which will have the effect of producing a differential in service to persons of various age groups?

MS. DUDLEY. Well, I mean, I don't know how familiar you are with the process of what happens to a job applicant when they go into EDD or to any employment services office. I mean, essentially, what has always been the practice is that you walk into one of those offices, sometimes you go in because you're collecting unemployment insurance and in that case they have to provide you with some kind of employment services. It's sort of the quid pro quo for you, getting your UI benefits. In other cases you go in there, either because you can't afford a private employment agency, which I don't know how they are in other States, but the prices charged by private employment agencies in this State are prohibitive, so that you go into EDD just simply for help in finding a job.

The first step is that you are told to go, before you fill out any forms at all, you're told to go over and look at what's known as the job board, which has become infamous in some circles. You look at the job board and essentially you decide for yourself whether you qualify

for any of the jobs listed up on that board. If you qualify you don't have to register or anything; you go off and interview for that job. If you get it, fine, EDD never have to report to them or anything else. The plight of the older worker, and I assume this is true of some other categories, is that they will look at that board and feel that they are not qualified for any of those jobs.

I think older workers generally are going to fall into several categories as the displaced homemakers which Laurie [Shields] will certainly give you enough background on. There are also a lot of older workers whose plants have closed and who have been thrown back onto the job market with a somewhat outdated skill. There are many plant closings in California, as I am sure you're aware. And you know, they're moving over the border or down to the South or whatever, the wages are too high here and so that many small towns are devastated. I know Modesto just recently had a large plant close and a lot of older workers are simply thrown out on the streets.

These people are not going to find a job they want on the job board, because those jobs are either going to require too high a skill level or else the kinds of jobs that they are ready for, if it is a plant closing situation, are going to be found through a union apprenticeship program. They're not going to be found just a job board and you're too old to get into an apprenticeship program, at least until last year where we had that changed, but at that, at that age which maybe we're talking about, 45 or 50 years old, you're not going to find something you qualify for.

No one in EDD then says, "Come back and we will provide you with other services to make you job ready, to help you find a job you can qualify for" or whatever.

So it's only the most persistent person who's going to go back and find someone within EDD and now, hopefully, it will be the older worker consultant, although somehow the applicant's going to have to know that person exists who will give them a modicum of counseling or job, you know, referral to job-training programs or whatever is necessary to get you ready for the job market.

And again, it's the statistics, it's the reason that EDD is not falling all over itself to seek out the people who are not job ready is because they don't want that bad statistics any more than any employer wants bad statistics or any government agency wants bad statistics. And unfortunately in many instances older workers are bad statistics.

MR. SCHWARTZ. The Age Discrimination Act requires that we try to sort out reasonable from unreasonable age discrimination. In the example that you bring up, you're talking about a service that's being provided generally. The effect of the service is that certain persons are easily served; others, older age group people, for example, are not easily served. There is a differential in the services to these age groups. The question I am getting to is: does the existence of that differential, would you say, work an unreasonable age discrimination in the opera-

tion of that program upon the older age group? Is there a duty which should arise, which we should see to it that arises as the Commission on Civil Rights recommending that in order to not be classified unreasonable age discrimination an affirmative duty exists in a program of this sort to serve those people who are not being served currently?

MS. DUDLEY. Well, as you know, my mind is boggled by the concept of reasonable discrimination. I cannot imagine anyone arguing that there is such a thing as reasonable race discrimination or even reasonable sex discrimination, and I find it to be one of the more gross aspects of age discrimination that anyone would consider any aspect of it to be reasonable.

If there are physical reasons or mental reasons why a person is incapable of doing a certain job, that may lead to reasonable discrimination or if they are simply not qualified for that job, but if it is simply an age discriminatory barrier I cannot see how one could possibly characterize it as reasonable. And frankly, I think that, of course the older workers, most of the older workers are in fact not hard to place. Most older workers are some of the, you know, strongest working members of the working force. They are the mainstay of the work force. They are the reliable ones, the ones that come to work and get the job done.

So we're not talking about the majority of older workers. We're talking about some people who are hard to place. And the EDD is not providing an equity of services to them. They have a responsibility to veterans, to disabled Vietnam-era veterans, who are certainly hard to place. They've a responsibility to migrant and seasonal farmworkers who have been displaced by mechanization; those people are very hard to retrain.

They have a responsibility to whole numbers of categories of people who are hard to place. And your job, I feel, is simply to say that older workers are another one of those categories to whom they have a responsibility. It seems to me that the State employment service and the U.S. Department of Labor, their job is to get everybody that can possibly be in the job market in the job market, not to think up ways to exclude people from it and to think up this excluding people from it, and to think up this category called reasonable discrimination as a way of excluding people from the job market seems to me to be a very backwards way to conduct a study on discrimination.

MR. SCHWARTZ. The statute itself is what provides for the distinction on the basis of reasonableness. However, we do have the unique opportunity to recommend to the Congress changes in that statute before the statute actually becomes effective, which is now scheduled for 1979.

I would pose a question to you as a litigator, an attorney who has litigated in this area, in fact, the question of what changes you would recommend that this Commission recommend to Congress and the President, with regard to that provision for reasonableness in age discrimination in the statute—

MS. DUDLEY. Well, essentially, I would eliminate it. I mean I would, I would talk in terms of discrimination as the section which actually prohibits the discrimination does. I think that any form of discrimination based on age should be prohibited, but there I mean I would also strengthen the law so that it's of some use to someone because it seems to me that it would be very hard for a private organization or a private litigant to do anything about an incidence of age discrimination in a federally-funded program from just the way that the statute is written. I don't know what our recourse would be, for example, against the prime sponsor who was serving 2 percent, you know, people over 45. Because I seriously doubt that anybody is going to remove all that prime sponsor funding simply because he's underserving older workers.

So I would like there to be some, some other avenue for us to go in terms of enforcement to encourage affirmative action rather than to have only the last resort of, "We're removing all their money." I would consider it personally to be a tragedy to take away any prime sponsor's money. I might want to change prime sponsors, but I don't want to remove that public service employment money from any area because it's desperately needed.

MR. SCHWARTZ. There are a variety of enforcement schemes which exist, depending on the statute, in Federal law with regard to civil rights matters as I am sure you're aware. There is the Equal Employment Opportunity Commission, a separate commission that has been set up to enforce employment-related problems. For example, there is the Title VI mold, which I'll call it, in which this statute also falls, which provides for termination of Federal funds for programs found to be discriminating.

There are possible other avenues which could be utilized to make this an effective ban on age discrimination. Assuming that that was the congressional intent here, that age discrimination which is unreasonable at least be banned from federally-assisted programs, how would you as a litigator like to see this law and its enforcement scheme written so that it would, in effect, promote that legislative intent and it would give persons who may be discriminated against on the basis of age something to work with with regard to legal remedies?

MS. DUDLEY. Well, I would say there has to be some, some sort of affirmative action section to it, which has some private cause of action. Because my feeling is you can't, it's very difficult for an individual older worker—I've done a number of cases with the Age Discrimination Employment Act—and just taking that as an example it's very difficult for an individual older worker to prove age discrimination.

It is not that difficult to prove it based on figures, based on the fact that 3 percent of the people in the CETA Title I program are over 45. That we can show. The prime sponsor will provide us with the statistics; they do it all the time.

So that if there is some sort of affirmative action requirements rather than showing that an individual older worker was turned away because of his or her age, which they're never going to be that obvious about. I mean they know better. Even the prime sponsors know better. They will set up qualifications or they will do outreach, or any number of methods that we're all familiar with, to exclude people when you want to exclude them. They've done it on race and they've done it on sex and they do it all the time on age. So that we have to have the opportunity to look at the statistics and use that to say, "You have to start doing an affirmative outreach effort to older workers until you come up to some kind of population parity."

And that, to me, that's the only kind of handle that's going to be useful to us. Because I am never going into court arguing to take someone's money away.

MR. SCHWARTZ. Do you see any other remedial provisions which—

MS. DUDLEY. I shouldn't make that blanket a statement—I rescind that.

MR. SCHWARTZ. Do you see any other remedial provisions besides the taking of money away which might be more effective, in addition to the affirmative action?

MS. DUDLEY. It seems to me just the more careful monitoring. As it is right now neither the State nor the Department of Labor do their monitoring job on CETA programs. The State acts as though they have no responsibility for CETA whatsoever, although I dispute that.

They basically throw up their hands and say it's the Department of Labor, and the Department of Labor is not doing a strong monitoring job of prime sponsors in terms of any categorical efforts. I mean, they have to submit their quarterly manpower statistics and so on, and their plans and all this kind of thing, but it seems to me that probably those are not very carefully reviewed. I certainly haven't seen any evidence that they're very carefully reviewed, nor is the Department of Labor reviewing them with an eye toward correcting age discrimination.

So that—I think that would be one way, you know, just to strengthen the monitoring requirement on the part of each Federal agency that funds programs. In other words, you require some kind of statement from them and the way the law is written now, some kind of statement of nondiscrimination on the basis of age. It seems they have come up with a monitoring plan as well.

MR. SCHWARTZ. Assuming that the monitoring plan went into effect, would you then argue in favor of, based on those statistics, allowing private right of action or placing an enforcement responsibility somewhere in the government, either within the department that administers the Federal funds or some other independent agency to oversee that; how would you go about producing an enforcement scheme that would work?

MS. DUDLEY. Well, I think the best enforcement is prevention. So that my idea of a monitoring scheme is not after the fact; it's reviewing the plan.

When someone puts in—I mean there are plans now that I find rather shocking. Where people submit a plan where they target, say out of 1,500 Title I slots, 5 of them for older workers, and I am talking about people over 45 years old. Then, when they turn in their quarterly reports, they've met that by 150 percent. So that they have to look at the actual projected goals that the prime sponsors are submitting and say, "That's unacceptable and you won't get your funds until it is acceptable."

That's better than pulling out the funds in the middle of the year or at the end of the year reviewing what they've done and saying, "Well, we're not going to give you your funds for next year." We want to encourage older workers to be employed, and we don't want to mess with the funding any more than we have to.

So that I think that an ounce of prevention would go a long way in this kind of situation. A prime sponsor, in my experience, will do anything to get his plan approved. And if that means projecting higher numbers of older workers, then they will generally meet their projections. Once they've set out their projections on those, those statistical reports that they have to submit with their plans, they will meet them, they will do the outreach necessary to meet them, so it's the projections that we have to go after.

MR. SCHWARTZ. Would the ounce of prevention be provided by the administrator of a department that provides the Federal financial assistance or would you propose the existence of, let's say, an advisory committee of some kind, or with some form of power?

MS. DUDLEY. I think it's the obligation of the Department of Labor to do it and of the State CETA office because they have an obligation to review the plans anyhow, by law, and they certainly are not meeting that obligation as thoroughly as they should be. But I also think there should be a private right of action.

MR. SCHWARTZ. Mrs. Shields—

VICE CHAIRMAN HORN. Before we leave Mrs. Dudley, let me ask a couple of questions here to get the record complete.

What I'd like, counsel, at this point, as Exhibit 2 is a matrix that compares Title IX of the Older Americans Act with CETA Title VI as it concerns the type of illustrations Ms. Dudley has made along the lines of hours permitted to be worked, compensation, nature of sponsor, budget volume, numbers involved by age groups if there's any national data, planning requirements, enforcement reviews, so forth, so that we can clearly see where the overlapping criteria, if any, are and where the differences are. So, without objection, that will be entered as Exhibit 2 in the record.

Now, the other thing I heard you mention was Title III of CETA. I must say I don't find the background on Title III and I wonder if you could explain what you mean by that and what the relevance is at this point in the record?

MS. DUDLEY. Sure. Before I do that, sir, I would like to point out, probably you know about this, but most of my information on Title IX and CETA in terms of national statistics came from hearings before the Select Committee on Aging of the House of Representatives. The hearings were held in June of '76. And they're called the "Funding of Federal Programs Benefiting Older Persons—Employment." And then they did a committee report which summarizes most of those findings and it's very useful. I'd like to encourage you not only to look into the areas which you pointed out in terms of a comparison, but also the percentage of placements in permanent, nonsubsidized employment, which I think is very important because, generally speaking, I think senior aides are overlooked for permanent jobs that come up. Some national sponsors do a better job at that than others, but generally speaking it's just not a good record.

VICE CHAIRMAN HORN. Now, would you elaborate on Title III?

MS. DUDLEY. On Title III, yes. Title III of CETA is designed for, I forget the phrase, specially disadvantaged groups, okay? And it includes groups like ex-offenders, youth, older workers, non-English-speaking, migrant seasonal farmworkers, Indians, etc., etc., Native Americans. It just lists those as a laundry list in the first section of Title III. The next two sections provide special programs for two of those groups. One is section 303, which is for the migrant and seasonal farmworkers, and the next is section 304, I believe, for the Indians.

Those acknowledge that these are special categories of workers who face special employment problems and therefore set aside a certain percentage of the CETA funds to serve those groups of people to set up special programs. These are programs that circumvent both the State and the prime sponsors and involve grants directly from the Federal Government, from the Department of Labor to a project sponsor, basically acknowledging, as we said before, that there are some categories of people who are not job ready and who need a special level of employment services in order to get into the job market, in order to move into even a Title VI slot, much less a regular, permanent, nonsubsidized job. Now, what I was saying negatively about Title III is, although older workers are included in the laundry list at the beginning of Title III, there has never been an appropriation under Title III for older workers and that's mentioned in these hearings and it's sort of common knowledge in Washington. If you call the Employment and Training Administration looking for even a form, a proposal form, to fill out for Title III and you tell them that you're looking for funding for older workers they will tell you, "I'm sorry, there's no appropriations for older workers under Title III."

That's the end of that story.

VICE CHAIRMAN HORN. Do you know if the Department of Labor and the President have requested an appropriation for Title III—

MS. DUDLEY. No.

VICE CHAIRMAN HORN. —or is it that the Congress has refused to grant it?

Ms. DUDLEY. Neither.

VICE CHAIRMAN HORN. Neither?

Ms. DUDLEY. I mean there has been no request, has there?

MR. FINKELSTEIN. There is a Title III program by statute and there are appropriations for Title III.

COMMISSIONER SALTZMAN. But for older Americans—

VICE CHAIRMAN HORN. For older persons under Title III, well, let's clarify that with the Department of Labor. The question I would have is, for counsel to secure, one, has the administration ever requested specific appropriations for older persons, do they need to do that, cannot the Department of Labor merely allocate some of the money they get under the existing Title III of CETA and put it aside for older persons, and let's put the answer of the Department of Labor in as Exhibit 3. So without objection, that will be included in the record at this point.

Now, one last question as we round out your testimony. I share your concern on what is unreasonable in terms of discrimination and your examples of unreasonable sex and race discrimination are good ones. Obviously, one of the things this Commission faces in its recommendations to the President and Congress is, how do you know when age discrimination has occurred, given the different profiles and natures of particular populations? Would you suggest, and you did allude to the phrase affirmative action, that one of the basic standards ought to be looking at the total potentially eligible by age group, analyzing in terms of total, who applied, and then analyze that in terms of total who received benefits under particular Federal programs? The question then comes as to what is the degree of variation that occurs before "discrimination" is signaled? Do you have a particular percentage figure variance, 3 percent, 5 percent, that you would put it on before the flags go up?

Ms. DUDLEY. Well, two things, if I might. On that, I would say apply whatever standards are applied for race and sex discrimination. We know when there's an egregious case of either race or sex discrimination that the affirmative action requirement is usually much more stringent. When it is one that can be sort of pawned off as happenstance, we don't require such strict standards. I think it would be a mistake to say 3, 5, 2, 1 percent variance, because I think there are going to be variable factors involved in any situation.

Now, the other thing I wanted to say, though, is that I think you have to be very careful what you're talking about. I would argue always for a population parity in terms of service, eligible population for whatever it might be rather than applicant population because, as already your study has documented, the older workers are generally or the older persons are generally not applying for these programs. These programs have not been designed to serve them; they have not been made to feel that they are their programs. Therefore, at least until we see some radical changes in terms of outreach and the availability of

these programs to older workers, I don't think the applicant group is going to give you an adequate sample. I think it's got to be the eligible group.

VICE CHAIRMAN HORN. Thank you.

Now let me ask if Reverend Linzie has come in yet. Is Reverend Linzie here? Has counsel checked to see if he's on his way? Would you please check? All right. Proceed, Mr. Schwartz.

MR. SCHWARTZ. An area was brought up which I know you're familiar with, Mr. Finkelstein, which is the relationship that we're talking about for CETA and Title IX. In various cities, I understand that there is a varying involvement of one program with the other, and of service to older Americans by one program or the other. Can you review the effects of those attempts by various cities to involve older workers in the main CETA program to tell us how successful they have been or unsuccessful and why?

MR. FINKELSTEIN. Yes. Let me just preface my remarks by saying that in our Title IX program NCOA subcontracts its agreement with a local community agency. The subcontractor is that agency in the community which is best capable of administering a day-by-day operation under the concepts of NCOA and Title IX.

In a variety of communities, we have entered into subcontracts with the prime sponsor itself, entered into a Title IX subcontract. Our motivation is very distinct and clear and conscious. One of the reasons for our entering into a contract with a prime sponsor is to serve as that stimulus, that needle which alerts the fact that older workers exist in the community, that older workers can be recruited and employed, that older workers can be trained, that older workers can be placed into unsubsidized, permanent employment.

Let me give you the good spots first. Now recognize this, that Title IX had its precedent with Operation Mainstream and dates back to at least 1968. The National Council on Aging has been involved in this program since that time. In Portland, Oregon, NCOA had a program of about 50 job slots since 1968. With the onset of CETA, and with the kind of relationships that we develop in communities and that one in particular, about 2 years ago we were successful in having the Portland, Oregon, prime sponsor allocate approximately a half-million dollars of its CETA I money for the operation of a parallel program. Now, I say parallel only to the extent that funds were kept in a separate account. The City of Portland literally assumed, lock, stock, and barrel, the NCOA Title IX program. That enabled that city to expand its services by approximately 200 job slots.

In public programs around the country, by virtue of the kind of contracts we have and the kind of development—I believe in Vermont we have had a parallel condition where the prime sponsor matched the allocation. In other communities we have had more modest success. After about 5 years we are breaking through in Brownsville, Texas. Last year we broke through in Los Angeles for approximately 25 job slots out of all of Los Angeles' CETA money.

MR. SCHWARTZ. Now, you're talking about the setting aside of particular job slots for older workers?

MR. FINKELSTEIN. I'm saying that the prime sponsor in those communities utilize funds generally of either Title I or Title VI for the establishment or the matching of positions which are funded under Title IX. Generally those jobs slots, as I am referring to them, have been assigned to our contract agency for the expansion of the program.

MR. SCHWARTZ. Now, are these full-time job slots or part time?

MR. FINKELSTEIN. Part-time job slots. In most instances, I think the statements that Barbara [Dudley] has made, that we have made in the testimony ourselves, our grave concern that the full-time job training opportunities are extremely limited under CETA is a fact. I can support Barbara's contention in some communities where the prime sponsor will say, "Well, we have a Title IX program. That meets the needs of older workers."

Now, let me digress just a little in terms of some of the comments Barbara was making about California Employment Development Department. Under Title X, NCOA entered into a contract with California EDD for the placement of approximately 43 individuals in the local employment offices.

As some of you may know, Title X was a crash program that came about as a result of funds being underutilized for jobs. In this program, the individuals were trained, in effect, to be older worker specialists in the California offices. We have a report which indicates this. In those offices where—now these, understand, are people, mostly people, we had a few waivers, most of the people were 55 and over. Most of the people were not employment department personnel; they were trained to do their job on the job.

In those offices where the enrollees or participants were placed, services to older workers, now again using the definition of the employment division, those are persons 40 or 45 or older, services to persons 45 and over coming to those offices increased by 7 percent. Now, again, in those offices where those enrollees or those participants were not placed, there was a decrease in services to the older person by about 2 percent. Now, a 9 percent differential in less than 1 year's time, I think, is significant.

That program was funded for a year, presumably again through the various activities. Title X has been refunded through the Department of Labor; a long complicated situation.

At any rate, last Friday I met with the officials of the employment development department to inform them that Title X was refunded and that those persons who were trained on the program will be able to remain in position for another year, effective September 1.

Now, what I'm leading to is this, that one of the problems in, and Barbara gave you the history of the transition of California from being a State which had one of the forerunner older worker specialist pro-

grams to a State which had literally nothing, is the reception. You see I think again, staff people respond to directives and rulings. And I don't even want to get into the question of any motivation or any ill feeling on the part of any staff. The fact of the matter is that when opportunity is presented, staff will in hand respond. When mandates exist, staff must respond, and affirmative action is a concept which I give 1,000 percent support. I would give infinitely more support to a mandated policy in terms of services to older persons.

Now getting back to the CETA network again, depending on the nature of the community, depending on how you bring about change, depending on the leadership in the community, depending on the staff in the organization, it is possible to bring about change, but that change is coming about by persuasion rather than mandate, and it will be slow and in some communities will be nonexistent.

MR. SCHWARTZ. Ms. Shields, I haven't asked you a question yet and I would like to.

MS. SHIELDS. All right.

MR. SCHWARTZ. You're representing a specific age group in the population which is referred to here as displaced homemakers. And I would like first of all for the record to find out your definition exactly what a displaced homemaker is?

MS. SHIELDS. Well, I'm delighted to be able to talk because I'd like to broaden the discussion to something I think hasn't been touched on yet and that is the problems of people in their middle age as well as older. In fact, I find it kind of ironic that the definition of a prime age for a worker is 25 to 54 because we know that there is, there's more at the one end than there is at the other end.

However, back to displaced homemakers. By our definition a displaced homemaker is a woman, usually a woman, generally a woman, could be a man, who has been totally dependent on one source of income, has given a substantial number of years to services of the family. I have to keep saying this because we have turned up a legitimate male displaced homemaker in Maryland. So we know that it could happen to men as well.

In other words, total dependency on one source of income has been the reason why, in middle years, with the sudden loss of this income, death of the spouse, divorce, this person finds themselves really, you know, up the creek without a paddle, having no skills that are recognized as transferable to the traditional job market.

Generally speaking, I suppose you could say it's not so much age discrimination as it is a broader problem and that is that homemaking itself is not recognized as labor in this country and, therefore, we don't count. Well, we think it is work. We do believe that it is necessary for women in their middle years to—we know it's necessary for them to work. We know that there are approximately 3.3 million women right now in the country who fit the definition, we know there's a potential of 15 million more, and we know too, from studies such as

the Clearinghouse on Employment, Michael Batten's study, that this, we are moving in America more and more toward middle age.

I am a widow of 57; I am one, according to the Census Bureau's figures, of 9 million whose median age is 56. That is a long way to social security and very often this is the only thing a widow has to claim.

These people are not job ready, but even those who are—nor do they know where to seek the programs that do exist, presumably, to help them. The unemployment department, it's been said pride stands in the way. I'm not so sure that's it; I think it's just ignorance. We have the rise of a new poor in this country, coming out of the middle class, and these women are really examples of it.

But even if they do know, they are not job ready because both society and their own feeling has conditioned them to believe that their work, their work is bound by the home and therefore out in the world is something else. They don't think their skills are transferable; society tells them they're not.

One of you have just had a very good demonstration of why Barbara Dudley is our first honorary older woman because it was Barbara Dudley who drafted the first legislation that deals with this problem, and we think age discrimination is a factor.

In my own case, for example, I had worked before my marriage. I married late, and I felt those credentials were pretty good and though we knew 3 years after we were married that Arthur was not going to—I mean it was going to be a fight; I think we were lucky to have had 15 good years together, but the thing is that we were conscious of an end. We made plans. There is no such thing as total security; and, therefore, even those plans didn't work, but that never bothered me because I felt that I would get a job.

What discrimination we run into, those who are like myself, and older women who are now being victims of no-fault divorce, is a subtle kind. "Too bad those qualifications aren't more recent," about my own work history.

For the woman who has done nothing but work in the home, "You don't have a record of paid, recent paid experience," therefore she's not eligible. Or the other one that is equally damning is, "My but you're overqualified for this job."

A couple of times I kind of agreed with them when I heard. But the point is this: there is no way in a sense to rule on an age discrimination basis—I'm sorry, I left my glasses at home, there are many delights to growing older and age is becoming, but age is also becoming myopic so I have to read this at a distance. But this letter from this woman in Nebraska says, the law stating employment—an employer cannot discriminate because of age means nothing. And I doubt if it ever can be enforced; an employer will always find something to disqualify a person for a job without admitting it is one's age.

So we see age discrimination existing. We're not sure of law saying age discrimination is wrong. We'll do anything to help the growing segment of displaced homemakers.

MR. SCHWARTZ. Now, you discussed the problems that this group faces, particularly with regard to, I would say, the private employment market or perhaps employers generally. How does this relate to the subject of the Commission study which is age discrimination in federally-assisted programs? For example, how would it impact on a person, a displaced homemaker in this category who might be trying to seek involvement in the CETA program in some form or some other federally-assisted program? ||

MS. SHIELDS. That's a very good question. One of the problems is that most of the CETA programs can train and refer, and few can place because again the traditional job market is closed to the woman who is older. There is age discrimination on that basis, but there's also evidence, I've always felt it wasn't up to us, it wasn't incumbent upon us to claim that this existed. I would prefer to see the CETA program people bring in their statistics of the placements they've made within this age group for women. And I would like even to lower that figure to 35, because this is what the—we are—it always gets the gas from somebody who is recently celebrated their 35th birthday, but this is what we are told by insurance studies, 35 is the start of middle age. So that we are really talking in terms of 35 to 65, and those figures, they have not presented. Certainly I know of no studies. Michael Batten's study indicates that there is great disparity among reports as to what is being done in this age, in this age group.

So CETA programs are possibly the only one that it might work is, if they are accepted, this group is accepted as a disadvantaged category, requiring the same kind of special job-readiness programs and counseling and retraining that now exists for, as the two programs Barbara mentioned, which would be under Title III.

MR. SCHWARTZ. Reverend Linzie, I see you've arrived, and for the record, I would appreciate—

VICE CHAIRMAN HORN. Let me first ask that Reverend Linzie please stand and raise your right hand and I will swear you in as a witness.

[Reverend Nathaniel Linzie was sworn.]

TESTIMONY OF NATHANIEL LINZIE, PROJECT DIRECTOR, SOCIAL SERVICE BUREAU OF THE EAST BAY

VICE CHAIRMAN HORN. Counsel will identify Reverend Linzie.

MR. SCHWARTZ. Thank you, Mr. Chairman.

Reverend Linzie, for the purposes of the record, would you please identify yourself giving us your full name, your address, and your organizational affiliation?

REV. LINZIE. I'm Nathaniel Linzie. I reside at 3562 Colandro Street in Oakland, California. I am project director for the Social Service Bu-

reau of the East Bay, directing the Title IX program, comprehensive employment program for senior citizens.

MR. SCHWARTZ. Reverend Linzie, could you just briefly describe the program and the organization that you are in charge of?

REV. LINZIE. The organization is a social service, nonprofit organization. We are programmed to do social service programs in the East Bay; we are United Way funded. We have about five major programs, and most of those programs are directed to the needs and the concerns of senior citizens. We do have two titles of Older Americans Act programs; that's Title VII and Title IX, which I direct. We have a mental health program and we have a social-creative activity program for senior citizens.

The program which I direct is the Title IX program, designed to place older workers who are 55 and above in social service type jobs. It is federally-funded through the Labor Department via the National Council of Senior Citizens, and we became the local sponsoring agency.

I direct, I have directed the program for the last 8 years. We have presently 160 slots; effective July 1 we will be raised to 180 slots.

And these elderly people are placed in nonprofit organizations to do social service jobs throughout the East Bay. They work 20 hours a week at a set income in terms of an hourly rate of pay. And the program does afford certain fringe benefits ensconced in the program.

MR. SCHWARTZ. One issue which was touched on in the earlier testimony just before you arrived was the problem that was perceived in the existence of a program like your own, handling cases of persons who are unemployed or underemployed but over the age of 55 and the effect of such a program on the opportunity that persons in that age group have to become involved in the general-population-based CETA program, talking about Titles I, II, and VI. From your standpoint, as an administrator of one of the specialized programs, what impact is there upon this age group, the existence of your program and their opportunity to get involved in the CETA program?

REV. LINZIE. As I said, I have directed this program for the last, going on 8 years. There is no involvement in terms of the program relating to CETA Title II, III, nor VI. I have had efforts, I have had conferences and some interchange of ideas of how the older person could relate to the program, but I have been unsuccessful to obtaining those slots for, particularly the people within the program which I perceive could function well in those slots, they could be redirected to other types jobs, retraining, or let us say new careers. But I have had more or less a negative response from the administrators of those programs who include persons in my program to be included in the slots.

MR. SCHWARTZ. Are there reasons given for this disinterest in your program?

REV. LINZIE. Well, basically I would say probably the reasons seem to be the employability of the person once he is trained or even the

concept whether the person is trainable. Some negative attitudes, I would believe, are included in terms of whether that person is trainable, whether there is a job market to place the person, or—and I guess a lot of negative attitudes in terms of the worth and the probability of the older worker.

MR. SCHWARTZ. Mr. Chairman, I have no further questions.

VICE CHAIRMAN HORN. Thank you very much. Commissioner Saltzman?

COMMISSIONER SALTZMAN. Just one brief question, Ms. Dudley, to confirm in my mind what I think you were saying. The phraseology reasonable discrimination, under any circumstances, as you used it, I believe, would be patently discriminatory and that the criterion of discrimination or would be the same that we apply to race or sex—

MS. DUDLEY. That's right.

COMMISSIONER SALTZMAN. Thank you.

VICE CHAIRMAN HORN. Let me say, Ms. Shields, I was most interested in your testimony. I think you'll be interested in knowing that this Commission a few years ago held hearings in Chicago on the problems of women and poverty, and we will shortly be considering recommendations in this area. Certainly one this Commissioner intends to support is to provide that all homemakers receive social security, which would certainly, I think, go a long way to solve some of the income-based problems you're talking about.

Mr. Nunez, do you have any questions?

MR. NUNEZ. Not at the moment.

VICE CHAIRMAN HORN. We deeply appreciate each of you taking the time to join with us this morning. I found your knowledge of the intricacies and the interrelationships between some of these programs most interesting, and the testimony will be most helpful to the Commission. Thank you very much.

Our next witness is a guest, the distinguished Mayor of the City of San Francisco, the Honorable George Moscone. Welcome, we're pleased to be in your city and delighted to have you share some of your ideas with us.

WELCOMING STATEMENT OF GEORGE MOSCONE, MAYOR OF SAN FRANCISCO

MAYOR GEORGE MOSCONE. Thank you very much, Mr. Chairman and members. It's a pleasure for me to welcome the members of the U.S. Commission on Civil Rights to our city for the next few days, as you convene hearings on the subject of age discrimination in America. I think it's particularly fitting that the subject of age discrimination be discussed in this city where close to 25 percent of our citizens are over 60 years of age. There is no question that this group suffers the most from age discrimination when receiving benefits from various Federal assistance programs.

A major cause of the discrimination which seniors experience is the misunderstanding by Federal program administrators of the intended purpose of the Older Americans Act, which was passed by the Congress in 1965. Despite the clear congressional intention to coordinate services to seniors with this legislation, it's evident that the administrators of other Federal programs whose resources should be committed in part to seniors cite the relatively small amount of funds provided under the titles of the Older Americans Act as an excuse for denying funding for seniors in their own programs.

This is unacceptable because what then results is that chronic underfunding of senior programs in a variety of Federal program areas such as CETA, community development, and Legal Services. For example, the two titles of CETA that provide large numbers of public service employment slots are sometimes administered in a way that only minimally help seniors because of the relatively small number of employment positions available under Title IX of the Older Americans Act. A solution to this problem, beyond making CETA administrators more aware of the actual limitations of the act, would be the creation of a special CETA title similar to Title III that would be geared exclusively to seniors.

Now, I'm pleased to note that Labor Department officials are beginning to study the plight of the so-called discouraged worker, those potential members of the labor force who because of perception, attitudes, or other reasons fail to seek work and, therefore, are never counted as members of the labor pool. I suspect that many persons over 50 fit into this category, and perhaps in the near future the CETA program will be restructured to meet the needs of these discouraged workers.

The Housing and Community Development Act of 1974 is often administered in ways that do not adequately meet the needs of seniors. Because Title V of the Older Americans Act provides an amount of funds for senior centers, some community development administrators feel little or no responsibility to commit community development monies for senior status. This situation exists despite the very specific language in the Housing and Community Development Act relating to the creation of the single purpose senior centers.

Another concern in the area of age discrimination is federally-funded legal services. Some of the legal agencies serving the poor have limited the services they provide to seniors because of the eligibility of legal services to be funded under Title III of the Older Americans Act. If, once again, the resources available under the Older Americans Act are not sufficient to meet the needs for legal services to seniors and our elderly again become victims of a Catch 22 situation.

There are, it seems to me, two solutions to this problem. First of all President Carter and the Congress must continue to increase the funds committed to the various titles of the Older Americans Act. Until the funding level is sufficient, the program will never have the impact for which it was designed.

The second solution is the joint responsibility of those of us who administer federally-funded programs and of you Commission members. For my part, I have made my staff aware of these issues and, although we still have much to do in San Francisco, considerable progress has been made and will continue to be made to see that seniors get their fair share of services.

Our CETA program has funded several projects that are designed to improve the employability of seniors, among them Self-Help for the Elderly. Our community development program, in addition to funding senior centers, is also committing resources to provide escort services in high crime areas within the city.

For your part, as Commissioners, with all due respect, I suggest that you first educate the administrators of the various programs regarding the rights of all age groups to participate, regardless of the existence of a categorical program geared to one segment of the population. If education is not sufficient to accomplish positive results, then you must marshal all of your enforcement powers to see that age discrimination is eliminated. No program can be fully effective if it systematically excludes a particular age group, and you should be ever vigilant against such an exclusion.

There are other examples of age discrimination in Federal programs of which we're all aware. But, in concluding, I would like to address the issue of mandatory retirement, due to its pervasive effect not only on Federal programs but on all facets of our society.

In our society, union contracts, company regulations, civil service rules, and other policies are geared to the basic assumption that a person is somehow less productive because he or she has reached that witching hour called the 65th birthday. Today, I believe that we're enlightened enough to recognize that people are valuable to their employers and to our society well into and beyond their seventies.

I hope that the Commission will see fit to take a careful look at the issue of mandatory retirement during the course of its work. In San Francisco, our charter, our constitution, requires city employees to retire at age 65. In my opinion, this is, at least today, an outdated provision, and I'm pledging a vigorous effort on my part to amend that section of our charter. I am, today, asking the San Francisco Commission on the Aging and the San Francisco Civil Service Commission to explore the feasibility of putting a charter amendment before our citizens to change that mandatory retirement provision.

I think we've got to be realistic today, Mr. Chairman and members, in knowing that whatever the reasons might have been, either as a result of whatever surveys had been taken from a medical and emotional point of view or whatever other social phenomena impelled this country pretty much to embark upon a substantially parallel situation that something was magic about the age 65. For my part I'm looking forward to a retirement one day. I should resent very much, however, as I suspect most people who fall within that same category, being told

that regardless of the subjective appraisal of my potential contributions to this community, either in a public or a private way, somehow were foreclosed to me.

Let me share a particular situation with you, if I may. My mother has recently been compelled to retire from State service. She worked for some many years as a member of the department of motor vehicles. I don't have really any permission, express or implied, from my mother, to talk about this, but I think if you can view it, as I hope she does, as a subjective determination on my part as to why something that was a matter of indifference to me in years past is a matter of great importance to me now, is based upon my review of the situation as it relates to that person.

An extraordinarily capable person, someone who has been in the work force all of her adult life, or virtually all of it, if I'm to believe her employers in both the public and private sector over those about four decades one of the more competent people in her field, and maybe more important than that, the fact that she enjoys that as a matter of her life, as a matter of her personal well-being, quite aside from the emoluments that one expects to receive from extending valuable work to a paying employer.

Now, somehow or other we're going to try to work out a situation where a very useful member of our society will remain useful. But in order to do that, we're going to have to go through a host of loopholes and maybe not even there be able to be successful. Maybe we have to go into the private sector, and maybe we have to do it in a way that underpays her for her services in return for which she'll be entitled to do something that is not otherwise provided by the law.

But I'll tell you this, Mr. Chairman and members, that something is going to be taken out of my mother's life because a legislature, some years ago, felt it prudent, despite, or notwithstanding, whatever pressure there might have been on one side or the other, and I suspect it was not from potential senior citizens at that time, that is unrealistic and is debilitating to people, and that's wrong.

And I think it's high time that the Federal Government took a stranglehold on this situation. My understanding is that both Los Angeles and Seattle have done so, and that is why we would offer it in San Francisco as well. But it seems to me that ought to be a national policy or what has been a national policy ought to be reviewed once again in the light of more recent and more realistic survey data, and I think if you do that you will be able to recommend to the Congress and to the President that that kind of a restriction is purely arbitrary, purely mandatory; as I've said before, quite debilitating.

VICE CHAIRMAN HORN. I share your feelings, having exactly that situation in my own family, and seeing the tragedy of individuals who have led useful lives of service in either the private or public sector, then within 1 or 2 years when, as you say, their whole life is removed from them, be isolated in the dark corners of the nursing homes of America and that is indeed a tragedy that ought to be reviewed.

Let me get the benefits of your advice, Mr. Mayor, since you've had an active career as a State senator, legislator in this State, maybe you can help us decipher what Congress has asked us to do. They're asking us to undertake a study of unreasonable discrimination based on age, and one of the problems we confront—and you perhaps heard some of the earlier testimony when you were waiting—is, how do we determine what is unreasonable discrimination, given this variety of Federal programs which you administer, among others, in the City and County of San Francisco?

It's easy to look at an isolated case and say that person was turned down because there was blatant discrimination against age, just as sometimes you can find blatant discrimination against race or sex. But how does one appropriately develop criteria and make a judgment to know whether or not the CETA program, let's say, in the City and County of San Francisco or the County of Los Angeles, or any other jurisdiction, is really taking in all of the relevant eligible people in particular age groups?

Now, one of our last witnesses, Ms. Dudley, an attorney with quite a bit of experience in this field, advocated that we use a criterion of eligible population parity, that if there is, I assume, X percent in the population that are between 55 and above, or between 35 and 45, that we see whether X percent is also applicants and whether they are also recipients. Do you have some advice for us along this line?

MAYOR MOSCONE. Well, I know I step into a powder keg when I discuss the question of per capita quota as opposed to population quotas based upon those eligible within the work force.

I think my view is that you look to that survey to determine whether or not a program has been properly allocated throughout a community. In short, it is a red flag or a danger signal when you see a disparity between the existing population and that which is allowed to participate in the particular program at hand.

What I'm trying to say to you is I think you don't necessarily determine that the number of people who will get benefits are first of all to be based upon the number of people within the survey, but you thereafter, first of all you offer it to everybody, you offer every program to everybody with no discriminatory features to it at all and that includes age, period, that any discrimination on the basis of age is per se unreasonable. Secondly, as you monitor a program thereafter to see if there has been a good faith allocation of those funds, and you see a disparity of more than a *de minimus* percentage that gives you the area where you've got to do your monitoring and determine whether or not there was in fact a proper allocation.

That's my personal view. Now, I know that does not fit squarely with some of my colleagues and some of those that appeal to me to eliminate a situation that may exist in San Francisco, but that's the way I approach the question.

In short, I'm saying to you, Mr. Chairman, that whatever Federal benefits are provided, whether it be in CETA or wherever, that any discrimination, any exclusionary principle based upon age, sex, nationalistic background, or political beliefs, and I'm certain there are more irrelevant data, is per se in violation of the Constitution. And so they are broadly distributed on the basis of need. Thereafter, in determining whether or not those people who determine whether we have a fair policy in the allocation of those resources have in fact done so is to be determined, I think, on the basis of the way in which they actually turn out. So that if you had a significantly smaller number of senior citizens participating in a program, a general program, than that which exists in the general community, I think the burden of proof is on the other side, to prove that in fact that there were valid reasons other than the fact that people were simply over a particular age group.

VICE CHAIRMAN HORN. Do you feel you've been fairly successful in this regard with the CETA program in the City and County of San Francisco?

MAYOR MOSCONE. Well, I just happen to be at this particular moment, Mr. Chairman, engaged in what might be called an imbroglio with the legislative branch of this city on a matter that is unrelated to age or sex or anything; it may be based upon political participation.

But by and large, and I think we'll get over this too, by and large, I think we have done rather well with the CETA programs of the city, that we've been able to put people to work without any charge that we have discriminated in doing so. There are people that have urged us to discriminate, whether they know it or not, by saying that somehow or other community-based organizations ought to get a small, if any, part of the pie when the Congress has said quite the contrary. But I really think I have no legitimate complaints on the issue of discrimination in the CETA area, except those portions that I've already talked to you about, that the program administrators themselves I think have said, "Well, that categorical fund that we have over here in the Older Americans Act certainly ought to take care of the needs of seniors, and we will, therefore, not develop a full and complete participatory position for them in these other programs."

I think we have stretched that to a point where it's considered fair in the city, but I don't think that's the case everywhere, and as I've urged this, I think the Congress ought to take a closer look at ways in which we can enlarge upon the older Americans' participation.

VICE CHAIRMAN HORN. Very good. I think given one with your record in this area, with your record and commitment, one most helpful to the Commission, perhaps your staff would give us as Exhibit 4 just a breakdown of the age recipients within the CETA program in the City and County of San Francisco. I think it would be very helpful to the Commission.

MAYOR MOSCONE. Why don't we do that, not only with CETA but with community development as well, and that may give you some idea of what we're trying to do here.

VICE CHAIRMAN HORN. Very good. Commissioner Saltzman, any questions?

COMMISSIONER SALTZMAN. I appreciate very much your presence and testimony, Mr. Mayor. One question. There was a recommendation this morning that we include the aging within the process of affirmative action. Would you concur with that recommendation?

MAYOR MOSCONE. Oh, I think clearly so. I think it follows that we have got to reach out, particularly at a time when people are being lopped off of other job opportunities because they've reached a certain age, that if we indeed have a real affirmative action program, and we are allowed by law to do so, then we have to include them within the pool of those that have been discriminated against and make sure that they participate.

The real problem with affirmative action with the elderly, I think, has to do with sometimes something that they rely upon as a benefit to them and that is pure seniority as a basis for rising upward in a system in which they already participate. It may be that this is an area of discrimination that works in their favor, and while this is a much more sensitive area, I think it is no longer a way in which seniority or the privileges of age can operate to work against other discriminatory areas, let's say, discrimination on the basis of sex or on the basis of ethnic backgrounds.

COMMISSIONER SALTZMAN. Are you suggesting that seniority must give way to avoid discrimination on the basis of race or sex?

MAYOR MOSCONE. Seniority, per se, as the basis on which one would move upward is, in my view, not only wrong, per se, but it is one of the discouraging elements in the affirmative action demands of those who may have a lot of qualifications, but one of them is not age or a long-time participation in the system; this, of course, is a much more sensitive area.

COMMISSIONER SALTZMAN. It may be a side comment, but I believe it was in our *Last Hired, First Fired* monograph that we concurred with you or you concurred with us in that particular issue—

MAYOR MOSCONE. I concurred with you.

COMMISSIONER SALTZMAN. Thank you, sir.

VICE CHAIRMAN HORN. The battle as a university president I've been facing for a number of years, as we attempt to go toward collective bargaining.

Yes?

MR. NUNEZ. Thank you.

Mr. Mayor, I was interested in your example of your own personal family, and I'd be interested in how you would respond to the contrary view that our society is having a great deal of difficulty in finding employment for a whole segment of our population, and that we have to

open places, open up opportunities for those who are coming behind those who have already been there, and that perhaps this is a way to keep our society somewhat fluid, and opening up opportunities.

MAYOR MOSCONE. Well, I understand that theory, but it's very Orwellian to me. It frightens me to believe that some grand master in our society says that when you reach a certain period of the cycle you are removed from the cycle in order to let somebody else enter the cycle itself.

Now, I suppose if I'm critical I ought to have some answers. And I don't, aside from the usual rhetoric of more job opportunities and the like. But it seems to me that the efforts that we make to get more people into the process of working ought to exclude eliminating people as so much redundancy in our whole situation. I really think a society that treats its elderly in that fashion so diminishes itself that whatever benefit you get by opening up a slot so somebody else fits in it is a small advantage at best.

It seems to me that we ought to be looking more toward a short work week, we ought to be looking into shared job opportunities, that we ought not to persevere as much in the field of automation. I would think we were much more civilized if we would say the progress that's associated with automation we will do without, in return for which we will provide and continue to keep more jobs here and, therefore, be able to respect somebody at the end of the cycle if they are still capable of performing.

Now, one question you haven't asked that I would like to advance because you may hear it somewhere along the line and I'm not certain you haven't already. It was this, it will give you singular examples of people who quite clearly are unfit to work, I think, and it so happens that they are elderly, and it so happens that perhaps one of the reasons they're unfit to work is because they are elderly.

I think that's easily dealt with. I think the people who suffer from disability because of age or because of anything, obviously, unfortunately are not able to keep up with the others. But to systematically assume that somebody is bad because they're old, and then to point to this or that example, I think is wrong. If a person is, is unqualified or disqualified because of an action that may be associated with old age, let's say senility, well then, let's remove him from the process because of senility, and not assume that everybody who reaches that same age is, therefore, senile and ought to go as well. And I've heard that argument on the floor of the Senate and I'm certain you've heard it many times here and I would hope you dispatch it as easily as that because I think that's the correct answer to the question.

VICE CHAIRMAN HORN. That's a very good point. I guess the problem you and I would face as administrators is, how does one equitably and with due process make that decision, given the age of litigiousness in which we live, the grievance procedures, the arbitrations procedures, etc., and the reluctance often of peer groups to rule against any peer.

MAYOR MOSCONE. Yes. Well, you go to reason first off, just as a condition precedent, Mr. Chairman. I know that oftentimes does not prevail. And if it does not and you're satisfied that you attempted to do this in a way that was least harmful to the individual involved, then you do in fact afford due process through the course of which you systematically itemize the reasons why this is so. And then you are stuck with the courts' decisions as they review your process.

All I'm saying is, as difficult as that may be, I think it's a luxury administrators can't afford if they say, "Well, you know, if we keep an age maximum on, then I don't have to go through the ulcerating experience of bargaining, grievance, dispute, due process, the courts, and everything." Sure it's easier to say, "Oop, the calendar says you're gone today." You know, it's just a tough thing for administrators to have to do, but it's far preferable to the automatic trapdoor that opens up the day you reach the magic age.

VICE CHAIRMAN HORN. Thank you for your very helpful comments.

Were there any other questions? Counsel?

MR. SCHWARTZ. None, thank you.

VICE CHAIRMAN HORN. We deeply appreciate you sharing your experience with us and we are delighted to have you here today. Thank you.

The next panel is the panel of CETA administrators from the Federal level. Will they please join us at the witness stand, Mr. Haltigan, Mr. Douglas, Mr. Ponte? Gentlemen, if you would remain standing and raise your right hands.

[Mr. Arthur Douglas, Mr. William Haltigan, and Mr. Gloyd Ponte were sworn.]

**TESTIMONY OF ARTHUR DOUGLAS, ASSOCIATE REGIONAL ADMINISTRATOR;
WILLIAM HALTIGAN, REGIONAL ADMINISTRATOR; AND GLOYD PONTE,
DEPUTY ASSOCIATE ADMINISTRATOR; EMPLOYMENT AND TRAINING
ADMINISTRATION, U.S. DEPARTMENT OF LABOR, SAN FRANCISCO**

VICE CHAIRMAN HORN. Please be seated. Counsel will identify the witnesses.

MR. SCHWARTZ. Gentlemen, would you please state your names, addresses, and position with the Federal Government for the record, starting with you, Mr. Haltigan.

MR. HALTIGAN. My name is William Haltigan. I am the Regional Administrator of the Employment and Training Administration of the Department of Labor. I live at 1851 Vallejo Street in San Francisco.

MR. SCHWARTZ. Mr. Douglas?

MR. DOUGLAS. Arthur Douglas, Associate Regional Administrator, Employment and Training Administration, responsible for activities in California. I live at 271 Wilson Way, Larkspur, California.

MR. SCHWARTZ. And Mr. Ponte?

MR. PONTE. Gloyd Ponte. I am the Deputy Associate Administrator. I live at 1201 California Street, San Francisco.

MR. SCHWARTZ. Mr. Haltigan, could you describe the operation and responsibility of your office with regard to the CETA program, Titles I, II, and VI, in California and in Region IX?

MR. HALTIGAN. We are responsible for negotiating grants with local jurisdictions for the titles that you mentioned, Titles I, II, and VI. We are also responsible for evaluating, monitoring the programs to see that they are operating in compliance with the Federal regulations.

MR. SCHWARTZ. Mr. Haltigan, we had some testimony from the mayor just a little while ago in which he said that, if the distribution of those who are being served by a program does not comport or is substantially out of compliance with the number of applicants, eligible applicants who reside in the area being served by the program, then that should raise a red danger signal, raise a red flag for a program operator to alert them to the fact that if this is on the basis of age that perhaps they are not serving the entire age group adequately or appropriately and that there may be discrimination in the operation of that particular program. With regard to the CETA program nationally, our field investigation has turned up data which indicate that the program heavily serves those within the younger age groups, meaning from approximately early twenties to the early thirties for the most part, and that service in those titles which I mentioned, Titles I, II, and VI, under the CETA program falls off for those particular individuals above the age of 30 and below the age of approximately 22. Could you tell us the reason that you see for this and if this does not in fact raise a red flag in your mind as to the operation of the CETA program with regard to various age groups in the population who may be eligible for CETA services?

MR. HALTIGAN. I think you have to look separately at the different titles. Title I, on the national basis, is a preponderance of people served who are really very young people under the age of 20, where I think on the national statistics for 1976 indicate that about 57 percent of the people in Title I are of the very young. In terms of the Titles II and VI, of that proportion for the very young, it drops to something less than 20 percent, with the biggest group being in the age group from about 20 to 44 and then dropping off quite substantially in the older ages.

I think that what this reflects is that in Title I a large—decisions have been made by prime sponsors that a most significant need in their areas is to provide some sort of training or work experience for young people, ergo, the concentration of the clientele in the 20 and under group. In the Titles II and VI, which are jobs funded primarily in local governments, to some extent in the private, nonprofit agencies, there I think it's basically a reflection of the economic downturn we've had in the years since 1975 where the preponderance of people unemployed are really in the prime working age so to speak, 20 through 44.

MR. SCHWARTZ. With regard to your answer on Title I, sir, in the younger age group, is it the view of your regional office that funds

should be concentrated on that particular age group for Title I comprehensive employment, a training service?

MR. HALTIGAN. No, I don't think that is our opinion, that the funds should be focused to any particular age group. I think that what the CETA act involves is a conscious planning decision by local people—not just the CETA administrators, but representatives where they are ex-officio representatives on the planning council involving employment service, vocational training agencies, but also there are a lot of nongovernmental people that should be involved in the planning process. But what I think this should have reflected is a conscious decision by people selected to be broadly based within the prime sponsor's community that the most critical needs of their community are for serving the younger people, and similarly we've been addressing the problems of creating job opportunities via public service employment funds. Again, a conscious decision was made that the most critical problems exist in the area of economic downturn for people in the prime working ages. That would be my assessment of why this has occurred.

You prefaced one of your earlier questions with a reference to Mayor Moscone's statement that, as I heard him, that there should be no discriminatory treatment involved in the Federal programs nor in society in general with regard to age, sex, race, national origin, religious belief, what-have-you. I agree with that. I agree very strongly, but in terms of some aspects of program administration, I think if there is a common operation that a valid public purpose could be served involving disparity of treatment, I think that would be acceptable, and I think that's what the Congress had in mind with regard to this act when they spoke about unnecessary, or whatever the term was, discrimination. The point is that I agree with the mayor that a basic guideline should be the enrollment of various population segments roughly in proportion to their existence in the group to be served and that, where there are substantial differences in the people to be served compared with the enrollment, then that would raise a red flag to see if there was a valid, lawful public purpose for that discriminatory treatment or disparity of treatment.

MR. SCHWARTZ. In the case of Title I that you brought out, it's a general concentration on the younger population. I believe you said a little earlier that the basis for the concentration was a perceived need on the part of the community to channel the funds for that particular segment of the program to that group because it is most in need.

MR. HALTIGAN. Yes.

MR. SCHWARTZ. Did I hear you correctly?

MR. HALTIGAN. That would be my assumption.

MR. SCHWARTZ. Is that a matter of assumption or is there a specific set of criteria on which needs can be determined by local communities or further up the process by which those needs assessments made by local communities are reviewed by your office to see that the Title I

funds are in effect going to the people who have the greatest needs, rather than on the basis of any assumptions that may be made as to the needs of a particular segment of the community?

MR. HALTIGAN. The act requires, and I'm convinced that in this region the act, the requirements of the act are followed that there be an evaluation of needs by the prime sponsor; that this be—basically, the way it happens is that it's done initially by the CETA planning staff; that this assessment of the needs is presented to the planning council, the advisory council that was set up—citizens and program administrators dealing with the CETA program and that the advisory council considers their own perception of what the needs in the community are and then makes appropriate recommendations to the city and county executive, boards of supervisors, whatever. I think this has been done.

We in the Federal Government have a staff assigned to each prime sponsor that observes these meetings of the planning council because we get the plans and look at them to see that the process at least has been complied with, and I am confident that the needs that have been identified are the needs that the planning council, the prime sponsors have in good conscience identified.

MR. SCHWARTZ. Having determined those, and let us assume that the process has gone on correctly in a given community and they have met all the Federal requirements and that a need has been determined, a greater need for that young age group to be served by Title I than for any other age group, for whatever reasons is determined. And then the funds are in fact expended under Title I for that particular age group, say, from 16 to 22 as just a case for argument. The Age Discrimination Act which we are concerned with says that unreasonable discrimination on the basis of age, which when this act goes into effect in 1979 will be unlawful in federally-assisted programs, this is a case of a differentiation on the basis of age for which a justification is being brought that there is a need to serve this particular age element of the community. Do you think that given the intent of Congress here in enacting this Age Discrimination Act with regard to federally-assisted programs that we should consider this a reasonable justification for an age differential in service?

MR. HALTIGAN. I don't think that the prime sponsors have as carefully addressed the age aspect of this disparate treatment as they have with race and sex, national origin. The discrimination act is not, was not applicable to the CETA program, and I guess it won't be until 1978, 1979. So, there hasn't been the same compulsion, legal compulsion, to prime sponsors to address the issues of disparate treatment or age discrimination as there have with other forms of discrimination. I think that when the Age Discrimination Act becomes effective, involving the CETA operation, that the prime sponsors must make sure that there is a valid, lawful public purpose in disparate treatment. I'm not sure that this has been done explicitly in the way the CETA program

operates now. I think it's been more of an intuitive feeling that the problems of young people are immense, that they should be addressed, and that the prime sponsors address it. But at the same time I guess what I am saying is I'm not sure that they have really compared the problems of young people with the problems of the middle age or the aged. We are in the planning process now, and what this act requires is that they do it.

MR. SCHWARTZ. The CETA program is somewhat unique among the programs that we are studying in that it already has a separate age discrimination provision in it—the statute—and in that the regulations also haven't had any data on the age groups served on the various titles of CETA, and what effect should it have as you see it from your position as a regional administrator?

MR. HALTIGAN. I think that it would have alerted them somewhat to the problems of the aged, but that the CETA act is filled with essentially conflicting, competitive demands upon local program administrators; and I'm not sure that, you know, how much they sorted out specifically the problems of the aged. There could be, I think, some justification for feeling that young people are discriminated against in terms of their entering the labor market. Age discrimination I don't think is solely a problem of discrimination against the aged.

MR. SCHWARTZ. In earlier testimony we were told that, with regard to older workers now, that the Title IX program exists specifically to assist older workers, Title IX of the Older Americans Act, to provide employment programs for persons over the age of 55, and we have also been told by them that the very existence of this particular act has an impact on those whom the CETA program will serve. They have told us that prime sponsors take the existence of the Older Americans program into account when determining who it is that they should serve or direct services to in the CETA program. What is your feeling with regard to whether or not that occurs and if it should occur?

MR. HALTIGAN. First, answering your second question, it should not occur. In regard to your first question, I have not heard from any prime sponsor that their programs have been tilted one way or the other towards serving clients because of the existence of the Title IX program. This is in contrast, I must say, with what I have perceived to be the impression of prime sponsors with regard to funding for migrant programs, funding for Indian programs, where prime sponsors have specifically raised issues with the regional office that they do not need to serve Indian people or do not need to serve migrant people because of the separate funding for those two groups under Title III of the CETA act. But I have not heard from any prime sponsor that they have been tilting their program one way or the other because of Title IX.

MR. SCHWARTZ. What about the possible effects of outside employment markets on the operation of the CETA program? Are there

ramifications in the operation of the CETA office, the CETA staff, the CETA placement ability itself, services that CETA can provide to various age groups based on some kind of happenstance in the labor market generally, the private or the public service employment market?

MR. HALTIGAN. Yes. I think that the CETA program operates in the economic-social environment that it operates in and if there is, if there are difficulties in older workers getting jobs, the CETA program will have the experience of—those difficulties will be reflected in the difficulty with which placement of older people as far as the CETA program is concerned. The implication of this to me is that, since the CETA program does include a considerable amount of funds for public service employment and under Title I work experience programs can be funded, that the implication of this to me is that, if in the deliberations of the prime sponsors, of planning councils, of the CETA staff, it is perceived that a significant demand problem exists with regard to older workers and that demand is not being met from the private sectors, then it would be appropriate for funds to be utilized in the public sector to create jobs or create work experience opportunities for the older people.

MR. SCHWARTZ. Do you see any other obligation on the part of the prime sponsors in the CETA program or the regional office of the Federal level to try to overcome whatever discrimination there may be on the basis of age in the private employment markets, public service employment markets that may have an impact on the availability of CETA services to persons in age groups affected?

MR. HALTIGAN. I am not sure that there is an awful lot that we can do in terms of changing the attitudes of society towards problems one way or another. There are some things specifically, though, that the CETA program could focus on, and I think that to some extent this is done by many prime sponsors, particularly in San Francisco where there are opportunities to fund particular kinds of project activities under the CETA program that would focus on the problems of the aged that could provide work experience opportunities, you know, that I think that we can make progress one step at a time and often very slowly and that the CETA program of public employment—could, you know, could to some extent be created as a model to indicate that the elderly are productive, older workers are productive, and that the private sector could appropriately follow from these examples. I think that the programs the Department has operated under the old categorical programs and also under Title IX of the act are demonstration projects to, you know, in the direction—the Green Thumb projects, you know, come to my mind certainly in that regard.

MR. SCHWARTZ. Thank you, Mr. Haltigan.

Mr. Douglas, looking at the CETA program from the initial point of contact between a prospective participant and the placement of that individual in unsubsidized employment, which after all is the ultimate goal of the CETA program, what are the critical points at which an

applicant's age could have an adverse impact on his or her opportunity for success or enrollment in that program?

MR. DOUGLAS. Well, I suppose the very first would be the planning process of the prime sponsor. As you are aware, the CETA act gives a great deal of the decisionmaking to a local prime sponsor and the prime sponsor with its Advisory Council and so forth decides its target groups, the people that it wants most to serve, and that of course could have a bearing on age. It also decides what kind of a, basically what kind of a placement rate that it needs to achieve to be successful. I am sure, you know, that that has a bearing on age. The kind of jobs that are available in the labor market has a bearing perhaps on the age of the participants. Most CETA training in Title I is entry level employment and, you know, in our society most entry level employment seems to go to younger people. CETA Title I does not train as a generality for positions much above the entry level and I think that would have an age—and so that it's really, you know, the entire process of planning could have a bearing on the age of the participants that will get into the program. A prime—excuse me, a prime sponsor may decide it wants to concentrate on unemployed heads with households with dependent children. They may perceive that as an aid, as the group that would most be served. That almost by definition would have some age parameters to it.

MR. SCHWARTZ. Well, now, when the Age Discrimination Act goes into effect, and it will cover the CETA program, what responsibility do you see the regional office having in making sure that there is no discrimination in the program, that age groups are served according to some equitable basis?

MR. DOUGLAS. Well, purely as a private individual and not as an administrator, I like the mayor's suggestion of a title in the CETA legislation that is targeted to older workers. There are titles targeted to migrant workers, Native Americans. To some extent there may be one on youth. And I think that's something that should be explored in the legislative process.

VICE CHAIRMAN HORN. Well, as I understand earlier testimony, there is such a section under Title III, and the argument was made earlier, I believe by Ms. Dudley, that it has never been funded. I asked the staff to find out was it because the Department of Labor and the Office of Management and Budget and the President had never asked for that money, or was it that you were given money under Title III, which was a new title for me to worry about, and that you just haven't allocated any there. Perhaps you could enlighten us on that.

MR. DOUGLAS. Mr. Haltigan may be able to answer that better than myself. Title III is administered from the national office, and we in the regional offices do not directly get involved in that.

VICE CHAIRMAN HORN. But it would do, apparently, what you are advocating, which is set aside a particular targeted number of slots for the older person category if we've been informed correctly.

MR. HALTIGAN. I think so. Title III is somewhat of a catchall article that provides authorization for the expenditure of funds for program administration and evaluation. There are two population segments that are specifically identified in the title, associated with specific funding levels. These are migrant workers and Indian people, and for those two sections of Title III mandates the Department to spend an amount in relationship to the amount allocated for Title I programs. In addition, there are a number of other segments of, population segments mentioned in Title III as worthy of special consideration that could be funded under the discretionary fund of the Secretary. These include among others the older workers, young workers, offenders, welfare folks. They are treated somewhat differently than the migrants and Indians because those two population segments are mandated and receive a specific amount.

VICE CHAIRMAN HORN. What do we mean by discretionary fund of the Secretary? Does he have authority under the act to reallocate and reprogram money with a certain percentage?

MR. HALTIGAN. Under the act, a certain amount of money is set aside for the formula allocation to prime sponsors under Title I. There is an amount that—I think it's 80 percent of the total Title I appropriation on a formula allocation to prime sponsors. The remainder is available for the discretionary use of the Secretary. There is not all that much discretion, however, in terms of several things, one, the mandatory requirements for the Indians and migrants; secondly, the program administration costs. There are a number of special grants made for particular client sectors—the people that have problems with English as a second language, offenders, a variety of special program grants. But basically the discretionary funds available for the Secretary because of either prior commitments under the old categorical programs or the—well, really, the requirement to fund Indian and migrant programs and the necessity to fund prime sponsors who have formed consortia, individual prime sponsors. It really significantly reduces the funds that truly are at the discretion of the Secretary, and that really is the reason why there hasn't been all that much funded for the programs specifically for the aged. I think there have been some but not very many.

VICE CHAIRMAN HORN. Very good. The staff has earlier been asked to lay out as part of Exhibit 3 the ramifications of Title III as it reflects and relates to older persons. So, some of the questions you raise I am sure they will follow up on, and that's earlier in the record.

MR. HALTIGAN. Basically, what Title III does is give the authorization for funds for the elderly, but doesn't provide all that much money to fund specifically programs dealing with the problems of the older worker.

VICE CHAIRMAN HORN. I think one point we would want to know from Exhibit 3 is what has the Secretary done with his discretionary fund under the law as it stands? How much has gone for other pro-

grams, whether any options did remain open after administrative costs have been met and other demands.

MR. NUNEZ. I assume the staff will clarify this, but, as I understand the issue, there is a specific allocation for migrant workers and for Indians, but all of the other categories under Title III are left up to the discretion of the Secretary; and past experience in funding programs in this area shows there is no specific allocation for the different groupings under this category, e.g., youth.

MR. HALTIGAN. With the exception of migrants and Indians, that is correct, sir.

MR. NUNEZ. I just wanted to clarify that question.

VICE CHAIRMAN HORN. Proceed.

MR. SCHWARTZ. Thank you. Mr. Douglas, a problem has been raised with regard to Federal requirements as they affect the operation, in this case the prime sponsor or local programs, generally. In this case, what we are talking about is that there is an emphasis, I believe, in programs that they provide benefits, they get the best range of benefits available for the costs that are put into the program. It is the cost benefit theory of providing Federal financial assistance; that is, to a minimum of expenditure of funds you get the maximum bang for your buck as it were, which is what we were told in one State. How does this process operate on the CETA program, particularly with regard to any placement requirement that may be placed on prime sponsors, and can you contrast that with the effects of the labor market on the ability of prime sponsors to place certain age groups of workers?

MR. DOUGLAS. Well, Title VI and II basically are, as you know, employment programs. Title II has a transition goal, but Title I is a training and employment development program. And we, the Labor Department does put out not absolute requirements but guidelines about percentages of people that enter that program that we would like to see end up in nonsubsidized jobs. That's, as we understand it, the intent of Congress in passing the legislation; that Title I is to be a training program and the payoff is to be placement into a job. You, of course, then get into the whole concept of costs and you have to deal with it as a generality and an average. A prime sponsor, I am sure, knows that some segment of the population he has to deal with will require much more in the way of monies and services than others. But we look at a range of costs, an average, and if they are extremely high, we question why those costs are so high.

I think, you know, as public officials concerned with spending the taxpayers' money, we in the Labor Department and the prime sponsor have to make decisions on how much money can be spent on individuals in the aggregate to get them into jobs. You know, it can't afford to spend \$20,000 or \$30,000 per participant. Too many other people don't get served that way. And, so, there is this emphasis on our part basically to keep costs down and to get placements up because that is what we believe the program is.

COMMISSIONER SALTZMAN. Just on that point—

MR. DOUGLAS. Yes, sir.

COMMISSIONER SALTZMAN. Is there a differentiation in the expenditure related to age? Does it cost more to train with respect to differentiation on the basis of age?

MR. DOUGLAS. I don't see why it would have to, sir. You know, I think the cost differential basically would be on what the individual brings to the training assignment.

COMMISSIONER SALTZMAN. As an individual and unrelated to his age?

MR. DOUGLAS. That's right.

COMMISSIONER SALTZMAN. That's not a basis for any implication in the programs of CETA for discriminatory—

MR. DOUGLAS. No. And of course there is, you know, there's no reason for any overt discrimination, but what could impact it, of course, is the labor market itself, the kind of jobs available, the need to take into the program those whom they believe with good training they can put out into jobs. That's a decision the prime makes.

VICE CHAIRMAN HORN. Now, are you saying there is a perception by you and your colleagues in the Department of Labor that, in order to achieve a reasonable or a seemingly effective placement rate, the prime sponsor will usually go for a younger worker in the belief that that is the type of person the market will readily hire as opposed to an older worker?

MR. DOUGLAS. I don't think that any primes ever told me that they consciously make that decision. But, you know, it seems to me if you look at data of people served, as Mr. Haltigan has testified earlier and the staff has pointed out, that the preponderance of people are younger people. So, I am sure—

VICE CHAIRMAN HORN. Well, is it fair for this Commission to draw the conclusion or is that just a happenstance and we are not to draw that conclusion that it's consciously done based on the vagaries of the market, however defined, because that an easy thing to fall back on? People can look at evidence and say, "Well, it's got to be because of the market," and, well, maybe it isn't because of the market. What I am trying to elicit is: what is your perception?

MR. DOUGLAS. Well, I think it's—the market may be part of it, and also there's this conscious decision on, you know, who needs to be served. For example, an unemployed female head of household with dependent children is an example of a type of person that many primes believe, you know, has great priority for service and in point of fact that type of—there's a great payoff for training female heads of household with dependent children who are unemployed too.

COMMISSIONER SALTZMAN. So that the payoff does influence the decision of who is going to be served?

MR. DOUGLAS. Certainly.

COMMISSIONER SALTZMAN. And in terms of the market payoff?

MR. DOUGLAS. Yes.

COMMISSIONER SALTZMAN. Okay.

MR. NUNEZ. What is—I am aware this is a block grant program, Mr. Douglas, but is it your feeling as a Department of Labor official that you basically are in the posture of accepting the policy that the prime contractor makes in the area; you don't question it; you allow them to make that decision completely on their own?

MR. DOUGLAS. They justify their decision to us. They present the data, the facts, the logic. And we question it to the extent that if they are arguments or, they're not arguments, but if their decision doesn't seem to be logical or obvious that it's illegal, we question it then. But if a prime sponsor decides that it wants a certain mix of service and it demonstrates with unemployment rates, with welfare rates, and so on and so forth that there is some correlation between the population in its city or county and the people served, then we accept that.

COMMISSIONER SALTZMAN. Let me pursue that if I may. So that the distinctions you are suggesting which may be valid in the prime sponsor and the government funding programs to focus on have to do with welfare rolls and not specifically aging?

MR. DOUGLAS. No.

COMMISSIONER SALTZMAN. There was some distinction, and you were listing one of them, was welfare, the numbers on welfare, I assume. The larger a particular group is represented in the welfare rolls, the more service ought to be directed toward them. Are there any other distinctions that you would list other than age, and is there any place where age ought to be included as a distinction?

MR. DOUGLAS. Well, I think if a prime sponsor is preparing people, for example, for preapprenticeship. Let's face it, most apprenticeship programs in the United States have upper age limits, and if a prime sponsor is doing some preapprenticeship work for people, by definition of who can get into an apprenticeship, those people are generally going to be under 30 years old and generally under that because the apprenticeship system, almost every one I know, they have upper age limits. There, of course, age would be a factor, you know. I don't think age, for most jobs, if the individuals have the capabilities, age is not a relevant factor.

VICE CHAIRMAN HORN. Could I ask the staff, do I understand the law correctly that this Commission's jurisdiction and study only relates to employment programs as primarily involved in CETA and that we are precluded by law from looking at age discrimination which obviously exists in the apprentice programs of this country?

MR. SCHWARTZ. I think that a reading of that act would indicate that, although the mandate of the Commission is to look into the Comprehensive Employment and Training Act program and not to question the practices of private employers, to the extent that any private employment practice impacts on the services that can be provided to various age groups under the CETA program, I think that is within our jurisdiction to consider.

VICE CHAIRMAN HORN. Are we planning in any of our field hearings or the national hearings to look at the discrimination that exists in apprenticeship programs throughout the country?

MR. SCHWARTZ. I don't think we have that.

VICE CHAIRMAN HORN. That's because we are precluded by Congress from doing that; is that correct, Ms. Taylor?

MS. TAYLOR. That is correct, Mr. Chairman.

VICE CHAIRMAN HORN. All right. This Commissioner assumes that we were precluded by Congress because of labor activity; but, in other words, you are saying that we really cannot look at a significant segment whereas we are looking at the interrelation of all these other programs in terms of age discrimination?

COMMISSIONER SALTZMAN. But in the case Mr. Douglas is describing, there is impact on apprenticeship programs relative to federally-funded programs, and those areas would be appropriately studied; is that right?

VICE CHAIRMAN HORN. Well, I believe that is the question I am trying to get at. Even though those are federally-supported programs as I understand it, that's what I want a clarification on. We are not to look at programs other than CETA; am I correct?

MS. TAYLOR. That is correct.

VICE CHAIRMAN HORN. We cannot look at the programs administered by the Department of Labor that represent Federal funding and support of apprenticeship in the United States?

MS. TAYLOR. That is correct.

VICE CHAIRMAN HORN. All right. That's the point which I think is completely wrong. But go ahead. Congress decided that, not this humble Commissioner.

MR. NUNEZ. The question of training costs, you mentioned the figure of \$30,000 that it might cost on training or finding useful employment for someone. That's just a speculative figure, or do you keep statistics on the average cost of the category of an employee, trainees, participants of your program by age?

MR. DOUGLAS. No, we do not. My reference was only that a prime sponsor has to make a hard decision and decide in the aggregate how much he can afford to spend for participants to give them training, and age is probably an irrelevant factor in that. Drug addiction or something else would cost lots of money to get a person to where they could be trained and placed into private employment. We don't keep any data, the Labor Department doesn't, on characteristic costs and so forth by characteristics of the population. We have data on average costs of employment, that sort of thing.

VICE CHAIRMAN HORN. Proceed, Mr. Schwartz.

MR. SCHWARTZ. Thank you, Mr. Chairman. Mr. Haltigan, when the Age Discrimination Act becomes effective, it will, if it goes into effect in its current framework, it will require that where age discrimination is found in federally-assisted programs that a series of procedural steps

be taken and if it is not remedied that the ultimate result is that the departmental agency which provides the federally-assisted funds will be responsible to recommend a termination of funds to that part of the program which is found to be age discriminatory. As an administrator who may be given that responsibility, I would like you to address the Age Discrimination Act provision that requires that form of remedy and whether you think that would be effective and, if not, what changes you would suggest in that remedial approach?

MR. HALTIGAN. The problem is not just related to age discrimination, but almost any deficiency in program administration. It is really very difficult. Many of the remedies that we have available to us are essentially so broad reaching and so devastating upon the local program operations that they are not remedies at all. For example, the CETA legislation does give the Department authority to essentially cancel the prime sponsor's membership in the prime sponsor club and assign its money to somebody else. It would really be a very unusual situation if it would only involve programs terribly fraught with problems that that remedy would be considered, really be considered appropriate.

What I am suggesting be done is that there be essentially lesser penalties that the Department could have available at its discretion to essentially enforce corrective action. For example, I think that it would be appropriate that, if a finding were made, after appropriate due process and all that, that age discrimination exists, that the Department would have authority to take back a specific amount of funds from the prime sponsor and take action itself to fund sufficient programs that would in that prime sponsor's jurisdiction eliminate the discriminatory problem or—well, the point is that I think that there has to be authority for the Department to essentially target its remedies upon the particular problem rather than general action that would give the Department authority to just cancel the whole prime sponsor arrangement. I think that would be too much of a, too severe of an attempted remedy and that the clients, the orderly process of public administration, would be better served by a more limited course of action if that was an appropriate decision of the Department.

MR. SCHWARTZ. Thank you, sir. Mr. Ponte, of the three gentlemen I believe you are closest in line to the actual operations of prime sponsors, and I am interested in finding out whether within the CETA program there is an orientation for serving one group on the basis of age, whether there is an orientation serving one age group or another age group and how the CETA program has historically developed, which may account for any service differentials on the basis of age.

MR. PONTE. No, none that I was able to discern. I want to point out that my experience with CETA is something like 9 months put in the job that I'm in. But working with the area that I serve, there has been none, no orientation from the Federal people to the CETA prime sponsors, and, as far as I can determine, no orientation for CETA

prime sponsors to their staff. I think that the procedures that CETA has in determining what projects and who will be served as described by Mr. Douglas and Mr. Haltigan is very accurate and that the things that determine, you know, what programs will be funded and what will not is based on the determination of need and the amount of money that the people, the prime sponsor has to serve.

MR. SCHWARTZ. We have been told in some areas in which we have conducted these field investigations that there is an orientation—that's why I raised the question—there is an orientation which grew out of the predecessor to the CETA programs, and we were told this was a youth orientation, and in services under that program and that in fact staff has been retained from one program to another, and this may have some implications for the services that will be provided and the age groups that will be served by the CETA program. Do you see that as occurring in Region IX, to your knowledge?

MR. PONTE. I would say that generally there is an idea that those in CETA have traditionally developed along the lines of serving the younger folk, primarily because of the placement factors, primarily because you are trying to transitionalize the people and improve their lot by providing an opportunity to serve either in a new job or a job particularly unfamiliar. But, no, I don't see that.

MR. SCHWARTZ. When you say that the age group served is the younger group based on market conditions, is there an outreach effort that you have seen among prime sponsors to either change that orientation in the labor market itself or to bring more people among CETA applications into the programs who might be able to, on the basis of their own merit, might be able to overcome that particular problem?

MR. PONTE. Some of the primes that I work with have projects in which their responsibility is to locate older citizens in the community and to make available knowledge about what kinds of programs are available to them. I don't really think that, in my experience, that I could say that anyone, either Federal or from the prime sponsor staff, are deliberately trying to neglect the older worker.

MR. SCHWARTZ. I'm sorry, I didn't hear that.

MR. PONTE. They are not deliberately in any way trying to not serve the older persons. But I think it's on a priority that they are selected.

MR. SCHWARTZ. Do you think that there is an obligation among the prime sponsors to try to go out and serve this age grouping?

MR. PONTE. There is an obligation on the part of all to serve those who are in need, and I think that's what we are trying to do.

MR. SCHWARTZ. Now, the age discrimination provision which already exists in the CETA regulations could conceivably address that problem; that is, an underservice to an age group which is older among the CETA applicants; and some action could be taken certainly by the Department of Labor to enforce that regulation and require certain actions like affirmative action, I would think, on the part of the prime sponsors to serve those age groups. Have such actions been taken?

MR. PONTE. When we review what the prime sponsors' projects and proposals are for the year when it's submitted to us for review, the person who is assigned as the Federal representative to that prime sponsor has in fact been working in a technical way with the staff in developing a proposal. We guide the services somewhat in that way. When the projects are finally sent in to us for review, we again look at those, what is being attempted against what the basis of need is, the explanation of the prime sponsor in that particular project, and make our recommendation to the prime sponsor and to our own Department before the contract is actually signed.

MR. SCHWARTZ. Has a recommendation ever been made to that prime sponsor, to your knowledge, to do something, to take some affirmative action to involve age groups that are being underserved by that particular prime sponsor?

MR. PONTE. I can only speak from my own limited experience, and this will be to say, no. I don't think so, although that could have been. Maybe Mr. Douglas could better answer that question.

MR. SCHWARTZ. I would like to address that question as well to Mr. Douglas and Mr. Haltigan. To your knowledge, do you know of any action being taken on the basis of this age discrimination regulation in the CETA program to require any prime sponsor to increase his service to any particular age group which has been deemed to be underserved by the prime sponsor?

MR. DOUGLAS. Well, we have not taken enforcement action. Most prime sponsors in California have older workers as a significant segment they intend to serve. And obviously in other significant segments of prime sponsors there are older workers included, older workers and poor whites, everybody; so that as I say, I don't know the exact figure, but I think it's well over 50 percent of the prime sponsors have taken older workers as a group and designated them as a significant segment that they wish to target some money to and serve. The Labor Department doesn't mandate significant segments and does not mandate to prime sponsors the characteristics of people they must serve. They ask the prime sponsor to explain to them why it wants to serve a certain type of people, certain groups. But I guess it's a long answer to a question, and my first answer, which was we have not taken enforcement action, may be the answer you are looking for.

MR. SCHWARTZ. Do you think that that situation will change once the Age Discrimination Act precluding unreasonable age discrimination in federally-aided programs goes into effect?

MR. DOUGLAS. Surely it will change. Even right now we have an equal employment opportunities wing of our organization who investigates any discrimination of, you know, of everything covered in the Civil Rights Act. Once the age discrimination law becomes effective, there will then be enforcement power, as I understand it, for the Labor Department on age discrimination. And it's—unless a prime sponsor is—and we haven't had any occasions like this—but presented

a plan that is so outrageous and so contrary to normal, you know, rational human beings, we really don't go in and mandate. We don't have the authority to mandate. We don't mandate that they must serve more women or must serve more older workers or younger workers, or poor whites. We do act when there are charges of discrimination. We do encourage them to serve equitably and to make conscientious decisions on the people most in need in their community and to serve those.

COMMISSIONER SALTZMAN. Mr. Douglas, if I may ask, do you think that the aging are presently underserved? Is that an evaluation you would be prepared to make?

MR. DOUGLAS. I would have to have a lot more data, frankly. I mean, I would have to have all the data on unemployment, on referral rates of people to jobs, and declinations of jobs, acceptances of jobs. I really, sir, am not, can't really answer that question.

COMMISSIONER SALTZMAN. So, you are not prepared to say that there is significant discrimination in federally-funded programs against the aged?

MR. DOUGLAS. In the CETA program, given the mandates of the program, I do not believe that there are significant, or I don't know of any discrimination against older workers.

VICE CHAIRMAN HORN. On your comment, Mr. Douglas, just before Commissioner Saltzman asked his question, as I heard you, you said there is no positive mandate in CETA in terms of assuring that services reach population that includes racial groups, sex, etc., other than if you had evidence of discrimination. Did I hear that statement correctly?

MR. DOUGLAS. What I was saying, Commissioner, is we don't have the authority to superimpose our judgment on the groups of people to be served in a local community.

VICE CHAIRMAN HORN. Well—

MR. DOUGLAS. Only if it's some sort of outrageous plan.

VICE CHAIRMAN HORN. You do have authority under Title VI of the Civil Rights Act of 1964 to assure that there is no discrimination around recipients of Federal programs, and I guess the question I would ask of the Department of Labor is: do they feel they have an affirmative responsibility in all of their programs through statistical gathering as to those eligible, those who apply, those who are recipients, to see that those programs are reaching various populations that are in a protected category under the law? Now, at this point aging is not in a protected category. This is what this hearing and the congressional act is all about. But certainly sex, race, etc., are in a protected category, and I just wonder what the feeling of administrators is in the field with regard to the positive aspect of the Department of Labor in this regard.

MR. DOUGLAS. Well, the protected categories, Commissioner, we require that every prime sponsor have an affirmative action plan and

it deals, you know, it goes to those protected groups. And it's based generally on unemployed, poor participants in the labor market who are available for work.

VICE CHAIRMAN HORN. In other words if the CETA program is targeted to young, unemployed youth, you would want to make sure that, let's say, black, Mexican American workers among young, unemployed youth have what, their fair share of the slots?

MR. DOUGLAS. Right.

VICE CHAIRMAN HORN. All the data I have seen since I was Assistant Secretary of Labor, 17 years ago, is that minority youth are usually unemployed three times the regular unemployment rate, and I suspect twice the nonminority youth. How close am I?

MR. HALTIGAN. I think you are pretty close.

MR. DOUGLAS. Pretty close.

VICE CHAIRMAN HORN. So, the proportion has held up over a generation. So, it would not be unreasonable of the Department in administering the CETA program to say that the prime sponsor ought to go way beyond the proportion of a particular category if it was a protected category because the evidence shows that they are out of proportion unemployed?

MR. DOUGLAS. A prime sponsor can make that decision if it is justified and if it doesn't overtly discriminate against someone who is not in a protected category. You know, we will accept that. But if someone else—

VICE CHAIRMAN HORN. I am trying to fish for—it's one thing for Congress to write "rational" or "irrational" laws, and you and I both know that by the time it goes to the various levels and deals with the real world it might well have other intended and unintended consequences, and what I am trying to fish for is just what are the practical dimensions of this when we deal with discrimination, looking towards 1978-79 when we possibly will see age as a protected category and we can learn from our present experience. And I take it we are a little muddy on the degree to which the Department of Labor feels it can aggressively require the prime sponsor, the head of the prime sponsor's submission of a plan in any discovery of overt discrimination to move ahead and reach out to fulfill unemployment needs among so-called protected categories. At least that's what I hear.

MR. HALTIGAN. I don't—if I could interrupt, I don't think we are all that vague.

VICE CHAIRMAN HORN. Then clarify it for me. I've got to learn.

MR. HALTIGAN. What we have tried to do, I think with some success, is first we start by insisting that that prime sponsor has to have an affirmative action plan that addresses the needs in its area. We have declined to fund on an annual basis individual prime sponsors that have not presented an affirmative action plan. With one of the prime sponsors in California I made a special presentation to the board of supervisors saying that, "Hey, you know, this operation is a big problem because you don't have a decent affirmative action plan."

Well, we have made available to the prime sponsor, all of the prime sponsors, all of the data that we have, basically from the census, concerning the age, sex, or not so much the age, but the sex and race compositions of the labor force and the unemployed situation. And we take some exception to plans that prime sponsors present that don't adequately reflect significant coverage of protected groups compared to what the best data is that we have showing the protected-group makeup of the population. In all candor I must say, though, that the protected groups usually are given a much higher proportion of the service than nonprotected groups.

VICE CHAIRMAN HORN. That's what I wanted because it isn't just the percentage of the population, it's the percentage of the unemployed.

MR. HALTIGAN. That's correct, and that's what we focused on. We also said that it's acceptable if the particular member or particular protected group, say, would constitute 20 percent of unemployed, we would accept a plan that could have twice that proportion for that protected group based upon some objective statement that the members in that are in more need, they are poor or whatever, and I think that we—

VICE CHAIRMAN HORN. Well, I am glad you clarified that because I think that's a crucial point and I am delighted to have that on the record. Mr. Schwartz, any more questions?

MR. SCHWARTZ. No further questions.

VICE CHAIRMAN HORN. I would like, Mr. Schwartz, as Exhibit 5 with this testimony, to get from the Department of Labor, and they have this readily available, over the last two decades what is the—on a bar chart of some sort, what is the unemployment for various age groups by race and sex, but age being the principal variable here, and looking especially at the differences between youth unemployment so-called, however they are defined nowadays, and older worker unemployment, so we can see this at a glance what this is in the hearing record.

Now, Mr. Haltigan—and without objection that's Exhibit 5—Mr. Haltigan, you mentioned earlier—by the way, I thought you made a very sensible suggestion with regard to the Department of Labor in administering these programs should they be faced with a failure to perform in terms of discriminatory law by the prime sponsor. I think your proposal to have the Department of Labor then directly deal with a geographic locality and reach the discriminated-against groups makes a lot of sense because I have long felt that the Federal Government has devised a nuclear bomb to solve a problem a rifle could solve, with the effect that they have achieved absolutely no results for all practical purposes in two decades because nobody wants to use the nuclear bomb, since you cut off services to everybody. I was interested when you said that you felt CETA was filled with conflicting program demands. I wonder if you could summarize for me just those things you see as to the effect of those conflicting demands and how prime sponsors have to struggle with them in the field.

MR. HALTIGAN. I don't think that all of these conflicting demands necessarily have any relevance to the problem of age discrimination. But to cite some of them, there is in the public service employment part of CETA, for example, there is some specific concern about the financial resources of cities to meet essential public services. If a city focuses on meeting essential public services, it could well be in conflict with another concern of the CETA program, that those most in need of services be served. Within the various target groups that are listed in Title VI, the youth, older workers, offenders, persons of limited English-speaking ability, all of these are kicking and scrambling in competition for essentially a limited part of the funds. Since Indian people and migrant people are not so in competition in that case because they have their own specific setaside, I think that there are, you know, some priority groups more in priority than others.

VICE CHAIRMAN HORN. Very good. Is there something any other members of the panel have, anything to add to that statement? If not, thank you very much. We deeply appreciate you sharing your experience with us. That will be very helpful to us in our report.

MR. HALTIGAN. Thank you. We appreciate the opportunity to appear before the Commission.

VICE CHAIRMAN HORN. Thank you. Counsel will call the next panel.

MR. SCHWARTZ. Ms. Elton, Mr. Lower, Mr. Nicholson.

VICE CHAIRMAN HORN. If you will remain standing, ladies and gentlemen, and raise your right hands, please.

[Ms. Eunice Elton, Mr. Richard R. Lower, and Mr. James Nicholson were sworn.]

**TESTIMONY OF EUNICE ELTON, DIRECTOR, MAYOR'S OFFICE OF
EMPLOYMENT AND TRAINING, SAN FRANCISCO; RICHARD R. LOWER,
SECTION SUPERVISOR, GOVERNOR'S PRIME SPONSORSHIP, SACRAMENTO;
AND JAMES NICHOLSON, CHIEF, EMPLOYMENT SERVICE SECTION, STAFF
TECHNICAL SERVICES, CALIFORNIA EMPLOYMENT DEVELOPMENT
DEPARTMENT, SACRAMENTO**

MR. SCHWARTZ. State your name, your organization affiliation, and your address, please.

MS. ELTON. Eunice Elton, Director of the Mayor's Office of Employment and Training, City and County of San Francisco, and I live at 1333 Gulf Street, San Francisco. I have responsibilities primarily for the administration of the CETA program for San Francisco. There are a few other odds and ends as well.

MR. SCHWARTZ. And Mr. Lower?

MR. LOWER. Richard Ray Lower. I am the section supervisor with the Governor's Prime Sponsorship in California. And my address is 800 Capitol Mall, Sacramento.

MR. SCHWARTZ. Mr. Nicholson?

MR. NICHOLSON. James Nicholson. I am the chief of Employment Service Section, Staff Technical Services. My headquarters office is in Sacramento. My home is 7736 Palamyra Drive, Fair Oaks, California.

MR. SCHWARTZ. Ms. Elton, would you describe for the record the responsibility of your office with regard to the operation of the CETA program in San Francisco?

MS. ELTON. We are responsible for the planning, administration, contracting, monitoring, bookkeeping, reporting for the total range of the CETA programs such as the Title I employability programs, Title II and VI in public service employment, special programs under Title III, and anything else that comes along.

MR. SCHWARTZ. Directing your attention to Titles I, II, and VI programs as they operate in San Francisco, can you give us some idea of age breakdown of the persons included? I believe that was asked for as an exhibit. If you have the material with you, it would be helpful.

MS. ELTON. I do not have it with me. However, I will be very glad to furnish it. The age breakdowns vary substantially. In Title I, if you take the numbers served, and I am not sure that's a valid measure at all, but it's about 25 percent of persons 18 and under. In Titles II and VI, that probably is the percentage, oh, perhaps as much as 5 percent. I am guessing. The reason I said the percentage on Title I is not valid is you get one set of figures if you talk about the number of persons included in the program and you get quite a different set of figures if you take the dollars expended. The young persons, 18 and under, primarily are served in the inschool program for 10 hours a week, compared to the adult programs most of which are 40 hours a week. So, there are—we also don't have to pay for many of the costs that are provided through the school. So that CETA dollars are going to the young persons 18 and under, perhaps somewhere between 10 to 12 percent of the dollars. In Title I, well, it would be 25 percent of participants. This throws off everything we have in the way of statistics all the way up and down the line.

MR. SCHWARTZ. With regard to the Title II and VI programs, which age groups are being served?

MS. ELTON. The majority of Title II and VI participants are certainly in the 22 to 44 age group. There is a smaller number in the 22 to 25, probably. The big lump is in the middle years, the head of household, and this probably is the result of our giving priority attention to heads of households.

MR. SCHWARTZ. Are there any other factors which you see besides the heads of household priority?

MS. ELTON. Yes, there certainly are. Taking just the Title II and VI programs, we have a priority for veterans, a very strong push for service to Vietnam-era veterans. While my contemporaries of the World War II period come from the older worker category, the Vietnam-era veterans substantially do not. They are the young persons in the 25 to 44 range. That has an impact. In addition, the priorities that we at-

tempt to give people in the program of aid to families with dependent children automatically throws them into the middle age range. In the Title I program 20 percent of our participants are in AFDC families. They will necessarily be persons who are dependents or the head of households who is in the middle years.

MR. SCHWARTZ. Could you describe, define for us exactly what you mean by head of household?

MS. ELTON. A single individual who is seen by the family as being the primary support where there are dependents to be supported, not including the individual alone, but rather the head of a household where there is more than one person, and this is whether it's the father or the mother, the individual who is the major breadwinner.

MR. SCHWARTZ. Why is it that the prime sponsor does provide priority to these groups, and I realize that some of them are statutory and some of them are other reasons. Could you go into that for me?

MS. ELTON. Some of them certainly are statutory. Some of it is probably a strong feeling on our part that, since we are committed in San Francisco to try to give a very strong priority to the low-income person, that's where they are. Our programs in the case of Title I, more than 90 percent are persons who qualify as economically disadvantaged.

I'm sorry, may I add something?

MR. SCHWARTZ. Sure.

MS. ELTON. You were asking one of the previous speakers about the effects of previous legislation and its carryover effect in the CETA program. I think the San Francisco program is very strongly influenced by the prior legislation, but not in the way that you mentioned. We are the successors to a Concentrated Employment Program which was funded partially within MDTA [Manpower Development and Training Act] money, but very substantially with Economic Opportunity [Act] money. The definitions that were used at that time were to serve persons who were poor and who had another strike against them, and San Francisco, because of the nature of our population, it ran very heavily to persons who lacked English or had some other variety of a strongly disqualifying factor. The result is that we have a program that runs very heavily to non-English-speaking persons.

MR. SCHWARTZ. Did the prior program in any other way, particularly with regard to age, affect the operation of the current program?

MS. ELTON. I think the absence in the prior program of any specific program for the senior persons probably has had a carryover effect. Once you get a manpower program going, it is very hard to turn off. The programs that we inherited in the Concentrated Employment Program have been worked over. Some have been eliminated. But there is a very strong residual group of programs which have their own constituency, have vocal support, and with community support for a continued funding.

MR. SCHWARTZ. Could you further describe what particular grouping as it exists here?

Ms. ELTON. Yes, about 25 percent of Title I participants are people who have limited English. Now, we have a substantial number of new residents who are immigrants to this country who come to San Francisco. We get a large population from the Central and South American countries, fewer from Mexico than from the Central and South American, I might say, and a considerable immigration from China, Hong Kong, Taiwan, Korea. The Vietnamese who came to this country are settling here in great numbers, and we have got others from American Samoa and other groups. But primarily the Chinese, the Filipinos, the Koreans, the persons of Spanish American countries, and the Vietnamese, their major handicap is a lack of English. They come into our program to acquire that English and, because they come to this country as young persons or young adults, again, they tend to inflate our statistics in the lower age ranges.

Mr. SCHWARTZ. Do you have an indication as to why it is that only these younger people, or for the most part these young people with English-language-speaking problems, come into the program whereas older persons do not?

Ms. ELTON. I suspect they aren't coming into the country in the same proportions as well as into the program, and I would have to do some guessing as to the reasons why they may not be participating in greater numbers. I suspect that some of the guessing is that the older parent stays home with the children while the middle-age individual comes in for training, for hope for employment that will continue on into the future. But that certainly is guessing. I have no facts to back it.

Mr. SCHWARTZ. What efforts would a prime sponsor make to reach out into the community to offer services or inform the community generally about the operation of the program, especially with regard to the older age group?

Ms. ELTON. Last year we came down with an attack of conscience. Both our staff and our citizens' group, which is the manpower planning council, concluded that the figures we were turning up with respect to older persons generally were not adequate. Consequently, we put out a request for proposals about a year and a half ago for proposals to provide some variety of manpower training programs to senior persons. We received a number of proposals in response. We funded, I believe, three. One of those programs is still continuing. One didn't ever get off the ground, and one went as far as it could very successfully but had not, was not feasible to continue at the present time. With those proposals, of course, they also handle their own recruiting. The programs were designed—they were staffed—the one that is operating now is doing very well. They are meeting their commitment on serving the individuals, training them and placing them in jobs.

Mr. SCHWARTZ. Could you describe in greater detail that particular program that still exists under CETA Title I that you—

Ms. ELTON. That particular one is a program run by Self-Help for the Elderly. Their definition of elderly, I believe, starts at 45, which is a little younger than mine. They have training for the three different occupational groups: one, accounting, account clerk type of training for persons who come with business background; one that is a home health aide type of program which serves both to move people into institutional helping positions and into private homes. These are training programs that are primarily run in the Chinese language. They do have strong practice operations. For example, in the household training they also provide the individual with quite a lot of specialized services, including translation slips on which you can translate back into Chinese or back again. It's a good program. It's run very well. We are very happy with it.

Mr. SCHWARTZ. About how many people does that program affect?

Ms. ELTON. About 50 at a time. I suspect we probably will by the end of the fiscal year have had perhaps 120 people through this particular year. Numerically it's small, but socially it's good.

Mr. SCHWARTZ. Well, with relation to the size of the entire Title I CETA program, how many people are you talking about?

Ms. ELTON. We are talking about, in the Title I program, 2,500 people. It is small.

Mr. SCHWARTZ. So, with regard to a specifically directed program for older workers under CETA Title I, this is the only one it serves, 120 people out of a grand total of what, I'm sorry?

Ms. ELTON. Around 2,500 this year.

Mr. SCHWARTZ. Around 2,500. Do you believe from having operated this program or seen it operate and having seen the operation of the CETA Title I program that in order to involve this particular age group, older workers, in the CETA Title I program, that this type of specialized program would have to be set aside and separately funded, or do you think that there is a way to bring these older workers into the mainstream operation of the CETA program generally?

Ms. ELTON. Some do come into the mainstream operations. We pretty well concluded, in our evaluation committee meeting last week, pretty well concluded that in order to get a strong program for older persons it was going to be necessary to set aside some money and go for a second special program. The flow through the normal range of programs is simply not picking up to the numbers we had hoped. So, we will probably, for this fiscal year coming, go for a second special program.

Mr. SCHWARTZ. When the Age Discrimination Act covering federally-assisted programs, including your own, goes into effect, will it in fact have an effect on the operation of your CETA Title I program with regard to this age frame?

Ms. ELTON. I don't really know. One of my problems is a terrible lack of information. I know, for example, what the unemployment rate is by population, and we have estimates by age group. But we

don't—what we don't have is any information at all about how many of the unemployed in age 55 to 64 need retraining before they can be employed. The 1970 census information is totally obsolete. There is no way I can use it. Even when you get it, it doesn't tell you how many of them speak English. I need information that simply isn't there, and we live in a constant state of frustration for needing information.

VICE CHAIRMAN HORN. Has San Francisco sought a special census since 1970? That provision is available. I know it costs the jurisdiction money, but sometimes additional funds flow as a result of that.

Ms. ELTON. Let's say San Francisco did not. My office has. We made an attempt to use some of the Title VI money last year to take a special census. I was not successful in getting that approved under the then administration. The normal census won't tell me what I need. I need a census that tells who doesn't speak English and who needs training. Those questions, neither one of them has ever really been asked in the census.

VICE CHAIRMAN HORN. That's a relevant point right now. As you know, they are preparing the questionnaire for the 1980 census. There are various committees that have been set up to look at a particular, well, need in particular ethnic groups. I know there is one on Asian Americans, for example. One of the deans at my university is chairman of that. And I would think that, since we have done studies in the Commission on the types of questions especially directed to Spanish-surname populations, it ought to be asked. This point on employment and age might well be worked into the staff level between the Commission and the Bureau of the Census. We have found over the years it's very difficult to change their approach to matters. These things sort of roll on inevitably decade after decade. But we can at least give it another try.

Ms. ELTON. We are getting better information on bathtubs than we are on people's needs.

VICE CHAIRMAN HORN. That's a very perceptive and accurate point.

MR. SCHWARTZ. The CETA program requires that plans be established targeting funds under the various titles for significant segments of the population that are considered to be underemployed or underserved. Of course, San Francisco has been under this requirement as well as every other prime sponsor. Without these data, how have you gone about determining or assessing the needs so that you can plan to provide services for these people and call them a significant segment of the population?

Ms. ELTON. I think the whole CETA planning process depends a great deal on the finger in the breeze kind of planning. We do have labor force figures and then you sort of discount on the basis of what you think is the fact. The fact is I don't honestly know. We planned for the current fiscal year that somehow we would manage to have 2 percent of our participants in Title I in the 55 to 64 range and 1 percent, 65 and older. That's recognizing that this very substantial group

of young people swallow up a lot of the percentage points. We are running just about at that 2 percent and 1 percent level. My instinct says, and I can't back it with figures, but those are very inadequate proportions.

MR. SCHWARTZ. On what are these based? Was this just a determination that was made out of thin air or were there some facts?

MS. ELTON. It was based on what kind of a goal that we can set that was better than last time. It's a sort of a nibble away at the problem and improve the box score each year a little bit.

MR. SCHWARTZ. Well, do you have any indication that 2 percent might not even be more than would be necessary with regard to the number of people who would be interested in working in the CETA program and could be eligible?

MS. ELTON. Well, again, my instinct says it certainly is not excessive. It's probably very low. I suspect that there are a great many, particularly in the 65 and older age group, who would be interested in a kind of employment that we don't have available. Whether the public service employment jobs will ever be able to meet that need, I don't know. We do have some specialized programming for the older persons in Title VI, but, again, it's very small compared to the number of senior residents we have in the city.

MR. SCHWARTZ. Could you describe that particular special program?

MS. ELTON. The Health Department of San Francisco has been rather innovative for thinking up things that they would like to have done with CETA participants. They, for example, established a project to assign individuals as health department CETA workers to the senior citizens housing and senior centers to improve the communication of information about available health service, identify needs, route people to specialized service, and so forth. They specifically said persons 65 and older in doing their hiring. There are not very many in which that kind of selection has been limited to that group. But there are a number of programs that have been serving the seniors, and when you are serving the population, there is some emphasis on trying to recruit from that population, too.

MR. SCHWARTZ. We've been very concerned in the study with the process of outreach and how in this case prime sponsors would go out to the public to try to get them involved, to try to make them aware of the existence of a program, and what effect certain kinds of outreach might have on various age groups. We are also interested in the area of whether or not there is even an outreach program because some of the prime sponsors that we have talked to, there is very little outreach conducted. Could you characterize and describe the outreach that goes on in the San Francisco prime sponsor?

MS. ELTON. In the Title I programs, most of the outreach is done by the subcontractors themselves. For example, Self-Help for the Elderly does its own recruiting. We do not sit in our ivory tower and look for a way to reach those individuals, and we have, I am sure, sub-

stantial traffic of people coming to them. All of our subcontractors have backlogs of interested applicants in every case. We do have a centralized service to try to pick up those who fall through the cracks. But basically, with two or three exceptions, the subcontractors are doing their own recruiting and because they have their target populations they are able to communicate.

MR. SCHWARTZ. Well, in a case that you described, Self-Help for the Elderly, that is in Chinatown?

MS. ELTON. That's right.

MR. SCHWARTZ. And, so, that would be a very highly specific segment of the population that could be served?

MS. ELTON. That's right.

MR. SCHWARTZ. Even within the age group that's being served, is that characteristic of the service providers under the CETA program that they go for a specific segment of that population that could be served?

MS. ELTON. Most of the contractors are in a specialized role with the specific segment. If you are teaching English to people whose primary language is Tagalog, you of course deal with that population. There are others. Last year we were funding the Food Advisory Service, which is a program that was recruiting seniors specifically. They did their recruiting citywide. The nature of the program pretty well dictates what happens in recruiting.

MR. SCHWARTZ. Are there general providers who do not go after any specific segment of the population but just throw their doors open to anyone who comes in and in fact you would expect a range of ages, nationalities, and what-have-you to be represented?

MS. ELTON. Yes, sir, there are about, I would say, perhaps three, and they are serviced through a job service office attached to the central administration. They are physically housed with us, although it is a subcontractor.

MR. SCHWARTZ. Can you give us an idea of who serves most of the people, who serves how many individuals?

MS. ELTON. The San Francisco Skills Center is the largest one that is not contracted to a specific target group. They have some language instruction, but basically their program is one of remedial and occupational training. They are open to any and all age groups. They have a training program out of San Francisco State University. This is also open, and they recruit people for some on-the-job training through that office.

MR. SCHWARTZ. Mr. Lower, I would like to ask you first of all to identify what it is that the balance of the State prime sponsor is responsible for in the State of California.

MR. LOWER. Okay. The sponsorship is quite unique in California, probably in the country. First in California, because it represents all those areas of the State not covered by the other 35 prime sponsors. Each Governor under Title I has the responsibility for serving people

in these areas. In California that amounts to 28 of the smaller counties under 100,000 in population spread over about 44 percent of the land surface of the State. We only have an 800,000 population and our smaller counties are very, very small ones. Alpine County runs a little over 600 people. And the biggest ones are, of course, close to the 100,000 mark. They are all rural counties either because of agriculture or tourism. Some of the most beautiful parts of the State are included in our sponsorship. But the distances between are extensive and it's a little difficult.

I want to mention, you know, before I get too far, that I didn't really get a chance to talk to the executive staff about these things. I didn't know what questions you would have. So, a lot of what I say is just from my own experience in the CETA program and with the agency. And with the CEP program, Eunice [Elton] and I had similar positions in that for quite a few years.

The thing that makes us unique among State sponsorships perhaps is that we have delegated as much responsibility and authority to local elected officials as we possibly could and still retain responsibility for the spending of the money. We do this by basically asking local elected officials, boards of supervisors, to appoint a citizens' council to do planning on behalf of their own county, and that's a very significant move. In view of the history of manpower programs in rural counties in the United States, this is an unprecedented kind of thing. It certainly was for them when we first introduced this idea.

The counties, of course, run the gamut from fairly sophisticated, progressive administrations and supervisors down to people that aren't too used to ideas like manpower. And we have to try to do equally well with all of them. So, we do this by providing as much technical assistance as they will take. We have been out training local citizens' advisory bodies on two occasions in the past year and are now preparing another round. We take county staff who represent our management interest in the county and give them training. We are trying to move the county. And I'm looking ahead to some of your questions with this long answer. We are trying to move the counties from a feeling that the traditional program operation constitutes manpower around to a more objective view of who are the unemployed in the community, what services do they need to become employed, and how do we go about this? Now, this has to start with the citizens' advisory group who advised the sponsor and the local elected officials on the best way of dealing with these funds. And we see some movement away from our fairly heavy preoccupation with services to those under 21 to a more balanced picture.

Do you mind if I go ahead and answer some questions that I've heard you ask Ms. Elton or would you rather I not do that?

MR. SCHWARTZ. I prefer that you go ahead and save me the trouble of asking again.

MR. LOWER. Okay. Because I know the concerns. I read your material. We've had these concerns for a long time.

There are two things that tend to militate against manpower administration people in ensuring and providing equitable services to the unemployed population under CETA. The first and most important is one that Eunice addressed herself to, which was even more of a factor in the balance of State and that's lack of data. We go to the same source that other prime sponsors do, namely, the Department of Labor, Bureau of Labor Statistics, and our own State employment data research people, and we get whatever is available and they have a surprising amount of data. In metropolitan communities where special census forms were used during the last census, you can get quite a bit of data and your data is, would tend to be supported in some cases. But in rural counties where they didn't even count certain types of situations and where, if there were less than a certain number of people in a certain status, they weren't counted at all, we are really terribly strapped. We could give our county planning councils little or no help in that regard. We could tell them what the population figures were, and you can make some general assumptions about population that those under 21 are responsive to certain kinds of programs that help them get through high school or decide what educational courses follow to get into a job.

The 22 to 55 group you can make some assumptions about, and you do know more about their unemployment. The over-55 group is terribly hard to make assumptions, that those that are estimated to be amongst the unemployed are employable, interested in employment, retired but wanting to work part time, 67 years old and finding social security no longer supporting them and forced to work. We can't make assumptions in the age group about whether a person would be responsive to 5 weeks of work experience, work orientation, or classroom training of some kind or whether on-the-job training would be more appropriate.

I think for all the reasons you've already identified, people tend to drift more into things like public service employment where there is not quite as much traditional discrimination. A person does not assume a 60-year-old man will belong in a classroom. So, I call that traditional attitudes about the older people. It doesn't make any difference that many people that age and older have gone to college at that age. People of all ages tend to assume there is something wrong with a 60-year-old man being in classroom training. So, our data for the first 6 months of this fiscal year which started in October shows that in Title I, which is where we have our residual program interest in the youth, we have 1.8 percent of the total served are over 55. But in Title II we have 5.3, which is—

MR. SCHWARTZ. 5.3?

MR. LOWER. 5.3 percent of the total served.

VICE CHAIRMAN HORN. How many are the total served?

MR. LOWER. Pardon?

VICE CHAIRMAN HORN. What is the number of total served?

MR. LOWER. 4,654 in Title I, 2,910 Title II, and 1,269 in Title VI. The Title VI proportion is 4.7. Now, these—

VICE CHAIRMAN HORN. Well, let's—I just want to get this descending order so I can see proportions; 4,654 in Title I and that's 1.8 percent. Were those 55—

MR. LOWER. 55 and older.

VICE CHAIRMAN HORN. And older. And then 5.3 percent—

MR. LOWER. Title II.

VICE CHAIRMAN HORN. And Title II. And what was the—

MR. LOWER. 4.7.

VICE CHAIRMAN HORN. For Title VI.

MR. LOWER. 4.7. Did you get the figure 1,269?

VICE CHAIRMAN HORN. Yes.

COMMISSIONER SALTZMAN. Could you comment on the differences here with the proportions served, the absolute figure as well as the percentage? What explains that? Is it the emergency employment program and the high figure there, is that explainable as a result of the inability to train older people?

MR. LOWER. We were talking just this morning with some of our planners and people who have been looking at this for a while and trying to get them to come up with ideas on why because I don't know and I've been in it since the beginning. Some of the rationale besides the fact that the old Neighborhood Youth Corps program, which was really the only thing we had going in the balance of State, accounts for this influence in Title I, to what extent, who knows. But the other factors that are presented are in the balance of the State which has, as I mentioned, mostly rural counties. We lack the educational organization to deliver classroom training, for example. If we identified a group in a given county of people over 55, maybe they stepped forward and said, "We need services." And we said, okay, the best program we could give them would be to send them to some kind of schooling, 6 weeks of classroom training, let's say, in remedial English so that people who have a language problem can be more competitive when jobs come along, and we don't have a place to send those people to school. And it would be inordinately expensive to import these services and—

VICE CHAIRMAN HORN. I must say I am a little surprised by that answer, here in a State with 104 community colleges. There's one in almost every county but Alpine in the State. There are specialists in every one of these colleges, to my knowledge, in remedial work. They take all high school graduates. We have had problems with the state of secondary education in the State, and there's a lot of remedial concentration in community colleges. How much work has been done with the community colleges in the State?

MR. LOWER. Almost every one of our local planning councils, 27 councils—Alpine decided not to go that route—of the 27, I don't know how many, but a goodly number have community college representa-

tives sitting in their midst, and those counties that don't have a community college campus or facility available have the equivalent, which is the ROP director who sits on the planning council. We have a lot of educational input. Mostly the educators are the program operators of the Neighborhood Youth Corps in our areas and, so, they retain a strong interest in CETA, and we do talk about how can we provide this training program. And, now, mostly their answers tend to run into money and, yes, the answer is every time, "We can do it. We will erect a structure or rent this and we will hire teachers who will move to this community and we will offer these courses." And what they are saying at the same time is, "We prefer not to because this is somewhat out of our traditional line of endeavor." Normally the taxpayers wouldn't hold still for the kind of money it costs to provide everybody in these communities with an educational opportunity even though it's the law.

VICE CHAIRMAN HORN. Well, this is the point. Besides the community colleges, obviously there are adult programs in the secondary schools throughout this State. I am originally a resident of San Juan Batista, California. If for instance, San Benito County since 1917 can have adult education in the high schools, every other county can, and I'm sure that's one of your counties.

MR. LOWER. That's one of our counties.

VICE CHAIRMAN HORN. I would say that it ought to be made clear to the taxpayer of these rural counties that you either provide the unemployed with competencies now or forever will you be bearing the burden on welfare in the State of California, and I would hope they would understand that relationship.

MR. LOWER. I don't want to leave the Commission with the idea that people are not aware of this as a potential, that we are not trying to do something about it. We are moving with the help of the State vocational people on this problem and others, and we just see that everything we think needs to be done takes longer with respect to the jurisdiction that we have. We have people of good will who really recognize the problem and want to do something about it, but we have to move relatively slowly. Certain kinds of problems we had 2 years ago in the balance of State no longer exist, so there has been progress. I mention data as a real strong need. The question of lacking educational facilities in some communities is a problem.

I think the third problem is the awareness, the self-awareness by people in their fifties and sixties who are unemployed. Somebody needs to get to them and tell them what's available, what are the resources, what they have a right to expect, what are the possibilities for them to make a turnaround. A lot of people, because of their own self-perception of what the world of work thinks of you at the age of 55, turn off and go off to whatever it is they can afford in the way of a life, and then that's it. You know, they don't join organizations. They don't send their dollars to AARP [American Association of Retired Persons] and find out what's happening around the country. They just assume they are going to get wiped out and they do.

COMMISSIONER SALTZMAN. If I may interrupt, that leads me to two thoughts. Where is the largest proportion, in your judgment, of discouraged workers?

MR. LOWER. I'm sorry?

COMMISSIONER SALTZMAN. The discouraged worker. I think, then, you are talking about the discouraged worker, the person who gets off the list of looking for employment, etc. Would you estimate that the largest proportion of discouraged workers are either the young people who haven't been able to find jobs or the older?

MR. LOWER. No, I—

COMMISSIONER SALTZMAN. Are there any figures?

MR. LOWER. You know, in our problem of data, I wish I knew figures on this. If I could demonstrate to the local planning council of Lake County, which has a large proportion of people over 50, that they had a serious problem of lack of understanding, awareness of what's available on the part of that group, well, we could put together a project under Title I money and hire some older workers to go out and spread the word or do some outreach work.

VICE CHAIRMAN HORN. Well, let me ask Ms. Bradley, does the staff know of any studies that try to isolate statistically how many people in the United States qualify as discouraged workers, which Rabbi Commissioner Saltzman means, who obviously do not or are so fed up with the lack of opportunity they don't even say that I am looking for work and, therefore, do not appear in the monthly survey of Bureau of Labor Statistics? Have we got any studies on that?

MS. BRADLEY. To our knowledge, no studies exist nor are they underway. It has been a problem. There have been some studies or some hearings conducted by the Congressional Budget Office that have alluded to this problem. Sar Levitan, an economist at George Washington University, has mentioned this as a problem and connected it also with identification of the jobless rate as opposed to the unemployment rate. But in terms of any kinds of indepth analyses of that population that we classify as discouraged workers, nothing to our knowledge is being done.

VICE CHAIRMAN HORN. Well, without objection as Exhibit 6 at this point there will be a memorandum prepared by the staff in consultation with the Congressional Budget Office, the Bureau of Labor Statistics, human resources administration, so forth, that tries to isolate the nature of this problem. I would insert that in the record at this point. Proceed, Mr. Schwartz. We have a few minutes remaining. You might wish to move on to Mr. Nicholson.

MR. SCHWARTZ. Right. Mr. Nicholson, could you very briefly describe the California Employment Development Department [EDD] and its responsibilities for State employment, its responsibilities for employment in the State of California?

MR. NICHOLSON. The employment development department is responsible primarily for job matching the unemployed with the em-

ployer in the quickest and shortest time frame and to do that under the best match concept, as well as serve the unemployed on the basis of equity of service and equity of access.

MR. SCHWARTZ. What factors are taken into account in determining who the employment development department will serve and provide with jobs?

MR. NICHOLSON. Well, the main factor would be the composition or demographics of our applicants' file and those jobs which are available and the criteria under those job openings.

MR. SCHWARTZ. How is it determined what jobs are available? How does the employment development department become aware of these available jobs?

MR. NICHOLSON. By the placing of job orders with the department from the employing units, private employing units.

MR. SCHWARTZ. Could you give us an idea of what these private employing units would be like?

MR. NICHOLSON. Like General Dynamics or ABC Company, XYZ Company would place orders for workers against their openings.

MR. SCHWARTZ. Does the employment development department at any time attempt to go and seek out positions among prospective employers?

MR. NICHOLSON. One of the primary programs within the department is the employer service program, which is a program ongoing and continuous for developing jobs with employers.

MR. SCHWARTZ. Does the department make any assessment whatsoever of the age groupings of persons or number of persons by age who are served by the department?

MR. NICHOLSON. Well, yes, we can do that because that's in our employment statistical automating reporting system.

MR. SCHWARTZ. Do you have those results with you?

MR. NICHOLSON. No, I do not.

MR. SCHWARTZ. Can you supply them for the record?

MR. NICHOLSON. Yes, we could.

MR. SCHWARTZ. I would suggest at this point, Mr. Chairman, that space be left in the record for such an exhibit.

VICE CHAIRMAN HORN. Without objection Exhibit 7 will be entered at this point. How would you title that exhibit?

MR. SCHWARTZ. It would be the age breakdown of persons served by the employment development department, and that would mean the age groups of those persons who are considered as applicants and those who are actually placed if you have the material.

VICE CHAIRMAN HORN. Would you also relate that to eligibility within the population, in other words, eligible applicants, recipients, or placements, or is that relevant?

MR. SCHWARTZ. I think that would be fine. I don't know if you have the number of eligibles in the population as data which you can provide. Do you?

MR. NICHOLSON. Eligible for what?

MR. SCHWARTZ. Eligible for services to be provided by the State employment service, the employment development department.

MR. NICHOLSON. We consider any applicant that presents himself at our facilities as eligible for some form of service.

VICE CHAIRMAN HORN. What I am trying to get at is, do we know the proportion by age group that are potentially eligible in terms of employment, unemployment? Do we have surveys to tell us that?

MR. NICHOLSON. I don't know. I would have to check.

VICE CHAIRMAN HORN. Because it could be that half of one age group that is potentially eligible on the BLS survey or your own surveys only apply and, then, of those obviously we can figure out what percentages of those apply, receive service or placement. But there is an earlier starting point in terms of outreach to reach those that are potentially eligible which by happenstance or for one reason or another might not really walk through the door to come within your network.

MR. NICHOLSON. Well, let me address myself to that particular point, and I would like to say this, if I may take a few minutes of your time, that I'm speaking for myself and in this instance not as a policymaker. The department currently, at last blush, had one and a half million applicants on file, applicants available for services, and that's housed in some 123 offices throughout the State. Of that figure, some 334,000 are 45 years of age and older and 350,000 are under 21. And, so, our need for outreach in the traditional sense of the word would only be performed on a selected basis. We are, for example, participants in a program which we think very highly of and we, as I understand it, did some outreach in this particular case but not all cases. We had applicants within our file who could serve in those jobs.

My main concern, and if I might shift bases a little bit, is that we have a lot of laws and a lot of protected people under protected groups on the books, and I read with regularity in the newspapers, mainly in the columns to the editor, letters from the public, and I'm sure you all have, too. One group is accusing another group or accusing the bureaucracy or accusing employers for their lack of access to whatever opportunity is important. And I would commend the Commission and I'm not saying that it's their purview, but someone to take a look at what I—and I am speaking for myself—what I consider legalized confrontation or legalizing confrontation. Now that's a rather harsh word. What I am saying is that we are placing on the books laws covering a number of groups which says to that particular group, you have the right to a piece of the pie.

Now, I think we have to look at this from the perspective of the person who is hearing that, what they think they are entitled to in a very inadequate, and now I'm talking about work, labor market. As an example, if my figures are correct, in the State of California in the last 13 months, we had an expansion of the marketplace, I think somewhere in the neighborhood of 320,000-odd jobs, and I just

finished saying that in our files alone we've got something like 334,000 workers who are over 40 who are in our files, not counting the 350,000 youth.

I think that it's time that when we deal with the laws, and they are good laws, that we also deal with the human engineering that should go into those laws. We should be dealing with what comes out of the other end of the pipeline. We should deal with redefining work in the country. I can think in the sports field alone that if we had a national effort that we put hundreds of thousands of kids to productive work over long periods of time exercising that which they are good at, in fact experts at. I can see need for cottage industries. I agree with the mayor that we need to look at shorter work weeks or job sharing. But I am quite concerned what we are coming to and I just want to bottom line this as ultimately a confrontation of vested groups, leaving the employers and the bureaucrats that have to administer these things in the middle. That's all I have.

VICE CHAIRMAN HORN. I think it's a good point. You are saying that elective bodies and political leaders often raise false expectations that cannot be delivered upon by government officials or others involved, no matter how hard they try, and the result is increasing frustration in society, all in the name of glowing campaign promises. I couldn't agree with you more as a citizen, and I guess our problem is, despite the proclivities of some under whose policies and laws we work, how can we carry them out effectively as best we can. Mr. Schwartz?

MR. SCHWARTZ. I am interested in one more particular area with regard to the operation of the employment development department; that is, the manner in which funds are provided for the employment development department operation, particularly with regard to what Federal funds are provided and on what basis the department is reimbursed by the Federal Government for its operation.

MR. NICHOLSON. Well, we operate under a grant system in some cases like our regular employment service functions—excuse me, in other cases we operate under contract such as the WIN program or Work Incentive program, and mainly there are two primary fund sources or methods of getting funds.

MR. SCHWARTZ. Is there a placement factor which results in whether or not you are going to be receiving certain funds or the amount of funds that will be received are based on placements in any way?

MR. NICHOLSON. Yes, they are. And I was hoping that you wouldn't ask what the percentage is. But it works under a resources allocation formula and we get a percentage of our funds based on accomplishment of placements, counseling, what we might call traditional intake services, etc., testing, whatever.

MR. SCHWARTZ. Does that place a premium on your being able to place the applicant?

MR. NICHOLSON. Yes, absolutely, absolutely.

MR. SCHWARTZ. Does that problem, can that or does that result in a problem with regard to those groups who may be harder to place for one reason or another?

MR. NICHOLSON. No, because the department policy aside from the resource allocation formula, which I think would have the tendency to do what you are talking about, the department's policy—and that's a State policy—is to provide services for both what might be considered the hard to place and the easier to place.

MR. SCHWARTZ. Is that done on some kind of percentage or formula basis?

MR. NICHOLSON. That is done in terms of what we are entering now, which is local level planning at which the managers and the district administrators take a look at their labor market, take a look at the labor force needs, and develop some kind of a plan within that labor market to have as balanced a delivery system as we can in meeting the particular needs of that local labor market.

MR. SCHWARTZ. How would you define a balance in that particular setting?

MR. NICHOLSON. Well, it might be that, for example, there are certain things within a plan we might provide under equity of services, counseling, provide all of our service. But we would look at what are the critical needs of a segment of the population we are dealing with and try to accommodate that segment as best we could using whatever resources we had available, which includes CETA, our job placement functions or counseling, our job search workshops, ad infinitum.

MR. SCHWARTZ. Is age considered as a factor in determining a significant segment or sector?

MR. NICHOLSON. Age per se or the problems that are inherent with someone that might, must be of an age?

MR. SCHWARTZ. No, I'm talking about in the planning, determining what sector or segment in the population may need a specific service from the State employment service; is age considered in designing the program?

MR. NICHOLSON. I don't think that they would be considered in that up front term at this point. But I think something happens in the dynamics of doing that which brings, you know, people 40 and older. For example, that's—let's say that in a labor market you've got a heavy number of people unemployed in the 40 or above group and then the management, that office should be and probably would be—I would hope would be—alert for developing programs to meet that particular need. Now, they don't say, you know, is that person 40 and older? Okay. But they do develop programs which tend to meet all age groups.

MR. SCHWARTZ. What kind of response could they have? Let's assume you have the case of a person, of an office, which is showing a rate of success of placement among the age group, let's say, 40 and older that is significantly lower than any other age group. What would you expect that office to accomplish?

MR. NICHOLSON. That was significantly lower? We would expect them to take a look at the plan, and we would probably look at his plan, too, or her plan. We do look at parity of service and the 45 and older are one of the factors we look at.

MR. SCHWARTZ. Well, after looking at it, what in effect is done by this particular office?

MR. NICHOLSON. Well, if parity—whether it's for parity placement on older workers, youth, minority, whatever it is—is too far askew, then we'll bring it to the attention of the proper authority for whatever remedial action they feel is necessary, which might mean taking another look at what they're doing.

MR. SCHWARTZ. I am trying to get what positive type of affirmative action would result from assessment that a particular age group was being—

MR. NICHOLSON. Let's say that in the plan, the local office registration assessment plan, which is the beginning of the service plan, they were not meeting what the plan called for. Then it would be up to the administrator responsible to take some kind of remedial action and try to correct it, take a look at it, see what's happening.

MR. SCHWARTZ. Thank you, Mr. Nicholson. I have no further questions at this time.

VICE CHAIRMAN HORN. Any questions, Mr. Saltzman?

COMMISSIONER SALTZMAN. Mr. Nicholson, out of your experience, would you evaluate what's been happening to the extent of saying that there has been present a factor that can lead us to conclude there is age discrimination in the administration of the governmental funding process for jobs?

MR. NICHOLSON. You want me to say that, or you want me to explore whether I feel that there has been discrimination, age discrimination?

COMMISSIONER SALTZMAN. [Nodding head affirmatively.]

MR. NICHOLSON. Well, okay. This goes back to what I originally said about confrontation or categorical—

COMMISSIONER SALTZMAN. I realize—

MR. NICHOLSON. Right. And depending on which, how you want to interpret it, if large amounts of money are pumped to whatever segment for service to that segment, then the segment which is not being served could claim that they are being discriminated against, for whatever reason. And it is a real sticky problem.

COMMISSIONER SALTZMAN. Well, in the operation of the EDD programs, is the EDD more concerned with serving one age over another because of—

MR. NICHOLSON. Not particularly.

COMMISSIONER SALTZMAN. Do you think they're all equally served?

MR. NICHOLSON. I think in our case that they're served equally on the basis of qualification and to take an assumed job. We do not hire people; it's the employer that hires them. We refer without regard to

age, sex, race, color, creed, whatever. Now, you know the employer in the end result is the hiring authority. If we find or there's indication that that employer is discriminating, we have a procedure for ameliorating that and if it's not ameliorated of discontinuing service.

COMMISSIONER SALTZMAN. Earlier one of the witnesses traced for us what happens when a person comes into one of your offices. Could you do that for us? And—

MR. NICHOLSON. Trace the process?

COMMISSIONER SALTZMAN. Yes, what happens?

MR. NICHOLSON. All right. If a person, say any individual that comes into our office, presents themselves, and we're not talking about unemployment insurance now, but the employment service, they should be given a, what we call a work registration form or an application.

COMMISSIONER SALTZMAN. We were told, if I may follow the process with you as we were told about it, that first thing that's done is they're sent to a job board.

MR. NICHOLSON. Well, a job board, that's not always true, the job board is posted in the lobby area as part of a job information center which might contain some of our orders and some State and Federal jobs, information in general, and a person can present themselves there at any time. You know, it's a public service. Now, if they find a job on that board—

COMMISSIONER SALTZMAN. They can go out as an individual?

MR. NICHOLSON. They can—they present themselves to an interviewer who will do some screening and give them a referral card, call the employer, make an appointment, what-have-you.

VICE CHAIRMAN HORN. Are there statistics kept at that point? The implication I got from the earlier testimony was if they looked at the job on the board, there was one that seemed to fit them, they could really just go get the job and they would be lost in the data-reporting process. So that we never could determine who was potentially eligible, who applied, and who would be seen first?

MR. NICHOLSON. That's absolutely incorrect.

VICE CHAIRMAN HORN. So that data, that trail is made?

MR. NICHOLSON. I would hope to say so because that's how we get our money.

VICE CHAIRMAN HORN. I would think so.

MR. NICHOLSON. Right.

COMMISSIONER SALTZMAN. Okay, that's essentially the impression I wanted corrected.

What about an aging person who registers with you, are there counseling services provided with information about the various programs that are available under CETA?

MR. NICHOLSON. Yes, in fact in all of our offices, and a recent, through the efforts of ourselves and Ms. Dudley, we have revisited that program, and in all 123 offices we always have had older worker consultants whose responsibility in this area you're addressing yourself to.

In fact, just before coming up here I was informed that during, I guess this quarter, that we had conducted 14 what we call job search workshops; that's to help and assist and advise people on how to find work; 14 of those were conducted for older workers only.

COMMISSIONER SALTZMAN. Thank you.

VICE CHAIRMAN HORN. Exhibit 8 in the record, Mr. Nicholson, I'd like staff to ask the employment development department to furnish for the record the number of employers within the last year or so in the State of California who have been cut off from services because of discrimination of one sort or another under the existing law. I think this would be helpful to us as we try to deal with the approaches that can be taken and the effectiveness of those approaches in terms of age discrimination, to see if, even if one has the mandate on the books, does anything really happen at a grassroots level. So I ask staff to contact the appropriate officials; that will be included without objection at this point in the record.

My last question is to the staff. I think Mrs. Elton made a very important point as to the differentiation between the persons served and the dollars expended and what I want to know is, as part of this hearing, are there charts available or does the staff have plans to include a summary table that lists the various programs that we're reviewing in this series of field hearings and that show for a given fiscal year the number of persons served, dollars expended. What are the plans of staff on that? Ms. Bradley?

MS. BRADLEY. We certainly can provide for the record by program some of that information. I am sure, as Mrs. Elton probably herself would say, not all programs maintain dollars expended by age group. Some programs do maintain information by services to an age group.

The question here is a very pointed one, namely, what measure do we use to determine whether age discrimination, unreasonable age discrimination, prevails in the particular program? Is it the dollar per person on the basis of age; is it the number of services or the number of recipients? We can supply, I think, as much information as we have for the record. Most of these data sheets and so on and so forth come from the Federal agencies and are based on information that is supplied to them by the grantees at the State and local level.

VICE CHAIRMAN HORN. Very good. Without objection, then, Exhibit 9 will be persons served, dollars expended by age group for Federal programs in Region IX and/or California, depending upon availability of the data, and that's to be developed by the age discrimination study staff.

I'd like to thank each of you very much for sharing your experiences with us; we deeply appreciate your attendance today. I think some very valuable suggestions and interchange has occurred. Thank you.

The last panel for the morning session, and then we will adjourn perhaps by 1 o'clock, will be the panel of vocational rehabilitation administrators. Mr. Schuurman, Kaminsky, Ms. Dieckman, will you please come forward?

[Ms. Betty Dieckman, Mr. Ronald Kaminsky, and Mr. Dirk Schuurman were sworn.]

TESTIMONY OF BETTY DIECKMAN, CHIEF, PROGRAM CONSULTANT SECTIONS, CALIFORNIA DEPARTMENT OF REHABILITATION, SACRAMENTO; MR. RONALD KAMINSKY, DISTRICT ADMINISTRATOR FOR SAN FRANCISCO, CALIFORNIA DEPARTMENT OF REHABILITATION; AND DIRK SCHUURMAN, DEPUTY REGIONAL DIRECTOR, OFFICE OF REHABILITATION SERVICE, U.S. DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, SAN FRANCISCO

MR. SCHWARTZ. Would you each please state your names, address, and position, organization or affiliation, for the record, please, starting with Mr. Schuurman?

MR. SCHUURMAN. I'm Dirk Schuurman, Deputy Regional Director for the Office of Rehabilitation Service here in San Francisco, and I reside at 910 South Harold in Belmont, California.

MR. SCHWARTZ. Ms. Dieckman?

MS. DIECKMAN. I'm Betty Dieckman, chief of the Program Consultant Sections for the [California] Department of Rehabilitation, headquartered in Sacramento, California. My home address is 6918 Vera Cruz Court, Citrus Heights.

MR. SCHWARTZ. And Mr. Kaminsky?

MR. KAMINSKY. My name is Ronald Kaminsky. I'm the District Administrator for the City and County of San Francisco with the California Department of Rehabilitation. My business address is 2720 Taylor Street, San Francisco.

MR. SCHWARTZ. Mr. Schuurman, in our earlier field work, in several cities in which our field work was conducted by the Commission staff, various officials have told us that the rate of disability increases with age generally, but that the rate of application for vocational rehabilitation services in the program which you administer decreases with age across the country. Is this your experience in this region?

MR. SCHUURMAN. I would concur with you that as a subjective judgment this would be the case, although because of lack of hard statistical data it would be very difficult to back it up, unless we go into individual district offices to obtain these data from local counselors who also provide services to handicapped individuals.

I don't know whether I would be out of order or not; but, since we're talking about discriminatory activities, I just would like to express my concern that this particular building is not entirely accessible to handicapped individuals and you may want to inquire—

VICE CHAIRMAN HORN. I was commenting—

COMMISSIONER SALTZMAN. We noticed—

VICE CHAIRMAN HORN. —to our Deputy Staff Director. As president of the California State University of Long Beach, we became accessible 2 years ago, and I suggest my brethren at the University of California do likewise, but you're right, it's a problem.

MR. SCHUURMAN. Sorry for the interruption.

MR. SCHWARTZ. That's quite all right.

The question that I would like to pursue, then, if this is your feeling, and I believe it is, that the characterization that I have made with regard to other field work sites that we have seen is correct, that the participation in the program does decrease despite the increase in disability—

MR. SCHUURMAN. I would assume this is a fair assumption, yes.

MR. SCHWARTZ. The question which must flow from that is what factors account for this crossing of lines, if you will, if you looked at a graph as to people who could be participating in the program and who apparently are not, on the basis of age?

MR. SCHUURMAN. Part of the rationale would be the purpose of a particular program. Under the rehabilitation act, we are administering a program that's sooner or later going to need to end up in some kind of employment activity. And with increasing age, we find the phenomena that it is much more difficult to place, one, an older worker; two, in particular an older worker with some kind of a disability.

MR. SCHWARTZ. Well, the ultimate goal being employability of the individual, how does age enter into the determination of how employable any particular individual will be, who has a handicap?

MR. SCHUURMAN. Let me try to give you a very specific example. Let's take the local rehabilitation counselor, who during the middle of the fiscal year may have, say, \$5,000 left over in his case services budget. He has two applicants come in simultaneously, a younger worker and an older worker. And let's assume now that this, the cost of the rehabilitation may be \$10,000, \$15,000, \$20,000. The counselor's going to take a good hard look what his investment is going to be doing. If he invests in a younger person, there's a much longer work history and the taxpayer gets more for his return on the investment. With an older worker, the longevity for work capability may be a year, maybe 2 years, maybe 5 years, maybe 10 years, a highly individualistic matter.

And the point I'm trying to bring across here is that from my impressions, and the people who represent the State agencies here can give you more specific data on it, my impressions are that counselors do take into consideration the longevity of a particular individual in deciding how much to invest in a particular rehabilitation program for a particular disabled person.

MR. SCHWARTZ. In your own personal opinion, do you think that with the implementation of the Age Discrimination Act, which will say unreasonable age discrimination is now banned in federally-assisted programs, is this assessment of the longevity that might be expected from this particular participant a justifiable criterion to continue despite the existence of the Age Discrimination Act? In other words, is this reasonable age discrimination in your view?

MR. SCHUURMAN. It's a very tough question to answer, not having had these kinds of experiences, but let's assume now you have a 70-year-old applicant who feels like that he should return to college and get a Ph.D. degree in some kind of a vocational endeavor and, if the rehabilitation counselor were to turn him down, he'd say: "Well, you don't know that you're going to live long enough to complete your college education. On top of that I wouldn't know whether I would be able to get you a job after 6 or 8 years of college education." Would it then be unreasonable for the vocational rehabilitation counselor to say, "I'm sorry, we cannot make that kind of investment; maybe we can provide you with some short term training for 6 months or maybe even for a year."

So it's a highly individualistic matter. Each client and each counselor has to make that particular kind of a judgment on a per person basis, and I really don't know what's reasonable or what is unreasonable within these kinds of circumstances.

MR. SCHWARTZ. Just one further question for you, Mr. Schuurman, can you tell us how the vocational rehabilitation participants find out about the program and how they get involved, how they get to your door in the first place?

MR. SCHUURMAN. You will find differences, substantial differences from district to district, from counselor to counselor. Some districts may have a highly formalized intake referral system, whereas other systems, other district offices, may very heavily rely on walk-in traffic, if you will. So it's very difficult to generalize and give you a very specific answer, other than to say that there is no uniform practice from counselor to counselor upon which to draw some very valid assumptions.

MR. SCHWARTZ. Ms. Dieckman, in the State of California, are you familiar with the number of participants who might be referred over from the Social Security Administration program from either supplemental security income or—

MS. DIECKMAN. The actual number, am I familiar with that?

MR. SCHWARTZ. At least the rough percentage of the program participants, if you have that.

MS. DIECKMAN. I think it's now around 10 percent or 15 percent. There is an age criteria recommended by the Federal Bureau of Disability Insurance as an age cutoff that anyone under 45 would definitely be referred; after—over the age of 45, it's optional; it then depends on other factors.

A year or so ago we were having 90 percent of all of the cases that were handled by the disability evaluation program, about 90 percent of them were referred to the vocational rehabilitation offices. And they were screened in the local offices.

MR. SCHWARTZ. We have some information from other field work that we have done that, because there is a requirement within the Social Security Administration that clients not be referred unless it will

ultimately result in a saving to the social security disability program or supplemental security income program, that there was some age effect on the clients who were referred to the vocational rehabilitation program in various States. Does that dynamic operate here?

MS. DIECKMAN. Oh, definitely. I'm sure it operates both in terms of the referrals and in terms of the selection for service within the department.

It's an important factor; however, I should point out that even if they are not able to be served under the social security program, or under supplemental security income program, that they can be served under the basic vocational rehabilitation program. So it isn't a matter of either/or, but age certainly is an important factor in determining who will be served under the social security program.

MR. SCHWARTZ. Let me look at one other aspect of that problem which is that if the person is, let's say, referred to vocational rehabilitation and that person is rehabilitated to a job, what implications does that have with regard to the continuation of program support from the social security program or Medicaid or any other program once that person has gained some form of employment, low or high paying or anywhere in between?

MS. DIECKMAN. Well, obviously there are huge disincentives in the social security and supplemental security income programs, because the individual will lose their eligibility, not only for the income maintenance, but also for things like homemaker chore services and Medicare, Medicaid services. And this, in and of itself, discourages many people from even trying to participate in vocational rehabilitation services or making any effort to go to work. Because they cannot, obviously—I think it's estimated that it takes an income of about \$1,500 for a severely disabled person who has to have homemaker chore services to be able to maintain themselves—take care of their medical expenses and their attendant care, and the average entry-level income is about \$700 for those people we rehabilitate, so there's quite a discrepancy, and a severely disabled person, no matter what age, cannot maintain themselves on that kind of money.

MR. SCHWARTZ. Does this impact particularly heavily on any one particular, one or more particular age groups, so that you see an age-related impact of this disincentive?

MS. DIECKMAN. Well, to the extent the disability is related to age in many instances, that many of your severely disabled quadriplegics are in the younger age groups, and that many of the older age groups also have severe effects from chronic disability, chronic disease, these two groups would be probably more severely impacted than any others.

MR. SCHWARTZ. Mr. Kaminsky, one of the elements that we have found in the operation of federally-assisted programs which has operated to some degree everywhere to exclude persons of various age groups across the country in these programs has been the outreach efforts being made or the lack thereof within each of these individual

programs. Vocational rehabilitation is one of the few programs that has a mandated outreach requirement. Could you tell us in the San Francisco area how that requirement is—that's my mistake, I believe I've mixed up programs. Is there a mandated outreach requirement in this program?

MR. KAMINSKY. There's an intention by the department not to neglect the older worker when he or she applies for services and for us to consider his application equally with other applications. Some of the things that they determine indicated some of the realities are taken into consideration by the counselor as to whether or not we'll bring him into the system. But, specifically, in San Francisco we have no aggressive outreach programs to bring in the older worker. We do have linkages with the Social Security offices in which we look at SSI referrals and social security trust fund referrals, but aside from that, no.

MR. SCHWARTZ. Can you tell us, in working with the vocational rehabilitation clients and the labor market of San Francisco, what effect the preferences of employers or other labor market factors have on various age groups that could be served by vocational rehabilitation, particularly with regard to your ability to place them once they are rehabilitated?

MR. KAMINSKY. Well, I guess what I would share with you probably is something that you've heard elsewhere in this Nation. Employers are not terribly sympathetic in hiring the older worker, particularly the older worker with substantial disability. And each time we do make a job placement, it—we feel quite rewarded as a result. There is overt discrimination in hiring of the older worker, period.

MR. SCHWARTZ. When you say older, how are you defining older for us?

MR. KAMINSKY. I think anyone from my age and up.

MR. SCHWARTZ. How old are you, Mr. Kaminsky?

MR. KAMINSKY. Early forties.

MR. SCHWARTZ. Mr. Chairman, I have no further questions.

VICE CHAIRMAN HORN. Mr. Saltzman?

COMMISSIONER SALTZMAN. Mr. Kaminsky, in the instance of the availability of programs you're saying the employer discriminates, but the availability of programs, specifically the programs that you're dealing with, do you find the same, that the attitude of the employer carries over into influencing the availability of programs, federally funded, for the aged?

MR. KAMINSKY. Decisively.

COMMISSIONER SALTZMAN. So that your own program, then, would, to some extent, be influenced by the fact that there are no available jobs for placement?

MR. KAMINSKY. Or that the jobs that would be available are so few and far between that the counselor would have to really exert a great deal of energy and disproportionate time in order to unearth those particular jobs, and the counselor needs to equate whether or not he can

continue to be productive in doing this kind of needle in the haystack search.

VICE CHAIRMAN HORN. Mr. Nunez?

MR. NUNEZ. We heard it said earlier by one of the witnesses that she felt that there was no such thing as reasonable discrimination. In your specific area of vocational rehabilitation, which is a very difficult area to work in, when you compound the physical disability with the age factor, would you see a concept of reasonable discrimination in your area? I'm speaking particularly to this complex area which you all work in. You alluded to that, Mr. Schuurman, but I'd like each one of you to briefly remark on it.

MR. SCHUURMAN. Let me give a try because it's obviously a very difficult question to respond to.

In terms of if the concept prevails, if the program concept prevails, that the vocational rehabilitation counselor has to take into consideration the amount of money that he will invest in any particular client in relationship to the length of time that a person may be employed, we then could enter into a possible factor. I don't know whether you want to call it reasonable discrimination or not, but there would be some discriminatory factors taking place.

VICE CHAIRMAN HORN. Let me get to it a little differently. The law is saying that we shall undertake a study of unreasonable discrimination based on age, in programs. And I'm wondering, if you look at it from that standpoint, how do we make the judgments when, say, the department of vocational rehabilitation has committed unreasonable discrimination based on the considerations you have to make? And can you give us some advice?

MS. DIECKMAN. If I can speak to that point from a little different perspective, the counselor is required to make a judgment as to whether there's a reasonable expectation that this person will go to work. So we have another reasonable to deal with here. And I'm not sure two reasonables make a whatever, but—

VICE CHAIRMAN HORN. Is there a requirement or a definition in your guidelines that the reasonable expectation on going to work is involved at all with the length of time or the years that individual has to work?

MS. DIECKMAN. Yes, we have in our policy a statement that older applicants should not be served if they will be beyond the employable age at the completion of services.

VICE CHAIRMAN HORN. How is employable age defined?

MS. DIECKMAN. It is not defined beyond what I just stated. There's no definition as to what is an employable age, but I think that—that most counselors' experience would—would say employable age upper limit would be 65. But again it depends on—that would be an absolute—but it would depend on the experience of the counselor.

VICE CHAIRMAN HORN. Let me just pursue this. Do we have statistics in vocational rehabilitation as to the demands made upon you for services that you cannot meet because you do not have available funding? This must come up in your budget cycle on a regular basis.

MS. DIECKMAN. We have estimates of the number of disabled in California. And we have our own statistics of how many we're able to serve.

VICE CHAIRMAN HORN. Can you give me a rough idea of what that is?

MS. DIECKMAN. I think the last estimate I saw was, I think, 600,000 disabled in need of our services in California, that—

MR. KAMINSKY. Roughly, we feel that probably there are about 6 percent of the California population or the national population is disabled to some degree, and of that 6 percent, we probably feel that we can actually serve 3 percent of those people who are substantially disabled.

In reality we cannot serve that 3 percent, because of limited funding and limited resources.

VICE CHAIRMAN HORN. In other words, are we to assume, then, you serve about 300,000 people in California or much less? Do you know what your current—

MR. KAMINSKY. Our caseload's about 100 to 125?

MS. DIECKMAN. No, I don't think it's that high.

MR. KAMINSKY. It's gone down this past year.

VICE CHAIRMAN HORN. Well, you're serving, well, I haven't figured this out, but you're serving one-sixth of what you estimate the market is, so to speak, for your services. I mean 100,000 out of 600,000.

MR. KAMINSKY. Yes.

VICE CHAIRMAN HORN. So this would presumably argue for the fact that limited funding is forcing your screening people and your vocational rehabilitation counselors to say, either through policy guidelines such as the vagueness of what is employability, to give resources toward younger workers, I would think. That's the clear evidence we're talking about in our field findings.

MR. KAMINSKY. I think that's implicitly correct. However, I need to qualify that. Of that 6 percent of disabled Californians, we would outrightly reject a number of these people in providing service to them because of one reason or another. Basic reason is that we do not feel, based on our professional judgment, that they would be employable in spite of a whole array of services that may be made available to them, either they're too severely disabled or the severity of disability in conjunction with numerous other factors; so even though we say 6 percent of the population is disabled, if you eliminate 3 percent right off the top of people that for one reason or another we shouldn't be serving because they're too disabled, it's that 3 percent that we ought to be serving but we're not.

VICE CHAIRMAN HORN. And so the 3 percent that are too disabled become simply welfare charges; is that it?

MR. KAMINSKY. Or other income, yes.

VICE CHAIRMAN HORN. Commissioner Saltzman?

COMMISSIONER SALTZMAN. I just wonder whether we could enter that policy statement into the record, with specific reference to that, the one statement of employability relative to age as a criterion.

VICE CHAIRMAN HORN. Without objection, as Exhibit 10, the policies of the department of rehabilitation and any national policies that relate to that will be entered in the record at this point, as well as any data that the staff might be able to elicit in discussions with Federal and State authorities as to interpretation of that policy and whether any surveys have been done based on how the actual counselor defines that policy at the working level. Anything else, Ms. Bradley?

Ms. BRADLEY. That about covers it.

VICE CHAIRMAN HORN. All right. That's without objection entered as Exhibit 10 at this point in the record.

Commissioner Saltzman, any more questions?

Ms. Bradley, any questions?

Ms. BRADLEY. No, sir.

VICE CHAIRMAN HORN. Ms. Taylor?

Ms. TAYLOR. No questions.

VICE CHAIRMAN HORN. I'd like to thank each of you for sharing your experience with us. We deeply appreciate you coming here. I know from long experience the very excellent job that your organization has done in this State. Thank you very much.

We will stand at recess until 2 o'clock. We're going to try and be back here at 2 o'clock to resume the afternoon session; that gives us 50 minutes.

Afternoon Session, June 27, 1977

VICE CHAIRMAN HORN. The afternoon session of the United States Commission on Civil Rights will reconvene. I would like to note for the record that we will have, at the conclusion of tomorrow's formal hearings, an open session hour where individuals who have not been formally subpoenaed as witnesses may, by arrangement with the staff, come and have 5 minutes to give their particular perspectives on issues that are in the jurisdiction of this study on age discrimination. Those in the audience or elsewhere that might wish to take advantage of this sort of open hour are asked to contact the Commission staff in Room 450 of this building, and they will be assigned space on a first-come, first-served basis for not to exceed 5 minutes. They may elaborate on their remarks and file a written statement with the Commission, which we will certainly welcome as a part of the record.

I would now like to call the next panelist, which is Mr. Joseph P. Maldonado, the Regional Director for the Department of Health, Education, and Welfare.

[Mr. Joseph P. Maldonado was sworn.]

**TESTIMONY OF JOSEPH P. MALDONADO, REGIONAL DIRECTOR, U.S.
DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, SAN FRANCISCO**

VICE CHAIRMAN HORN. Please be seated. Our chief counsel, Ms. Taylor, will begin the questions. Ms. Taylor?

MS. TAYLOR. Mr. Maldonado, would you please state your full name and address and position for the record?

MR. MALDONADO. My name is Joseph P. Maldonado, Regional Director, Region IX, Department of Health, Education, and Welfare, 50 United Nations Plaza, San Francisco.

MS. TAYLOR. Thank you.

The HEW programs under study all have some form of planning and needs assessment requirements. Yet, in our field work we found that these requirements are often not met because of a lack of data, staff, or technical knowledge, or that they are met but largely ignored. Thus, you have patterns of program participation in operation and they do not seem to be adjusted as a result of these types of requirements. Now, in your view, Mr. Maldonado, is this a realistic appraisal of what is happening in Region IX?

MR. MALDONADO. I think in some cases it is. In others, for example in Title XX, the area planning agencies, I think, do a job. The problem seems to be that it's not always possible to implement the plans that are developed after needs assessment and judgments about where services ought to be. Now, the reason for that can be statutory; it could be pressure within the community—there are a variety of reasons why that may not take place. In other instances, I think what you say is true.

MS. TAYLOR. I didn't understand?

MR. MALDONADO. I say, in other instances there isn't the quality of planning and followup that there ought to be.

MS. TAYLOR. Thank you. The lack of adherence to program requirements seems to have an effect on service pattern by age. It appears that larger HEW policies, such as fostering economic self-sufficiency and preventive health, may determine the age distribution in the service programs. How do these HEW policy goals affect your operation in Region IX?

MR. MALDONADO. Well, in some cases adversely. For example, we had a discussion the other day with representatives of the State of California, vis-a-vis mental health hospitals, and as you know, under Medicaid, we can only participate financially in programs that serve up to 21 and over 65, so that you've a gap in between that is not being served. As we discussed the reasons, I guess they're more traditional

than anything else, in that previously States had picked up the tab for mental health programming and consequently the Federal Government is not involved as it is in other programs.

MS. TAYLOR. I see. Now you mentioned Medicaid. Are there other programs, what other programs does this happen in and do they impact upon certain age groups? You said that they did and with Medicaid?

MR. MALDONADO. Well, the early periodic diagnosis and treatment screening program [EPSDT] obviously is geared for through 21. I think the fact of the case is that mostly they're only carrying out through age 6, which leaves you from age 6 through 21 literally unserved, and then one can also question, isn't early screening, treatment, and diagnosis as important for, say, older groups as it is for youngsters? I realize that the rationale for younger people is that you can prevent serious illnesses in adulthood and thus it's more economical both in terms of individual and in terms of the economics.

MS. TAYLOR. But what would you recommend be done to reach the other age group from 6 to 21? You do see the need to reach that group?

MR. MALDONADO. Well, again, I think it needs reinforcement of the law in this case and the regulations, and adequate staff to follow up to make sure that in fact those intended to be served are being served.

MS. TAYLOR. Mr. Maldonado, what do you see as the relationship between age categorical programs and general population programs?

MR. MALDONADO. Well, it seems to me that when you get age categorical programs you are relatively certain that those age groups are going to be served. When it's for the general population, there are many factors that impinge upon the decision as to what group should be served. And it seems to me that in reading some of your materials, if you really want to get to a certain age population, you almost have to do earmarking of funds in order to do it.

MS. TAYLOR. Do you see age categorical programs as an extension to the services for general population programs, as an extension of those or separate and apart from?

MR. MALDONADO. Well, I suppose it depends on how you view it. It can be an extension or it can be a beginning of a recognition that if you do too much earmarking and too much categorical placement on services, you may have to revert. It seems to me that the trick is to achieve a balance geographically, age-wise, and in terms of the monies that are available from whatever level of government we have to work with. And that's not easy to do.

MS. TAYLOR. I think we discussed this point in your office. In our field work we have found that in programs such as Title XX, where States and localities are given discretion, this influences the regional office's perception of its monitoring and oversight roles. Do you perceive the Federal role differently depending upon the amount of discretion given to the State and local level?

MR. MALDONADO. Well, we have special problems in this region, particularly in the State of California, where traditionally they have used their total allotment—prior to Title XX it was 4B, I believe—and as a consequence, with the change in the law and the evolvement of Title XX, they really didn't have extra funds with which to meet new demands that evolved out of the planning process which, as you know, starts at the grassroots and culminates in the State plan.

And it seems to me, and I'm speaking now mostly from experience at the local level, when I was director of a poverty program in Los Angeles, that it's very difficult, if not impossible, to slowly move to meet needs based on assessments. And I give you as an example, having run the East Los Angeles youth training and employment program, where we had to be concerned with serving Watts as well as other parts of the county, and although that wasn't the intent in the beginning. The intent was to get a battery of services that would cut across age groups, individual needs, so you deal with the whole child or the whole person; and yet, when it came to the assignment of funds to do certain programs, communities outside of the one we were targeting began complaining and going to their elected officials and demanding redress and equal treatment. So in effect, it becomes a very difficult thing to do.

Yet, I don't want to leave the impression that I'm speaking against planning and coordination; I think they're important elements. I guess my concern is where is the balance between that activity and direct services. For example, I feel that we need to keep reexamining the planning-coordinating funds, vis-a-vis direct service funds.

I think perhaps in the Older Americans Act there may be too much money being spent for planning and coordination when compared to the direct service funds. And I gave you the example of the State of Nevada where the Governor wanted a single agency statewide, based on the fact that the population is sparse and he didn't think that he needed three agencies, one in Reno, one in Las Vegas, and one to serve the State statewide; and as a result of Dr. Flemming, we are able to get a single purpose agency and that made sense because the agency can coordinate with other State agencies, and in Nevada most are State-operated agencies. The net result was more encouraging too; I think we saved about \$200,000 that was going into the planning and coordination when there wasn't very much to do after you've done it once and it went into direct services. So, it seems to me that we have to be concerned with the balance between those activities.

I guess another example in the poverty program we spent \$2.5 million on planning and evaluation of the activities already being carried out in a certain district, and when I took over, we had a budget of \$80,000, and rather than continue spending I suggested that we put it into direct services and this was one of the early childhood programs in the county.

So it seems to me we'll always have to be aware of the balance between planning and coordination and the delivery of services. My experience has been that the real problem in most communities has to do with adequate resources to provide the services. For example, in Los Angeles County, where we had the largest Head Start program in the country, spending \$25 million a year, we were only serving about 30 percent of the eligible children; so actually, moving programs from one community to the other was kind of a useless exercise when we had that much demand.

MS. TAYLOR. Thank you. One last question. What role would you recommend that the region play in enforcing the Age Discrimination Act?

MR. MALDONADO. Well, being regional oriented, I'd say that I'd have more authority and responsibilities delegated, but I'm not sure that that's going to happen. As a matter of fact, we're going through a study now in HEW's regional offices and I think that the Secretary has decided that he wants program people in the field reporting directly to the program people in Washington, so that, in effect, there will be some changes. I don't know whether that's going to strengthen the enforcement of activities in the field or not. I think the hope is that it will.

MS. TAYLOR. Mr. Chairman, I have no further questions at this time.

VICE CHAIRMAN HORN. Commissioner Saltzman?

COMMISSIONER SALTZMAN. Mr. Maldonado, from your viewpoint as a government administrator, what are the key problems in the delivery of medical services to children and aging?

MR. MALDONADO. Well, first, it seems to me that the complaints I hear is that the level of payments, especially in the service to children, from the EPSDT program are a barrier to participation by private doctors.

The second thing that I've heard complaints about are the reporting requirements that are laid on by the State as well as the Federal Government. I saw one reporting sheet that was 36 pages long and the doctor was saying, "I can't stop and fill this thing out every time I screen and examine a child."

So I would say reporting systems, regulations, levels of payment.

COMMISSIONER SALTZMAN. Do these represent obstacles in the provision, discriminatory obstacles in the provision of services to children and the aging? And is their net effect to result in the failure to provide the medical services?

MR. MALDONADO. I don't think it's discriminatory in the sense that you're providing to one segment and not to another; it seems to be pretty generalized.

COMMISSIONER SALTZMAN. So they don't have a special impact on these two age groups?

MR. MALDONADO. I think that's correct.

COMMISSIONER SALTZMAN. Are there any factors that have special bearing to these two age groups?

MR. MALDONADO. Well, taking the aging, it seems to me that in looking over the availability of rehabilitation services and I know you had one of my staff members here this morning, but from my point of view it seems to me that, when you decide that you want the severely disabled, that you are targeting and therefore going and saying discriminating.

I think if you look at the statistics in that program, if I recall them, they were 2 percent in 1972, and I'm now talking about the aged, 65 and over, as participants in the program, so I guess one would have to conclude that there is discrimination in that group for the reasons I've stated.

COMMISSIONER SALTZMAN. In the criterion for choosing who would receive certain benefits, employability seems to be a crucial criterion. Can you comment on that factor in terms of delivery of medical services, whether or not the criterion of employability is the best criterion that a society might use, or are there others?

MR. MALDONADO. Well, I, speaking obviously personally, don't believe that that should be the main criterion under any case. I think that the humanity of doing the right thing in prevention and treatment should be paramount. Of course, going back to the earlier statement I made, this again depends on the resources that are available, but it seems to me that my philosophy would be to take the resources that you have and to the extent humanly possible do some equal distribution geographically by age groups and try to be as fair in the distribution of those monies as you possibly can.

COMMISSIONER SALTZMAN. Thank you.

VICE CHAIRMAN HORN. Mr. Nunez?

MR. NUNEZ. You earlier said, Mr. Maldonado, that you almost have to earmark certain funds in order to serve a segment of your population that you do serve, which I imagine we're talking about the aged in this instance. Is it your feeling that, given the normal administration of grant programs in your region, that it would not work out that funds would go on an equitable basis to this category of the population unless you had to make some very specific earmarking?

MR. MALDONADO. I think that's always a possibility, but I would say that where there are regulatory or statutory requirements that the chances then of adherence to those requirements is much greater than if you left it to the good will of individuals in the professions. I think that the problem is not one by intent generally. It seems to me that it's probably related to training, to background, to interest, of administrators as well as those in the policymaking positions.

VICE CHAIRMAN HORN. Ms. Bradley?

MS. BRADLEY. Yes, I have one question.

Mr. Maldonado, although you say that, or agree to the necessariness, if you will, of planning and coordination, you have indicated that a balance needs to be struck or a better balance than the one that now exists. And you seem to be saying that more money should be directed

towards social services and less money towards planning and coordination. Are you suggesting that by increasing the dollar amounts going to direct services, that this would have any effect on distributing the resources across age groups in a more "equitable manner" or are we just talking about a scarcity of services and finite resource problem?

MR. MALDONADO. No, in answer to your question, no, I don't believe if the funds are for general purposes, but if they're for earmarked or categorical purposes, then I think that the benefits would accrue to those that we're trying to serve.

Let me give you an example. I'm not sure and I suppose I can tell you that I was a community social planner for my first 15 or 20 years, so I'm not knocking it; I'm just saying that there are limits and lines that ought to be drawn between the efficacy and the value of the planning and coordination versus service, presumably the planning and coordination is to be accrued to the benefits of better services, more effective, more efficient services.

What I'm saying is that without any services in the first place you can do a lot of planning and coordination for nothing that isn't going to be of any value at all. So the point I'm trying to make is that in some instances you don't need a continuing operation 12 months of the year, that it might not be a bad idea to take a look, do a needs assessment, spend some money, and back off for a year or two or three, go back and see if things have changed, analyze why they haven't changed, make some decisions about what changes should have happened, and then start applying those findings to improvement of programs instead of continuing the operations over and over again.

I guess included in that category I would put in welfare information services. It's been my experience that, generally, when you don't know what to do you start out by formulating a directory of services, which in a sense is welfare information. And after you've done that, you get a little more sophisticated and get a telephone and sometimes cards, and it's my view that there are too many agencies in local communities interested in welfare information when that's not the problem, the problem is the resources, so the people who are referred can in fact receive those services. So I would take a hard look at the multiplicity of welfare information services that are available in some communities.

VICE CHAIRMAN HORN. In other words, you're saying that the outreach programs, in terms of getting information to those potentially eligible, in your judgment seem to be adequate; the problem is we cannot meet the expectations of those that are already coming to us for services?

MR. MALDONADO. That's right.

VICE CHAIRMAN HORN. Is this a matter of local groups plus the Department of Health, Education, and Welfare requesting funds that Congress has not appropriated, so you can render these services?

MR. MALDONADO. I think that that's probably correct. I think that the commitments necessary in most human services aren't measured

with rhetoric, and it seems to me that having gone through the poverty program where we were going to cure poverty, and having seen the shortfall in that program, I believe that there has to be a closer connection between what we offer and promise and what we can deliver.

And I believe that the resources for delivery have to be looked at very closely, and I think, to the extent possible, local communities ought to contribute, counties, States, as well as the Federal Government. It's only when resources are put in the program, it's been my experience, that there's real interest on the part of officials that ought to have responsibility for what goes on in communities.

VICE CHAIRMAN HORN. In building the HEW budget, are those estimates set up program by program on a regional basis, or are they constructed in Washington by the program offices there on a national basis and then allocated by formula?

MR. MALDONADO. Generally, the latter is true.

VICE CHAIRMAN HORN. So you don't have a hand in saying what Region IX really needs, whether it be vocational rehabilitation, Title XX, CETA, or whatever?

MR. MALDONADO. Well, we've gone through the process of developing memoranda on the programs; I'm not so sure how effective that process has been. Some regions do it one way and others do it another. For example, one region has a yearly conference where they invite representatives from the community as well as State and local officials and policymakers, by that I'm talking about elected officials. They try to develop program priorities to set them in a scale, and then these are transmitted to the HEW headquarters as part of the planning process. We haven't gotten that sophisticated in this region, but I don't think it's a bad idea.

VICE CHAIRMAN HORN. Ms. Taylor, any further questions?

MS. TAYLOR. One short one, Mr. Chairman.

MR. MALDONADO, do you have any suggestions for us as to the best method for carrying out the legislative intent to ban unreasonable age discrimination?

MR. MALDONADO. I looked at the options that were included in your paper, and I would guess that probably—what is it?—Title VI of the act offers, I guess in our judgment, the best approach to it.

I talked to our director of civil rights before coming here, tried to get his view on it, and I think we both came out thinking that the experience, the apparent buildup of staff not taking place, the elimination of backlogs probably augers well for placing it there.

MS. TAYLOR. You did say Title VI, right?

MR. MALDONADO. I think that's the right title.

VICE CHAIRMAN HORN. You're talking about Title VI of the Civil Rights Act of 1964?

MR. MALDONADO. Yes, sir.

VICE CHAIRMAN HORN. Under which Federal agencies are prohibited from discriminating among recipients in the delivery of Federal funds?

MR. MALDONADO. Yes, as I understand it, the Older Americans Amendment will take place in what, 1979, January '79? And at that point somebody has to make a decision as to where to place the enforcement responsibility.

MS. TAYLOR. Just a followup question, in Title VI I think, with regard to compliance, if one is found out of compliance, termination of funds is the enforcement mechanism used. Do you think that is effective and would be proper for the regulations for the Age Discrimination Act?

MR. MALDONADO. It's my opinion that in most cases the threat of withdrawal of financial participation is an overkill and perhaps unrealistic. It seems to me that there ought to be some ideas developed somewhere between total withdrawal and continuance of the program ignoring the regulation. And I say that because, although there are many pieces of audits lying around being looked at because of disallowances, I yet have to see the total resources cut off from, say, the State of California or any State for that matter; it's very difficult to do.

MS. TAYLOR. In fact, haven't you found that administrators don't quickly do that?

MR. MALDONADO. Well, it's not only the administrators. I guess a recent example is the Medicaid failure on the part of States to monitor the utilization of services and the facilities that they're funding. As you know there was an announcement, at least in our region, that the State of California must lose \$18 million.

I understand that shortly after the announcement there is a bill in Congress pending to abrogate the necessity for those payments; there are some 27 States, I think, were announced by the Secretary. He, himself, said that he hoped the Congress would pass legislation which would not make the payments necessary. As I understand it, he did it, took the action based on the General Accounting Office's threats that, if he didn't do it, they would do it for him.

MS. TAYLOR. Thank you. I have no further questions.

VICE CHAIRMAN HORN. As you know, Title VI responsibilities in HEW are carried out essentially by the Office for Civil Rights rather than the particular program areas. The question will obviously arise as to whether age discrimination review should be carried out in the same way. Based on your experience with how civil rights laws of the country are reviewed and implemented within HEW, do you have any suggestions as to whether that responsibility should be moved from OCR to the particular program areas?

MR. MALDONADO. I don't. As I stated earlier I think OCR is the place. However, there's a caveat to that and that is that in my judgment there hasn't been the coordination and cooperation between the program elements and OCR, and it seems to me these have to be strengthened tremendously to make them more effective. By that I mean I don't see, for example, our Office of Education working as

closely as I'd like to see it working with OCR in terms of segregated schools. It seems to me that if there were better coordination, better communication, and even working together on some of these issues, that the net effect, vis-a-vis children and their education, would be better.

VICE CHAIRMAN HORN. How can that coordination and cooperation and liaison be improved? You're a regional administrator, you have a chance to bring the program officers of the various HEW agencies in this region into the room, and if you will, bang a few heads together to get some of that coordination. Is that where it should occur or should it occur on the national level?

MR. MALDONADO. Well, it must be an easier way of doing it and more effective way and what you say, I think is true. We can try to do that, but here again the authorities the regional directors have are very limited. And unless there's a lot of good will and persuasion, sometimes it doesn't happen; and you're right, we do try. Sometimes we're effective and sometimes not so effective. I'm not so sure what to recommend. It would be more than your regional director, it's your job to make it happen; it seems to me there ought to be some authority invested in the individuals or the persons charged with that responsibility.

VICE CHAIRMAN HORN. Well, there is an OCR office in the region—

MR. MALDONADO. That's right.

VICE CHAIRMAN HORN. —does that office report to you or does it report directly to OCR?

MR. MALDONADO. It reports directly to OCR and so does the Office of Education, so you can see the problem.

VICE CHAIRMAN HORN. In other words, the Commission probably, in terms of its enforcement studies, which are another aspect of our work and I'm sure we've looked at this over the years, should be taking a look at the authority of the regional director to coordinate the various program areas and OCR within a given region—

MR. MALDONADO. Well, that's a biased view that I won't espouse today because I'm regional director. I will—

VICE CHAIRMAN HORN. I'm voicing the bias. You're innocent.

MR. MALDONADO. I would say that, in answer to your question, I think that would strengthen it, but I want to hasten and also say that I don't know that it has to be the regional director, whoever is given that responsibility.

VICE CHAIRMAN HORN. I think that we ought to have as Exhibit 11 in the record what are the responsibilities of HEW regional directors in relation to coordinating the enforcement of the various antidiscrimination laws in Federal programs under the regional director's jurisdiction. And those that perhaps aren't under his or her jurisdiction, but are within HEW and what are those interrelationships with the Office for Civil Rights in HEW, and if staff can develop that and insert it at this point in the record, without objection it will be inserted.

MS. BRADLEY. Mr. Chairman, would you like that to extend as well to the Department of Labor, since we have spent a considerable amount of time on CETA?

VICE CHAIRMAN HORN. I think it's a good suggestion and I mistakenly implied CETA was under HEW and I know better, but you're quite right, Ms. Bradley; include in it all relevant regional apparatus with the programs we're reviewing.

Any further questions?

If not, thank you very much; we appreciate you sharing your time and experience with us.

MR. MALDONADO. Thank you.

VICE CHAIRMAN HORN. The next panel is Mr. Xavier Mena, Assistant Secretary, Health and Welfare Agency, State of California.

Please come forward. If you will raise your right hand.

[Mr. Xavier Mena was sworn.]

**TESTIMONY OF XAVIER MENA, ASSISTANT TO THE SECRETARY, CALIFORNIA
HEALTH AND WELFARE AGENCY, SACRAMENTO**

VICE CHAIRMAN HORN. Thank you very much. Please be seated.

Ms. Taylor?

MS. TAYLOR. Would you please state your name, address, and position for the record, please?

MR. MENA. My name is Xavier Mena. I'm Assistant to the Secretary of Health and Welfare Agency, State of California. The secretary is Mario Obledo. My address is 915 Capitol Mall, Room 200, Sacramento, 95814.

MS. TAYLOR. Mr. Mena, what is the State of California's philosophy regarding the provision of health and welfare services?

MR. MENA. There was one word in there I didn't hear; would you repeat it?

MS. TAYLOR. What is the State of California's philosophy regarding the provision of health and welfare services?

MR. MENA. I can give you what I believe to be a very strong philosophy that emanates from the secretary, Mr. Mario Obledo, and I would key words in that philosophy, one word being parity and the other one being access. By elaboration, by parity the secretary's philosophy is that there should be parity of services to those individuals who are in need of the social services provided by the agency and who qualify for those services. As far as the word access is concerned, that the agency has the responsibility to assure that those that are in need of those services have access to them throughout the State.

MS. TAYLOR. How does the agency establish its budgetary priorities?

MR. MENA. Much of the funding that comes to the State comes through Federal channels, as you know. Many of those budgeting amounts are already pretty well fixed. There are State matching funds and then there are funds that are provided by the State through legisla-

tion, so that by the time we get around to developing and submitting a budget for the Governor's approval, we have already done a variety of things.

In some programs the counties develop county plans; for example, in alcoholism, the counties have a county alcohol administrator who has the responsibility to assure that there is a county plan for delivering services to, for those in need for alcoholism. There are local county funds and there are State funds that are involved. The counties develop the State plan, submit it to the State. The State reviews, modifies as appropriate, approves and based upon the budget of that particular office and submits it to the agency. The agency then goes through the department of finance; the department of finance submits to the legislature, etc., until it gets to the Governor and the Governor approves or disapproves.

There are various other ways in, say, the department of aging. The funds are direct from the Administration on Aging. We have a pretty good idea what funds are going to be available. There are triple A agencies which you're familiar with, so now we're not talking about counties, we're talking about regional areas where the area agencies on aging which may represent anywhere from a county, for instance Los Angeles, a city, Los Angeles, or eight counties that are represented by one area agency on aging. Which then develops a regional plan, submits it to the State, and goes through the process I described earlier.

MS. TAYLOR. Could you identify for us some instances of age discrimination or circumstances which contribute to age discrimination and in the programs administered by the agency, and I think those are Medi-Cal, CMHC, Title XX, CETA, food stamps, and VR?

MR. MENA. All right. Knowing that we would have a representative before this body, let me make some comments and then try to back it up with my personal observations. You have heard some speakers already and you will hear others. You heard Mr. Maldonado address the plight of those that are 21 years of age through 64; that area will be elaborated on, I believe in the next speaker, representing Medi-Cal, Doris Soderberg. There's a large segment of the population that is not covered, but if they're poor and they are in need of assistance, they're in a transitional area. Either they are destitute because they just lost a job, they've lost their employment, unemployment insurance, and they go for assistance and they just do not qualify. California has provided part of the need by filling the gap to some extent with the indigent Medi-Cal, medically needy, that others will address later on.

Some of the other programs, well, all of the programs that you will be listening to at one point or another will address the issue of age discrimination within each of their areas. They have looked into it deeper because there weren't too many areas that we could really say we know that much about the problem. For instance in food stamps, we've been more concerned with discrimination vis-a-vis ethnicity than

in age. And I think you're going to hear pretty much that same kind of language.

We haven't really looked at it. In looking at the CETA program, I could see the bell curve that those that are presently recipients of CETA funds, the lower end of the left-hand side of the bell curve, are the very young, those that are in their thirties through later—middle twenties through middle thirties form the bulk of the bell curve, and then, over at the other end, on the right-hand side, are the aged and there aren't too many being served there.

I don't know that we can draw assumptions that we have a leg to stand on when we don't have the universe. For instance we can say, "Well, look, you're not serving many that are 19; you aren't serving many that are—that are in their fifties." Because we don't know, as opposed to what?

What's the target population of those in the thirties where we're getting the bulk? What's the universe of the target population in the fifties and sixties and in the twenties, early twenties? We really don't know what that is.

There is a way of finding out.

MS. TAYLOR. Could you tell us what is that way and do you have plans of—

MR. MENA. Well, there were some comments made earlier and we've all heard the needs for needs assessments. Now, in California the health and welfare agency is an agency that has a responsibility for seven departments with two offices and a budget that exceeds \$11 billion. That's a lot of dollars. It's a whale of a responsibility, and much of, the bulk of those funds are allocated on the basis of needs assessments conducted at the local, at the county, and then at the State level.

Those of us that have been involved in the development of needs assessments studies know full well that there's a tremendous amount of duplication. We have information on referral funding in aging; we have it in narcotics and substance abuse; we have it in alcoholism; we have it in Title XX, and we fund needs assessment activities in local communities, in counties, across the State. There's a tremendous amount of duplication going on. We really, well, since much of the allocation of public funds are made on the basis of needs assessments, we really have great doubts of the validity of the needs assessments that are presently being developed independently, sometimes jointly, with varying degrees of sophistication throughout the State.

There isn't a uniform classification system. There isn't a uniform utilization of socioeconomic indicators across the State. So, therefore, since different criteria are being used by local townships, cities and large communities, counties, we can only really reach the conclusion that much of what we read in the needs assessments carries with it a tremendous amount of creative writing on the part of those communities, and I can't call it anything other than that.

Someone calls and says, "How many aged do you think we have in this target population and I think 10 percent." Someone else will say 6, say, "Let's make that 8, from now on in your reports you say 8, I say 8," and that's the reality of needs assessment.

VICE CHAIRMAN HORN. What role does the California Health and Welfare Agency have in setting a uniform criteria for all needs assessments developed in the State of California?

MR. MENA. The secretary, Mario Obledo, has addressed this area for quite a long time, and his staff on his recommendation initiated studies and also cooperated with legislators and that effort led to the writing of three pieces of legislation that have since been signed by the Governor; two required the Governor's signature, one did not. That legislation amounts to AB 3507 and AB 3508. Those two bills were submitted by Assemblyman Guacco, one additional bill, ACR 169, also authored by Assemblyman Guacco, were approved by the assembly.

What these bills called for, and I think that two factors are important here, one is that the regional office of HEW has been very cooperative and did receive the attention of the regional director and the region has participated in funding those efforts.

The legislation has been passed. It calls for the identification of specific or the identification of those socioeconomic indicators that are absolutely essential across the board from all of the departments and offices in the health and welfare agency. It also calls for uniform data classification system in the development of the inventory of social services which provides seven pieces of information that decisionmakers, policymakers, absolutely must know in order to allocate funds on an objective basis rather than other bases.

- Those seven items include the primary category of service, the subcategory of service, the services provided, needs addressed, target population served, funding source, and pending grants. If you don't have a target population of course—if you don't have all of those areas well known by decisionmakers, then it leads one to conclude that the decisions are based more on addressing the squeaking wheel, the charismatic leader, the noisy, politically inclined community, at the expense of smaller segments of the population that are out in the rural areas which don't have the charismatic leader, who don't have the political clout, and who are forgotten, and those are the people who then would not be recipients of parity, nor would they have access to the services we're talking about.

MS. TAYLOR. No further questions.

VICE CHAIRMAN HORN. Mr. Saltzman?

MR. MENA. Incidentally, those bills are now the responsibility of the office of planning and research which is located in Governor Brown's office. It is in an experimental stage. Two counties will have or have been selected by the end of this week, if they haven't been selected already. There are three counties: one would be a fairly large county, a middle size county, and a rural area. Once that demonstration pro-

ject is implemented and then it's up to the legislature to determine whether those two bills would be implemented statewide.

VICE CHAIRMAN HORN. Very good.

Commissioner Saltzman?

COMMISSIONER SALTZMAN. It is apparent by now from what we have heard in earlier testimony that there are places where there is not parity practiced, but rather there is an imbalance of benefits to different age groups and etc., as you said, by different communities, who are politically active, etc. Is the imbalance due more to an intent of discrimination or to the scarcity of funds?

MR. MENA. Probably a mix of the two. I don't know that—well, it would be very difficult to point your finger at specific individuals in the community, in a county, and say, "You have been discriminating." I think it's so subtle, as it was insofar as ethnic groups are concerned, that it isn't written, it isn't documented. For some reason it just happens.

It's a prevailing philosophy. Discrimination exists because of or it is reduced because of the involvement of those at the top. I think the secretary's philosophy in the health and welfare agency in California is very clear when you walk into the agency and you see a balance that very well correlates with the ethnic distribution of the State of California. You see them throughout the entire agency on the second floor. Little by little that's having an effect throughout the departments. I think when you have before you Carlos Alcala, he'll make it very clear to you that here where it was anticipated that it would take something like 20 years to reach some kind of parity, ethnic-wise, in State government, that we've already chopped off years of what had been predicted by the State personnel board. But I don't want to steal his thunder. I think it would be very interesting for you to hear him.

COMMISSIONER SALTZMAN. Well, then, in the response perhaps what you're indicating is some affirmative action, if, in relationship to the hiring of those key policymakers who have control of the distribution of these funds from those age brackets against whom discrimination is practiced, since you do affirm that there seems to be discriminatory intent as well as the scarcity of funds.

MR. MENA. Discrimination where age is concerned is, from what I've found during the last couple of weeks, it's hidden. We have not, for one thing, really taken the time to look at it. Our problems have been more—that is, our problem resolution—action has been more in the area of ethnic balance to find individuals within ethnic groups that have the professional capability, the expertise that we're looking for, and it could—then we could care less whether they're 21 or 64. We're looking for groups that, yes, by golly they're there, we need to find them and we don't worry about their age. We just want to find the talent.

COMMISSIONER SALTZMAN. Mr. Maldonado made an interesting comment that, well, even stunned me, I might say, that we don't need the extensive outreach programs—

MR. MENA. We don't need the what, sir?

COMMISSIONER SALTZMAN. The extensive outreach programs, the problem is not the lack of knowledge, but the fact that we're not, under the present funding, able to even meet the needs of those whom we're serving now.

MR. MENA. With rare exception I would say that the poverty culture has a very good communications system. Where there's assistance available, they'll hear of it very quickly. There have been some exceptions in my case in Appalachia, where people, young folks, really hadn't heard of the employment service or what opportunities were available. In California, in Region IX, I would certainly concur with Mr. Maldonado.

COMMISSIONER SALTZMAN. Thank you.

VICE CHAIRMAN HORN. Mr. Nunez?

MR. NUNEZ. You mentioned in your opening remarks that basically you made your decisions as to funding of programs through these needs assessments and that you didn't want to rely on the charismatic leader or for that matter the aggressive group or the one with political clout. That I would say fits very neatly into many of the segments of the population, the older American population, which doesn't normally have that kind of attribute. But somehow, given your philosophy of a more rational assessment of the needs, that has not percolated down to meeting the needs of this group of citizens.

You suggested further on that perhaps this was not a priority of your department until very recently, and you had a very fine objective of rationalizing the affirmative actions for all minorities in these programs. But do you see now, now that you're beginning to get a handle and a better control over the ethnic diversity of your programming, that the area of age discrimination is an area for your department to turn its direction to that area?

MR. MENA. Yes, there are a number of comments that you made, Mr. Nunez, that I would like to back up on a little bit. Since the secretary's arrival, he has demonstrated a less than content philosophy about the quality of needs assessment or that something needed to be done about it. He's been in office for 2-1/2 years, and that's just, when you can cultivate the development and signing of two bills to address an issue it takes every bit of that time, so the effort has always been there.

Another comment that I think needs to be elaborated on is that, yes, there is a need for improved systems and elimination of duplication and needs assessment processes. But there's also a need for the needs assessment criteria; that is, the knowledge, the interpretation, the analysis of the negative socioeconomic indicators and how they impact on the community. That kind of information, the analysis has to be available at the political, the elected politician, the appointee, the administrator, the manager, the technician, staff, and the public.

And I mention the public specifically because in the past, to begin with, few at the upper echelons have really had any information that's truly valid for the total community. We all know where there are needs. There isn't enough to satisfy those needs, but some are left out. What happens is that those in power that do have the information seldom filter it down to the community. As a result, the community reacts in the only way that it knows how to react and that's emotionally. When it reacts emotionally and then they come up looking like a bunch of idiots, you know, and most of us have been part of that group.

Now, when the public is ill informed and then it will react the only way that it can, emotionally. It becomes a mob—give it any of a series of other names—it's not because they lack intelligence; it's because they lack information. And it's time we shared that information, so that we can take that charismatic leader who we do need, so that we can take the squeaking wheel because we need those people; the important thing is that they, too, have access to objective information and they will better understand why the funds were allocated the way they were rather than say, "We have been—we need more." It's better to be able to demonstrate to them, "Here is your need; here is the way it is across the county. Who do we take it away from to give to you?" And I think that brings about a more objective way of thinking.

VICE CHAIRMAN HORN. Ms. Bradley?

MS. BRADLEY. I'm curious, Dr. Mena, how much is the institution of this computerized system costing the State?

MR. MENA. To begin with, much of the skeleton was already developed. Much of it had been developed through a HUD grant. I believe it's a 501 planning grant. So I would say maybe \$50,000 out of that grant, which was about 2-1/2 years ago. Since then, the amounts that have been made possible in redesigning and bringing it up to as near a perfect system as we can develop, through the office of planning and research, has been funded primarily through HEW and for the life of me I don't, I know it's not over \$30,000 or \$40,000. It isn't that much. It's a tremendous investment on the part of HEW.

MS. BRADLEY. Mr. Chairman, could we ask Dr. Mena to submit those figures for the record, if he could determine them from the State?

VICE CHAIRMAN HORN. Very good.

MR. MENA. You want me to get them from my office?

VICE CHAIRMAN HORN. Just file them within the next few weeks. Staff will engage in an interchange. This will be Exhibit 12, which without objection will be entered into the record at this point.

MR. MENA. So what I will provide for you, then, is the legislation, what it does, how many people are currently employed, what the cost of the development of that process has been to date? The product of 3508 has been completed; that is, the identification of the socioeconomic indicators for the State. What is presently just being

started is the development of a uniform data classification system to develop a computerized inventory of social service programs throughout the State by county.

MS. BRADLEY. Yes, that is exactly what I'm looking for. The reason I'm asking that question is that we have encountered in our field work some of the very difficulties that you outlined, and one of the responses that we get when we assess the needs assessment problem is the cost problem. And California certainly is, in terms of its productivity in revenues, far wealthier than many of the other States, and we've found this problem particularly difficult in smaller States. I am just curious as to what the figures are for the institution of this particular type of needs assessment system that you're putting together in the State.

You indicated, Doctor—

MR. MENA. May I interrupt for a moment?

MS. BRADLEY. Sure, please.

MR. MENA. As long as we're still on cost, in one county we took a look at the number of people who were involved in the needs assessment process; we also identified how many it would take in order to have a more improved needs assessment process, one that would work. What is being done now does not work. And there were 57 employees; 9 could handle the task. So, although there is an initial investment in developing the system which is already well on its way, it amounts to taking people and putting them out delivering services for people and reducing by as much as 50 percent anyway, at a minimum certainly 75 percent is possible, within a large county, so that the—it's really a savings in the long run where in 1977 we do not have a needs assessment process that anyone can really hang his hat on and say, "This is good." It does not exist.

MS. BRADLEY. I assume that since one of the interim products has been completed that the State has been using it to some extent in planning for the programs that the health and welfare agency administers. I am wondering, with applying the needs assessment system or process that you have already in place, whether you have seen any change in the distribution of services or resources by age groups under these programs.

MR. MENA. Okay. Now, the system I'm talking about is in the process of development. They've just identified all of the socioeconomic indicators that we're going to need. It is not presently in use; it has only been used in part by some counties.

Now, some counties in California, beyond a shadow of a doubt, are leading the field in the United States. Santa Clara County has done a great deal, San Diego County has, Alameda County has, and there are others. I've got to stop, otherwise someone's going to say you named so and so; you should have named us.

There are some major efforts, but they've occurred only during the last 3 or 4 years. And it's pathetic but we are, I'm convinced, ahead

of the field. I'd like to find something better and I'd like to be proven wrong, we'd like to know who they are—

Ms. BRADLEY. I hope you're not proven wrong. Thank you.

VICE CHAIRMAN HORN. Ms. Taylor, any further questions?

Ms. TAYLOR. No further questions.

VICE CHAIRMAN HORN. If not, we thank you very much for coming to share your views on this with us. We appreciate it.

The next panel is the panel, Ms. Lillian Rabinowitz, Marie Johnson, Martha Roditti, please come forward. If you would raise your right hand, please?

[Ms. Marie Johnson, Ms. Lillian Rabinowitz, and Ms. Martha Roditti were sworn.]

TESTIMONY OF MARIE JOHNSON, DIRECTOR, INNER CITY HEALTH CORPORATION SENIOR HEALTH DAY CARE CENTER, SACRAMENTO; LILLIAN RABINOWITZ, ADMINISTRATOR, EAST BAY GRAY PANTHERS, BERKELEY; AND MARTHA RODITTI, SOCIAL WORK LECTURER, SAN FRANCISCO STATE UNIVERSITY

VICE CHAIRMAN HORN. Please be seated. Counsel will identify the witnesses.

Ms. TAYLOR. Would you please state your name, address, and position for the record?

VICE CHAIRMAN HORN. Starting with Ms. Rabinowitz.

Ms. RABINOWITZ. Thank you. My name is Lillian Rabinowitz. I am incorrectly called here the convenor of the Gray Panthers of the East Bay. I used to be; I am now the administrator of them. My business address is 2131 University Avenue, Room 303, Berkeley.

Ms. TAYLOR. Thank you.

Ms. RABINOWITZ. I also want to add that I am a squeaky wheel, that I speak emotionally, but I hope with some information.

Ms. TAYLOR. Thank you.

Ms. JOHNSON. My name is Marie Johnson, and I'm director of the Inner City Health Corporation Senior Health Day Care Center in Sacramento. Our address is 3400 Elvis Avenue, Sacramento.

Ms. RODITTI. I'm Martha Roditti. I'm also somewhat incorrectly noted; I consult for the Child Care Switchboard, but I'm a lecturer in social work at San Francisco State University, 1600 Holloway, San Francisco, and it's part of the department of social work education.

Ms. TAYLOR. Thank you very much.

Ms. Rabinowitz, this question will be directed to you. I understand that you have been involved in the establishment of a health clinic for seniors?

Ms. RABINOWITZ. Yes.

Ms. TAYLOR. Would you please describe that clinic, the persons served by it, and the reasons for its establishment?

MS. RABINOWITZ. Thank you. The clinic is called the Over Sixties Clinic. It is located in Berkeley in a poverty neighborhood, right near the edge of Emeryville. It serves persons over the age of 60 in north Alameda County; that is to say, its catchment area is north Oakland, north of MacArthur Boulevard, Emeryville, all of Berkeley, and all of Albany.

The clinic is a preventative health clinic. The assumption underlying the establishment of the clinic is that many of the ills that afflict elderly people can best be prevented by early-on assessing their health needs and taking steps to prevent minor conditions from becoming major ones and making the quality of life for older people better.

As to why it was established, when the Gray Panthers of the East Bay first began to look at the multifaceted problems of elderly people in Berkeley, where we started, in northern California, we noted that the health department of our community had many offerings for various age cohorts in the group. There were services for mothers and children, there were services for youth, but nothing was offered specifically for elderly people. And being naive and not health professionals at all, we went to the head of the health department and wondered why this was so, and what we soon learned was that mandated services, categorically mandated services, were those that were present in the public health delivery system; but, since there were no categorically mandated sources of funding for the elderly, there were not health services of that sort delivered by the Health Department of the City of Berkeley.

So, therefore, we sought to find some way to make possible such services, and about that time we learned that the area agency on aging was soliciting grant applications and we had a successful go at it. And the unique thing about our clinic is that it exists on the basis of three contracts, the money comes through the board of supervisors from revenue sharing. Occasionally we get shifted around, it's from triple A, and we subcontract it to the City of Berkeley, but the Gray Panthers remain the governing board of this clinic.

VICE CHAIRMAN HORN. What is triple A?

MS. RABINOWITZ. The area—the Older Americans Act money.

VICE CHAIRMAN HORN. I see. Okay. I thought it was some local agency.

MS. RABINOWITZ. No, no.

MS. TAYLOR. Very good. One other question. Are there deficiencies, do you feel, in the training of medical professionals which may contribute to a failure to serve the elderly?

MS. RABINOWITZ. Yes, and I very much like the way you put that question. You said medical professionals in the plural. I would like to point out that in the United Kingdom and the Soviet Union there are departments of geriatric medicine in all medical schools analogous to departments of pediatric medicine because it is recognized that the health of the elderly has characteristics which are peculiar to it and

that there ought to be special training. Also this is true of all other health workers such as nurses and other paramedical professionals. It is our opinion that they should receive special training for meeting the needs of the elderly. And I would hope that the opinion of Dr. Robert Butler, so eloquently expressed in his book, *Why Survive?*, would be carried out as a policy by the Federal Government in encouraging the development of such training.

Would you like to know what we in the Gray Panthers have done by ourselves to try to encourage this?

Ms. TAYLOR. I certainly would. That was going to be my next question.

Ms. RABINOWITZ. We have approached several medical schools in the Bay area attempting to make them aware of our concern on this score. They tend to be somewhat traditional unless there are dollars that come with it to encourage such developments. We have decided that a more feasible way might be to encourage the development of postresidency fellowships in geriatrics, and in accord with that thinking we have approached two of the most important hospitals in San Francisco and encouraged them to develop a plan whereby a 2-year postresidency fellowship in geriatrics might be rotated through departments of both of their hospitals. And when last I heard, that plan was hopefully being further explored.

Ms. BRADLEY. Could you name the schools?

Ms. RABINOWITZ. I would rather not. I think that might be a bit sensitive at this point.

Ms. BRADLEY. I understand. Thank you. Very good.

Ms. TAYLOR. Miss Johnson, could you describe the Senior Health Day Care Center, including funding sources, staff composition, age, and characteristics of patients served and treatment provided?

Ms. JOHNSON. Yes. The Senior Health Day Care Center is a demonstration project, and it provides health maintenance services for the mentally and physically impaired adults. The source of funding is totally Medi-Cal contract. We are reimbursed per day of attendance per day of service per Medi-Cal person. The average age of participants in the center is 69.9. The age range is 24 to 92. We have approximately four individuals who are not senior citizens but seem to fit well into the population group, and we have accepted them as participants. The services include physical therapy, occupational therapy, speech therapy, skilled nursing services, social casework, nutrition, transportation, social activities, and other educational components as consumer affairs, nutrition, whatever programs we feel they need. We have a licensed occupational therapist, physical therapist, social worker. We have two registered nurses and also all services provided by our center are by doctor prescription. So, it's not otherwise.

Ms. TAYLOR. Did I hear you say that there was a supervisory physician on—

Ms. JOHNSON. No, that's—

Ms. TAYLOR. There isn't?

Ms. JOHNSON. No, that's kind of why I was invited to speak here. Under the Medi-Cal contract, we are required by the department of health to have a consulting physician. The application process to our center is that an applicant must in fact have a doctor's diagnosis and examination. That report is given to our center. The staff takes a look at it. They develop a service and treatment plan for that individual. We were then to have a consulting physician to take a look at the treatment plan developed by the staff to ensure that it was within the same vein that the private physician had written up. However, since April, since April 1—

Ms. TAYLOR. Did you retain that consulting physician?

Ms. JOHNSON. Unfortunately, no. I came on April 1 of this year. The director prior to my coming on was able to get his own personal physician to do it as a favor.

Ms. TAYLOR. Yes.

Ms. JOHNSON. And that physician went for the first selection process, which you call it, and then no longer was able to do it. When I came on April 1, that was one of the, you know, the most important things that he has asked me to do was get a consulting physician.

From April 1 through May 27, myself and two registered nurses contacted some 45 local physicians in Sacramento County. We were unable to find one physician who would agree to act as a consultant, a paid consultant. This was not free. We are not asking that a physician give free service. But it would be on a negotiated cost. We were willing to bend over backwards thereby not having to have a physician come to our offices. We would be willing to come to his office or her office. We were willing to send the treatment plans ahead of time so that he or she could look them over prior to the staff meeting with them.

Ms. TAYLOR. Out of 45 physicians interviewed, you were not able to retain a consultant?

Ms. JOHNSON. Not one single one. And out of 45 that we contacted, 8 physicians just indicated that they would not service patients over 55 years. Other did not want Medi-Cal or Medicare patients. I was informed by one physician that—he asked me if I knew the reason why most doctors did not want to deal with Medicare or Medi-Cal and the aged and I said, no, I wasn't aware of it. He said that most of the malpractice lawsuits had come from that population group. And I said that possibly could be so because they could be receiving, you know, inadequate service. But there was a reluctance on all the physicians' parts to even become involved. So, we've never located a physician.

VICE CHAIRMAN HORN. What sort of physicians were these? Were these internal medicine?

Ms. JOHNSON. General practitioners.

VICE CHAIRMAN HORN. All GP?

Ms. JOHNSON. It didn't matter. There was no process by which we were trying to secure—at one point we just went to the phone directo-

ry. I reported our situation to the department of health Medi-Cal field offices. They gave me a list of physicians and were kind of on the search themselves. They were unable to come up with one as well as my staff and myself. There was no process—

VICE CHAIRMAN HORN. Are these all physicians that have refused to treat any Medi-Cal, Medicaid patients?

Ms. JOHNSON. That I don't know. Out of 45 we were able—we came up with 8 who specifically said that they did not want patients over 55. They were at risk. They were paying and they just didn't want to be bothered. Other physicians indicated that they did not want Medi-Cal or Medicare subsidized patients at all.

Ms. TAYLOR. Were there any who indicated that they were not interested because of the "fee" that was being offered to them, or was that ever mentioned?

Ms. JOHNSON. No.

Ms. TAYLOR. You didn't even get to that point?

Ms. JOHNSON. No, we—I indicated that it was a paid consultant on which we wanted a physician and it would be dependent upon the number of hours the physician thought it might take to go through a selection process, and that it was—that was a requirement under the department of health contract, and it just really didn't seem to matter.

VICE CHAIRMAN HORN. Were any of these physicians over 55 themselves?

Ms. JOHNSON. I really don't know. We never—I saw two on a one-to-one. The others were through the phone.

VICE CHAIRMAN HORN. Because I was going to say, you sort of have got a problem here. It's a very broad charge that's being made. You are saying 45 physicians in Sacramento, California, were contacted and 8 specifically refused to treat anybody over 55, as I understand it, and then none of them agreed to be paid consultant, I take it. That can be easily misinterpreted and I just wonder, was this just one person making these contacts on the phone, five people? What kind of records are kept? Because you might well be asked this if this hasn't already made the papers in Sacramento.

Ms. JOHNSON. No, well, I'm not charging anything.

VICE CHAIRMAN HORN. Yes.

Ms. JOHNSON. Or anyone. We were contacted by one of your staff people who had talked to the department of health and asked if in fact we would come.

We have another reason for trying to secure a physician. Many people come to our center from other parts of the State or other parts of the country. They do not have their own physicians. Our people have to go through the local medical center, which they may see 15 doctors in 2 months' time rather than seeing a physician on a one-to-one basis. So, we looked at physicians for those people who come without a physician that they can see regularly rather than going to the medical center.

In our search for a physician there were three people involved, the two registered nurses on our staff and myself. The contacts made by the department of health, I have no, no knowledge of what their outcome was except that we never got a consulting physician. When I was asked to come here, my statement was I have no problem coming here. I have no problem listing the names of the physicians. We do have those names. We do have those names.

VICE CHAIRMAN HORN. Sure, and we are not asking you that. I guess all I am asking you is the consistency and the validity of the survey technique used to determine whether or not a physician was or was not available, and that is what I am trying to get at. And you are saying three people conducted the survey, yourself and two registered nurses, and you do have a list of physicians contacted in case the Sacramento County medical profession wanted to pursue this, you are available to consult with?

Ms. JOHNSON. Right, and they gave us a list of names and we had informed them that we were looking for a physician and we had been unable to get anyone interested in the program.

VICE CHAIRMAN HORN. What kind of a reaction do you get from the Sacramento County Medical Association? Is there any way they could help you or could they create a committee on geriatric care? Has anyone suggested that they create that committee?

Ms. JOHNSON. No, they have not. When contacting them, the best I could get was a list of physicians. I finally decided we would probably need a physician who was retired and probably interested in geriatrics, since he would not have to actually practice medicine but just give a consulting opinion. And we have contacted the Sacramento chapter for a listing of retired physicians that are still within the Sacramento area. They have agreed to in fact forward that information. That was early in the month of June. I have not yet received it today.

VICE CHAIRMAN HORN. Does your Senior Health Day Care Center have an advisory board at all?

Ms. JOHNSON. We have a utilization and a community advisory committee.

VICE CHAIRMAN HORN. Do you have any doctors on such an advisory committee?

Ms. JOHNSON. No.

VICE CHAIRMAN HORN. I would just think it would be somehow, to solve a local problem if some members of that board could sit in with the leadership of the medical society and say we've got a problem—

Ms. JOHNSON. Now, I agree with you that has to be accomplished.

VICE CHAIRMAN HORN. And not just deal through phone contacts.

Ms. JOHNSON. No, but the center at the point in time where we had to secure a physician—

VICE CHAIRMAN HORN. Yes.

Ms. JOHNSON. —that was probably the most expedient way to try and do that or close the doors because of the need of the physician,

and I will repeat to say I did not come here to make charges, but was invited by one of your staff people.

VICE CHAIRMAN HORN. Sure.

MR. NUNEZ. Let me get clear, how are you managing to maintain the center without the doctors?

MS. JOHNSON. Well, the physician on a consulting basis is not needed to administer any medication or medical services to a participant. Once the department of health found that we were having a problem and they weren't able to resolve it, they have waived, in fact, the need for a consulting physician and we do it with licensed personnel and a consulting Medi-Cal field officer personnel. So, it would have been nice, but it just didn't work out.

MS. TAYLOR. Ms. Roditti, I would direct my next question to you. I believe you said that you were connected in some way with the child switchboard. Is that right? Have you found that there are special problems that children face in dealing with federally-assisted programs?

MS. RODITTI. There are special problems. I am connected with the Child Care Switchboard as a staff member for 3 years and I was part of the, you know, development of the group. I am working at the State now. In terms of special problems for children, I could go on and on about that. If you can possibly make it a little bit more specific in terms of the mental health needs, are you interested in day care?

MS. TAYLOR. I was especially interested in the community mental health centers.

MS. RODITTI. Okay. Fine.

MS. TAYLOR. Yes.

MS. RODITTI. When I was asked to come to this panel, I tried to do a survey of community mental health people that I know. I am on the council for children for the community mental health advisory board. I was active in developing our county plan for children for this year and I extracted some of the statistics out of that county plan and I also discussed with other people who are in community mental health about it. We had some criticism in San Francisco and in California about the amount of services that are provided for children and youth. Percentage-wise in terms of population, the amount of service provided for children and youth is not as high as the percentage of the population. In San Francisco in particular, and I didn't get exactly the correct statistics, but about 23 percent of the population is under 18. But only from 11 to 13 percent of our budget is for community mental health services for children and youth.

MS. TAYLOR. You said 13 percent?

MS. RODITTI. About from 11 to 13. It differs from catchment area to catchment area. Some budgets are less. Some budgets are more. The most glaring example I had was from a number one target area, which is Bay View-Hunters Point. Thirty percent of the children, 30 percent of the population in that area are children, and between 7 and

13 percent of their community mental health budget goes to children. That's really an unequal amount of money.

The other kind of vague, well, specific figure I had was of the children in foster home placement. In San Francisco 25 percent of them come from a target area, Bay View-Hunters Point. Another 33 percent of the children in juvenile court come from an area, too. So that there is a need obviously, there is a need for mental health services. But it's completely underfunded, and in terms of age discrimination that seems to be one issue in that area.

When I look citywide and I look at children, I mean, I've established the fact that children don't receive as much services in community mental health. Children that receive the least amount of services are what we would consider the most vulnerable group and which are the children under the age of 5. I think children under the age of 5 share with the elderly in being discriminated against. They don't have as many squeaking wheels and people to advocate for them. Only—what did I figure out—only 8 percent. And this was a real rough estimate. But 8 percent of the children seen in community mental health facilities were under 5, and that was from our county plan. There was a total of 206—261 children out of 3,107.

Given that rather vulnerable age group and given the amount of study and psychological data on that age group, it seems to me very strange that we have so few services. The types of services that are usually available are day care services for young children which in some way, although they are rather underfunded—some way they do find these children, but most children in terms of medical problems, maybe problems in terms of developmental disabilities or mental health problems, they are usually found when they get into the school system.

When we were talking about children's health, the only time I ever heard it formally as a parent, I got any information about child health and disability, was when my child was entering kindergarten. They sent me a form. My doctor has to fill it out. My child if—I mean, given any other circumstances, I know about the program. But if I were anyone else I wouldn't have gotten any of that information until my child was in school. So, we have 5 vulnerable years where the children really aren't, don't have to be seen.

MS. TAYLOR. Can the CMHCs serve children under 5? I mean, are they qualified or equipped to do that to serve them?

MS. RODITTI. Well, they could be equipped. Until recently you didn't have to have the qualifications to work with children to get a civil service appointment and work with children. Now the civil service—I am not too terribly clear about it, but my understanding is that it's changed so that they can hire people who are experts in working with children and youth. From my experience teaching social work at San Francisco State, there is very little emphasis on training social workers to work with that young age group. A lot of it is preventive care. A

lot of it is outreach. A lot of it is community organization and policymaking. We produce a lot of clinicians, but we don't produce a lot of people to work with that certain age group. There is a lot of issues of prevention and I don't know how deeply you want me to go into those.

Ms. TAYLOR. Go right ahead.

Ms. RODITTI. You see, when you are dealing with children between the ages of 0 and 5, you can possibly prevent—I mean, people have discussed it, I'm sure, at your other hearings in terms of you can do a lot of preventive work. It's also possible to work with infants. In terms of age stereotyping, I think that a lot of policymakers feel that you are unable to work with an infant the way you do—mothers are supposed to take care of it. Therefore, in terms of funding in terms of community mental health or any other types of funding, the money doesn't go to infants, which is a vulnerable age. If someone works with them until they are 2 years old, you get a tremendous amount of gains.

COMMISSIONER SALTZMAN. May I just ask, what do you mean by vulnerable, that they don't have a spokesman or they are particularly vulnerable to certain pressures that cause mental illness?

Ms. RODITTI. At least in terms of my knowledge of working in a multiethnic urban community, San Francisco, a child who grows up in the community is really vulnerable, particularly if they are a third world culture and don't have any money.

COMMISSIONER SALTZMAN. Vulnerable to mental, emotional problems?

Ms. RODITTI. Right.

COMMISSIONER SALTZMAN. Okay.

Ms. RODITTI. It's very, very difficult for a mother to, let's say, with my worst example, is twins and a third 3-year-old living on the 10th floor of a project, to get services for her children. She has to, you know, make appointments, get places. There are no drop-in centers. You have a problem of neglect which we, in over 60 percent of the cases that protective services gets are neglect cases and those are the types of things where your child is left alone. Mother may not have any other place to bring that child and those facilities aren't available.

Ms. TAYLOR. Is there a problem with determining eligibility of children for services? I mean, is there a problem of determining eligibility of parents as opposed to the child?

Ms. RODITTI. Eligibility of the child is determined by the eligibility of the parent.

Ms. TAYLOR. Okay. That's what I am trying to get at.

Ms. RODITTI. In community mental health the child can receive services, but the parent or guardian must sign for those services. Unless you go through a court process, a child doesn't necessarily have to be seen. The people that fall through the cracks in a lot of services are your mentally ill parents who for one reason or another may have the child seen and then take the child out if the child got better. You have

a lot of processes that go on. In terms of day care, the people who are eligible are people who are eligible for AFDC or Title XX. So that it's determined by the parent if the child gets seen.

VICE CHAIRMAN HORN. Well, what is your specific recommendation for this? I mean, what would you do?

Ms. RODITTI. What would I do?

VICE CHAIRMAN HORN. Yes, I mean, you don't like the fact that the eligibility of the child is based on the eligibility of the parents. How would you have it and what do we mean if you reversed it?

Ms. RODITTI. That's a sticky problem, and I really don't know. I think that there are a lot of eligible children and that we do have diagnostic procedures where we could find out if the child is in need.

VICE CHAIRMAN HORN. Okay. I see your point. In other words, the argument would be that it doesn't matter how rich you are in society if your child needs some sort of diagnosis, treatment, preventive care in terms of mental disorders, etc., you ought to be able to take that child and secure for it the services of the State?

Ms. RODITTI. Yes.

VICE CHAIRMAN HORN. Regardless of your income. That is, I assume, what the reverse of what you are talking about means. Otherwise I don't understand what the issue is.

Ms. RODITTI. Well, the issue is that some children are eliminated from services because their parents would refuse to allow them to have services and—

VICE CHAIRMAN HORN. Okay. We've got a variety there. We've got either religious reasons or we've got fear of welfare reasons if the parent says, "I don't want the 'stigma of welfare'." What other reasons do we have, or is it ignorance which a lot of parents have?

Ms. RODITTI. People who are perhaps drug addicted. You have people who may be mainly mentally retarded parents. You have parents who have mental health problems themselves.

VICE CHAIRMAN HORN. Well, all right. But let's take these now one at a time. I would like to understand these things, and let's say they are parents with drug problems, mental problems of their own. Heaven knows there are a few of those around here. Now, what would you do? I mean, one logical process we've had on the books for years, some agency tries to get that child if it's brought into the jurisdiction of that agency to be a ward of the court and, therefore, try to get them under the appropriate services. What is another solution that isn't that one?

Ms. RODITTI. You are probably aware of what happens when children get into foster care, that once they are into the foster care, they don't get out, that they may go through a series of foster homes and that the problems that are created by this system often aren't worth having a child in the system in the first place. One solution is a solution that one of our programs in the city has. It's in Chinatown and they have a drop-in program for parents. As long as the parents are in that area, the parents can bring the child in. The child has, I don't

know, I think it's 9 hours that they are eligible for day care a week. The parent has some type of respite care, and effort is made on a slow but sure basis to involve the parents—

COMMISSIONER SALTZMAN. But that doesn't resolve your problem of the parent who's not bringing the child in for various reasons.

Ms. RODITTI. You can get a parent to bring a child in if you are offering something to the parent.

COMMISSIONER SALTZMAN. Like day care?

Ms. RODITTI. Like drop-in day care. You can't get a parent to come—

COMMISSIONER SALTZMAN. Just for treatment?

Ms. RODITTI. Just saying, "I'm going to give you treatment." If you have a little office—

COMMISSIONER SALTZMAN. So, you are recommending the extension of day care?

Ms. RODITTI. I am recommending extension of day care. Also recommending—

COMMISSIONER SALTZMAN. Even over foster care or in particular over foster care. I hear you saying foster care is not good.

Ms. RODITTI. I have to say that I have a real bias—

COMMISSIONER SALTZMAN. Once the child gets into the system, he gets pushed around from foster parent to foster parent and it really isn't working?

Ms. RODITTI. It isn't working; that's my bias.

COMMISSIONER SALTZMAN. Have you based this on personal experience or some surveys or knowledge of the study of foster parents? Is this your own personal—

Ms. RODITTI. This was based on my personal experience working in foster care and then I teach child welfare at San Francisco State. So, I have done a considerable amount of research into the issue. We've been looking at foster care and the issue of permanence for children and the issue of family unit reunification. I would recommend putting more effort into keeping families together than over issues of neglect and areas where the society could be providing more services for parents. Separating children, it doesn't work. At age 18, the child comes out and they have considerable problems. I am also advocating the idea of more infant care. I know the people are very sensitive about infant care, that there are some stereotypes about it, but it's been my experience at least here in the city that it has worked. My experience has been with teenage mother programs that you cannot provide a program for teenage parents.

COMMISSIONER SALTZMAN. You cannot what? I'm sorry.

Ms. RODITTI. You cannot provide a program for a teenage parent without providing infant care for the child. And we don't have enough of that and we can't do it for one area. We want to do it for teenagers, but we can't take care of the infants.

VICE CHAIRMAN HORN. Let me ask you, as a student of this subject, you mentioned you had been doing some surveys. Have you had an opportunity to review the curriculum in the secondary schools in this area? What sort of parent education, early childhood, adolescent education occurs, if any?

Ms. RODITTI. Well, I have very personal experiences. So, you will have to understand that my experiences are skewed by having two children of my own and by also being a professional in the field. So, I'll try to separate them if possible. I have in terms of parent education in the secondary process—

VICE CHAIRMAN HORN. Yes.

Ms. RODITTI. —I don't know.

VICE CHAIRMAN HORN. I mean, here we have an increase in the pregnancies of teenagers.

Ms. RODITTI. Right.

VICE CHAIRMAN HORN. And you would think the school system would utilize to the best of its ability the tremendous reservoir of knowledge we have available in society in terms of psychology, human development, everything else, in building the curriculum to educate the people that come within its jurisdiction despite the pressure groups in society that say it is none of the school system's business and do not do anything about it on their own.

Ms. RODITTI. Well, we have in the city one program we are hoping to expand, other programs for, you know, to involve teenagers in taking care of younger children, explain to them the problems. It's a very multifaceted problem is the reason why teenagers become pregnant.

COMMISSIONER SALTZMAN. Do you know the extent?

Ms. RODITTI. Pardon?

COMMISSIONER SALTZMAN. Do you know the extent to which there is teenage pregnancy today in San Francisco?

Ms. RODITTI. I know the—I tried to get ahold of those figures. That was another thing, because I had two students placed in the pregnant teenager program. It was interesting that we have a lot of pregnant teenagers and they either drop out—they are not involved that much in the teenage-parent programs. I don't know where a lot of them go and I don't know how many there are.

COMMISSIONER SALTZMAN. Would you have any knowledge of the availability of medical care and other Federal funding for teenagers, or are they somehow left out of that funding?

Ms. RODITTI. There were three teenage-mother programs in the city.

COMMISSIONER SALTZMAN. Funded by whom?

Ms. RODITTI. They went through the school district; they are now under special education. I'm not quite—I'm sure there must have been Federal funding involved; it went through the State. I'm sure there must have been Federal funding involved in some of it. I know one special program did have Federal funding. It had a lot of good health programs. A lot was going on. It was really good, but it wasn't preven-

tive. It didn't get the teenagers before they got pregnant. It got them while they were pregnant.

COMMISSIONER SALTZMAN. What do you mean by preventive—contraceptive teaching?

MS. RODITTI. Right. These were not preventive. They were already after the fact, after the pregnancy had occurred. We're hoping to expand, but I, at this point I am not a good spokesperson for that issue.

VICE CHAIRMAN HORN. Any further questions?

MS. TAYLOR. One more question, Mr. Chairman. Are there any problems with regard to funding of CMHCs and if they are to impact upon services that are provided to children?

MS. RODITTI. I think it's very difficult to prove what a program for young children, a type of preventive program for young children. So that does impact on the funding, if you can't prove in terms of cost effectiveness that you have prevented something. It's much easier to go to other areas where you can have a drug program. You can have a program with acting out children that obviously have behavior problems. It's very difficult to get funding for outpatient programs for teenagers and latency-age kids. At least you can prove that you've done something. For younger age children, it's my understanding, at least maybe the reason why the funding hasn't been there is because the policy is it's for young children, but it's very difficult to prove that you've provided something.

MS. TAYLOR. Are you saying that refunding depends upon countable successes?

MS. RODITTI. Yes. I mean, that's my understanding. Not successes, but to have a program, you have to prove that you are doing something. One of our programs was under attack because it was, again, a program that was providing day care. How do you prove, if you are providing drop-in day care, that you are really a community mental health facility when in fact they could prove along the line that they were providing mental health services for the parents of the children and they were referring children on to other mental health services. It was an outreach program, but it was under considerable attack because it wasn't "mental" health.

VICE CHAIRMAN HORN. Commissioner Saltzman, any further questions? Mr. Nunez? Ms. Taylor, any further questions? Ms. Bradley?

MS. RABINOWITZ. Sir?

VICE CHAIRMAN HORN. Yes.

MS. RABINOWITZ. I wonder if I might please make a comment. I wonder if it might not be possible to consider the fact that there is no categorical funding for health for the elderly comparable to that, for example, under maternal and child health, a form of negative discrimination; that is to say, with the growing size of the elderly population in our country and with their extended life expectancy, it would appear to me that the absence of such categorical funding could be regarded as discriminatory.

COMMISSIONER SALTZMAN. There was earlier testimony that one of the solutions would be a categorical funding.

Ms. RABINOWITZ. Yes, I heard Mr. Maldonado.

COMMISSIONER SALTZMAN. And as early as this morning.

Ms. RABINOWITZ. Yes.

VICE CHAIRMAN HORN. What do you mean by categorical funding?

Ms. RABINOWITZ. I would think that it would mean that monies would come down from the Federal Government through the State health department to the counties or, as in the case of my city, which incidentally has its own health department, to engage in preventive health care for elderly persons and that there would be suitably trained health personnel at all levels to give this health care.

VICE CHAIRMAN HORN. Would that money come down on a percentage basis based on the number of elderly people that are in the area?

Ms. RABINOWITZ. I'm sorry I don't have that kind of sophistication to know how it should be done.

VICE CHAIRMAN HORN. See, I worry about this statement, just statements of categorical funding as to what we mean, and I realize this is an issue of public policy at the national level as to whether Washington bureaucrats—and I say that in quotes with all due respect. Some of my best friends are Washington bureaucrats. But whether they should determine every program issue out of their offices in Washington or should those funds be given to the locality where people within a broad framework of guidelines can meet the needs of that locality which differ in some areas—

Ms. RABINOWITZ. May I respond to that, please?

VICE CHAIRMAN HORN. Yes.

Ms. RABINOWITZ. I think as my friend Maggie Kuhn, the founder of the Gray Panthers, has said, "Ageism is so pervasive in our society that the needs of the elderly have tended to be rather low on the priority totem pole." And I think this can be documented in one area after another. If the funds are given and services for the elderly in that sense are to be left to the discretion of the local governments, I think you will get a lot of road paving and other kinds of things and the services won't come to the elderly. I think it has to be mandatory that they be given the basis for determining how much, and perhaps how they should be given to the elderly might be left on the local discretion, but that there should be a way to pay for it I think is clear.

VICE CHAIRMAN HORN. It is interesting. We all have different perceptions. I guess, as one who is a native son who grew up in California over the last 30 years, one would think one of the most powerful groups in the State of California are the senior citizens, if you remember the days of Dr. Townsend and George McLean, etc., etc.

Ms. RABINOWITZ. Yes.

VICE CHAIRMAN HORN. You are telling me that isn't true?

Ms. RABINOWITZ. No, it isn't. I hope that it will become true in a much more effective way than it was true in the past.

VICE CHAIRMAN HORN. Yet initiatives were passed in the State that completely centralized the welfare agency in Sacramento and so forth.

MS. RABINOWITZ. Yes, I hope that anything that I say is not to be construed to indicate that I think the needs of the elderly should be met at the expense of other groups. I must at this point—I feel it's necessary to comment on what Mr. Mena said. He posed a classical question. I wrote it down at once. "Who do we take it away from to give it to you?" I think that's a very counterproductive question to ask. It divides groups in society and creates anxieties instead of saying, "Shall we have a society where all human needs are met?" not, "I'll fight you if you get it."

VICE CHAIRMAN HORN. Well, I share your concern. On the other hand, it is also dealing with reality. The fact is you've got to take the taxes from somebody to pay for the services for somebody else.

MS. RABINOWITZ. Well—

VICE CHAIRMAN HORN. Usually the somebody is the American middle class.

MS. RABINOWITZ. I would like to make another classic comment quotation. Simone de Beauvoir says in the book *The Coming of Age*, "The most significant index to any civilization is the way it treats its elderly."

VICE CHAIRMAN HORN. Since I just qualified, based on the staff analysis, as an older worker, I am becoming increasingly sympathetic to your point of view. Okay. Any further questions?

MS. TAYLOR. No further questions.

VICE CHAIRMAN HORN. If not, we are most grateful to each of you for coming down here to share your experiences with us, which are quite sensitive. We thank you very much and wish you the best of luck.

The next panel is the panel of Medicaid administrators, Mr. Hoff and Ms. Soderberg. Please come forward.

[Mr. Irwin Hoff and Ms. Doris Soderberg were sworn.]

**TESTIMONY OF IRWIN HOFF, ACTING REGIONAL MEDICAID DIRECTOR,
HEALTH CARE FINANCING ADMINISTRATION, U.S. DEPARTMENT OF HEALTH,
EDUCATION, AND WELFARE, SAN FRANCISCO; AND DORIS SODERBERG,
CHIEF, POLICY BRANCH, MEDICAL DIVISION, CALIFORNIA DEPARTMENT OF
HEALTH, SACRAMENTO**

VICE CHAIRMAN HORN. Please be seated. Counsel will identify the witnesses.

MS. TAYLOR. Would each of you please state your name, address, and position for the record?

MR. HOFF. You want the office address?

MS. TAYLOR. Yes.

MR. HOFF. Irwin Hoff. I am Acting Regional Medicaid Director, Health Care Financing Administration, 50 Fulton Street, San Francisco.

Ms. SODERBERG. I am Doris Soderberg, Chief, Medi-Cal Policy Branch of the Medi-Cal Division of the California Department of Health, 714 P Street, Sacramento.

Ms. TAYLOR. Thank you. Mr. Hoff, some of the problems we found in our field work seem to affect the participation in the Medicaid program appear to result from inadequate referral systems between SSI and Medicaid. Do you perceive this as a problem in Region IX?

Mr. HOFF. Well, SSI is just a part of the group that's eligible for medical care under the Medicaid program. I wouldn't say that that's—I don't know the extent of that problem if it is a problem. We have in one of the States a question where a person who is eligible or is applying for SSI must wait until that eligibility is established before the State determines that they are eligible for Medicaid. We worked on that. We think we have it resolved. But that was a problem of a gap between eligibility for one program and eligibility for another program where they were connected, and of course SSI represents the aged, the disabled, the blind.

Ms. TAYLOR. Ms. Soderberg, what approach has California taken to link SSI to the Medi-Cal program?

Ms. SODERBERG. Anyone who is eligible for SSI is automatically eligible for Medi-Cal. And in the problem that you mentioned, if there is a delay in making a determination on SSI, the applicant may go to the county welfare department and California has an aid-pending program where he can be determined eligible immediately by the county and receive aid through the State until he receives his Federal SSI.

Ms. TAYLOR. I see. Mr. Hoff, one other question. Our field findings indicate that many States have a low rate of participation in the early—this is a long term—the early and periodic screening, diagnosis, and treatment program. We also found that most of the children receiving services are under the age of 6, although children are eligible for the program up to age 21. What are the participation rates under the program in Region IX?

Mr. HOFF. I don't have those figures by region. I can give you some rough figures if you want them.

Ms. TAYLOR. That would be fine. Thank you.

Mr. HOFF. Okay.

Ms. SODERBERG. Can I make a suggestion?

Ms. TAYLOR. Surely.

Ms. SODERBERG. Mr. Alcalá is going to speak after me and he does have some information on EPSDT. Perhaps if we were all in the same panel, it might work out better.

Ms. TAYLOR. Who is that? Mr. Chairman, I was unaware of this witness.

VICE CHAIRMAN HORN. I'm not either. He isn't on my list.

Ms. TAYLOR. He's not on my list. If you would like to have him accompany you at the table—

Ms. SODERBERG. I'll let him speak for himself if he cares to.

VICE CHAIRMAN HORN. Is he here with you?

Ms. SODERBERG. Yes.

VICE CHAIRMAN HORN. Would you like to have him sworn in with this panel?

MR. ALCALA. I am supposed to be on the next panel. I am answering the subpoena for Dr. Jerone Lackner on the other panel.

VICE CHAIRMAN HORN. We will take the questions up with you at that time.

Ms. SODERBERG. All right.

Ms. TAYLOR. Would you discuss that role?

MR. HOFF. Okay. Because these figures are very difficult to deal with in terms of age. On the one hand you have a population of children through age 21 who are eligible for screening services under the early and periodic screening, diagnosis, and treatment program, and nationally as you may know, there are only about 30 percent of these children have been screened in the program. To that extent it hasn't been very successful. Now, when we look, for example, at the State of Nevada for the period January '76, through May of this year, of those who were screened—and there we are only talking about possibly 7,000 children; I can't give you the total figure that's eligible—but 45 percent approximately were under 6 and 54 to 55 percent were over 6. And roughly the same proportions as in Hawaii and I think you'll probably get some California figures later. But in California I might say that about half of those screened are under 6 and half over 6. However, that's only for those children where we kept track by age. There are a large number of children, well over a million, who are screened where the statistics do not have the age.

Ms. TAYLOR. Can you tell us—

MR. HOFF. All we know is that they are under 21.

Ms. TAYLOR. All right. Can you tell us about California?

MR. HOFF. What do you want to know about California?

Ms. TAYLOR. The same question that I asked you about for Region IX. And you gave me, I guess, some other States in Region IX.

MR. HOFF. Okay. I'd prefer if the people from California provide their own figures on this, but what we have from January '76 through April of this year, there were 72,000-plus children screened and 50.5 percent of those were under 6 and 49.5 percent of those were over 6. But those figures aren't very meaningful because there are 1,600,000-plus who under the State program were screened where the State did not identify the age. So, we are really not even in the ballpark on the ages.

Ms. TAYLOR. And those figures that you just gave me certainly don't amount to 2 percent of the eligible children in California being served?

MR. HOFF. I think that at the current rate they will probably screen about 4 percent of the eligibles, 3 or 4 percent of the eligibles. The program nationally, as well as in California, has not been very successful, and I think that's one of the reasons why there is legislation before the Congress now to change the program and hopefully to improve it.

Ms. TAYLOR. Thank you. Ms. Soderberg, in one State that we visited, we discovered that prior authorization for costly services was not being given for persons who were not likely to return to the work force. Does California use Medi-Cal screening through prior authorization to control costs by any of its services, if you could tell us, please?

Ms. SODERBERG. California uses prior authorization as a utilization control, but I don't believe there is any basis for thinking that it would, that it's by any age group. It's screening for medical necessity, period.

Ms. TAYLOR. In several of the States, and this is also directed to you, in several of the States that we visited during field work, we found that receipt of certain optional services available in the State, and particularly eyeglasses, dentures, and hearing aids, were limited to specific age groups, generally to children. And does California have similar policies that at the option of the State restrict services to specific age groups and, if so, what services and what groups?

Ms. SODERBERG. There are certain minor restrictions in the dental area. For example, fluoride treatment is restricted to persons between the ages of 6 and 18, but this is because this is when the permanent teeth begin to erupt, at the age of 6, and that the most cavity-prone period is up until age 18. The emphasis here is on prevention.

Ms. TAYLOR. So, certainly this service to this age group and not the other you would not consider discriminatory?

Ms. SODERBERG. Not truly.

Ms. TAYLOR. I would like to ask both of you this question. Were there any aspects of the Medicaid program where you feel it is necessary or desirable to make distinctions on the basis of age?

MR. HOFF. If you are asking me personally, I would say, no. I'd like to see medical care provided as needed.

Ms. TAYLOR. Ms. Soderberg?

Ms. SODERBERG. I personally think there are too many distinctions made by Federal mandate now by the categorization of programs. For example, SSI and SSP is for those people over 65 totally disabled or blind. The screening program is for 0 to 21. There is so much of this now that I think whatever discrimination there is, it stems from these basic types of categorization.

Ms. TAYLOR. Thank you. I have no other questions at this time.

VICE CHAIRMAN HORN. Of course the argument we have just really heard from Ms. Rabinowitz that one reason to have such distinctions is to ensure that services truly are rendered to individuals within those categories. Now, you are saying, and I can certainly see that point, that we shouldn't be bound by these because we are missing the opportunity to serve a lot of other people that have legitimate needs in society. How do you reconcile those two approaches?

Ms. SODERBERG. I don't know that I can reconcile them. I suppose there will always be special interest groups, and perhaps they're needed to get special attention when it's needed.

VICE CHAIRMAN HORN. Well, senior citizens obviously are arguing that if we don't have special category to meet our needs, those who administer these programs—and a lot of testimony bears this out in the CETA program—will put most of the emphasis on youth where there is high unemployment or, if you are talking about vocational rehabilitation, younger people that might have a greater opportunity for employability based on “the realities of the market,” whatever that is, and different examples like that. How do you assure the public that you are meeting everybody's needs?

MS. SODERBERG. I can't assure the public of that. But I can only speak of what takes place in the Medi-Cal program. And it would appear to me from the groups we serve that the people most left out are the group in between 21 to 64.

VICE CHAIRMAN HORN. Commissioner Saltzman?

COMMISSIONER SALTZMAN. Mr. Hoff, should employability be a criterion in the availability of medical programs?

MR. HOFF. I would think that if you are having a general medical care program as Medicaid is, which is really based on indigency and the inability to pay for medical care, that once you are eligible—and of course eligibility is a complicated business—but at least once you are eligible and you are in need of medical care, you should get it whether it's because you have to stay home and subsist or you are employable. I think if you have a program geared toward employment and individuals in it need certain kinds of medical care, rehabilitation, that it should be tied to that program, but not in a general medical care program which Medicaid is.

COMMISSIONER SALTZMAN. How about Medi-Cal? Would you, Ms. Soderberg, consider one of the criterion of eligibility ought to be employability in terms of the necessary limitations of public resources?

MS. SODERBERG. My personal feeling is that the basic criterion should be medical need.

COMMISSIONER SALTZMAN. Suppose you do have a specific group who because of past discriminatory effect, and I think that was the implication of Ms. Rabinowitz's point, have not received the kinds or extent of services in accordance with other groups to overcome the discrimination applied against them. Ought there not to be special programs to meet their needs? Like the aging?

MS. SODERBERG. Again, if you speak of need, you mean their medical needs or—

COMMISSIONER SALTZMAN. Yes, their medical needs.

MS. SODERBERG. I think we do have programs to meet the special needs of the aged. We don't have an outreach program under Medi-Cal for the aged. They have to find their own provider and that provider must prescribe for them. But there is—there isn't much that I can think of that is limited to them.

COMMISSIONER SALTZMAN. Thank you.

VICE CHAIRMAN HORN. Mr. Hoff, the statement was made that 1.6 million children were screened in California where no age record was known. I'm just curious how that happens. What sort of a data system is available? Is there a concern on the part of the Health Care Financing Administration and others that this is done?

MR. HOFF. We are very curious about that too. This came out in our looking at some figures in connection with this hearing, and as I understand it, this came about because the State looks at or considers as screened under the EPSDT program children who go to a physician and the record system is set up in a way that they cannot capture the age of those children. But we are going to be looking into this.

VICE CHAIRMAN HORN. Is this sort of based on a school survey or what? How do they know this?

MR. HOFF. Well, I think this is based on the claims that are made by physicians for Medi-Cal reimbursement. Did you know that?

MS. SODERBERG. No, I'm afraid I can't address that question. The EPSDT program is handled—although it's funded by Medi-Cal, it's handled through our public health division. Perhaps when Mr. Alcalá testifies, he may have some information on this.

VICE CHAIRMAN HORN. Okay.

MR. HOFF. But in response to your question, we are concerned and we're going to be looking into that.

VICE CHAIRMAN HORN. Good. Ms. Bradley?

MS. BRADLEY. Ms. Soderberg, could you list for the record here what services require prior authorization in California under the Medi-Cal program?

MS. SODERBERG. Okay. For inpatient hospital services, all non-emergency admissions require prior authorization. All admissions to a skilled nursing facility or an intermediate care facility require prior authorization. There are some services after the first two have been received in a month, and they require prior authorization such as physical therapy and psychiatric services. That sort of sums it up.

MS. BRADLEY. What about things such as dentures, eyeglasses, hearing aids? Is prior authorization required for these kinds of services?

MS. SODERBERG. At this point in time optometric services are restricted to two services a month, and there is no—there isn't anything after that. As far as if you need a third service, you wait for the second month. There is no prior authorization.

MS. BRADLEY. Do you have any information or data to suggest that certain age groups might frequent, for example, optometric services more frequently and that prior authorization requirement or possible denials might affect certain age groups more adversely than others or differently from other age groups?

MS. SODERBERG. No, we haven't—as a matter of fact, we are looking into optometric services at this point in time, and there is nothing to indicate that anyone is being denied services at all.

Ms. BRADLEY. What is the standard of medical necessity or medical need that a medical consultant uses or employs to determine whether the service shall be provided and financed under Medi-Cal?

Ms. SODERBERG. Well, aside from the general description of what the service is, he uses his own medical judgment just as the prescribing physician does.

Ms. BRADLEY. There is no objective standard per se that is employed? It is professional judgment that comes into play here?

Ms. SODERBERG. Well, I don't think you can just make a generalized statement like that. There are standards. There are general standards, depending upon the service, depending upon the diagnosis, what the physician is prescribing. All these factors are taken into consideration. I really don't think you can generalize about this.

Ms. BRADLEY. But in fact we don't have a set of standards per se that one could just automatically apply? In other words, there are some subjective factors that clearly are coming into play here that are incidental to the profession—experience, nature of the client's particular condition or situation—

Ms. SODERBERG. Well, for example, in the matter of eyeglasses, depending upon the severity, we have to start talking in medical terms, and I'm not really capable.

Ms. BRADLEY. Spare me as well.

Ms. SODERBERG. But below a certain level, you know, we would not authorize glasses if the degree of—whatever—if a person has just a slight need for glasses, there is a standard, is what I'm saying, for that. But above that, then it's a matter of medical judgment.

Ms. BRADLEY. Just one final point to pursue this to its end. We found in a number of States that the notion of whether the person who is involved in a prior authorization of service, whether that person could "be deemed employable," came into a determination of medical need. In your experience have notions of employability come into play in determining whether these prior authorized services will in fact be provided?

Ms. SODERBERG. Not to my knowledge.

Ms. BRADLEY. Thank you.

VICE CHAIRMAN HORN. Ms. Taylor, any further questions?

Ms. TAYLOR. No further questions.

VICE CHAIRMAN HORN. If not, thank you very, very much. We appreciate your testimony.

The next panel is the panel of food stamp administrators. Ms. Cashion, Mr. Smith, please come forward.

[Ms. Graciela Cashion and Mr. Byron A. Smith were sworn.]

MANAGEMENT BRANCH, CALIFORNIA DEPARTMENT OF BENEFIT PAYMENTS,
SACRAMENTO

VICE CHAIRMAN HORN. Please be seated. Counsel will identify the witnesses.

Ms. TAYLOR. Would each of you please state your full name, address, and position for the record, starting with Ms. Cashion.

Ms. CASHION. My name is Graciela Cashion and I work for Self-Help for the Elderly under the San Francisco Commission on Aging. I work at 944 Market Street. And you want the telephone number?

Ms. TAYLOR. That's okay.

Ms. CASHION. That's all.

Mr. SMITH. My name is Byron A. Smith. I am the Chief, Food Stamp Program Management Branch, California Department of Benefit Payments. Address, 744 P Street, Sacramento.

Ms. TAYLOR. Mr. Smith, I am going to direct my first question to you. The Commission found in field work that, one, the complex structure for being certified for food stamps, receiving the stamps, purchasing the foods, etc., caused difficulties for older persons; that older persons are hesitant to participate in what they see as welfare. I wonder if you believe that your delivery system presents such problems also?

Ms. SMITH. I think the answer to that question has to be, yes. The food stamp program, like a lot of welfare-related programs, just getting on SSI, FSP requires a certain amount of persistence and patience. Sometimes because of staffing requirements and a number of people waiting on a particular day, it requires call-back visits to come back for another appointment and of course after you are eligible for the program, you do have to get an authorization purchase card, which then has to be taken someplace else to transact to get the food stamps.

I think that there is also perhaps, particularly for the elderly, some hesitancy to use food stamps. They are visible. We did a brief study not too long ago that did not focus on the elderly but focused on the aid to families with dependent children program in California. We found that even in that program there were, oh, roughly 10 to 15 percent of the people who were not receiving them who gave as one of the key reasons that they have felt funny about using them in a market. They just didn't like the way people looked at them, that sort of thing.

Ms. TAYLOR. I notice that you are one of the two States, I believe, that have the cash-out situation.

Mr. SMITH. Yes.

Ms. TAYLOR. Has that helped with these kinds of problems?

Mr. SMITH. Well, we consistently from in the beginning when the Federal Government took over the adult age, we were one of five States that at that time chose to exercise a cash-out option. Our feeling at that point was that to provide some extra cash added on to the SSI check was frankly the most logical and humane way to handle the program as it relates to the elderly. At the time that the Federal Govern-

ment took over the adult aged, of the around 500,000 participants in the program in California, there were only 170,000 that were participating in the food stamp program, roughly a third or so. And, of course, once we chose the cash-out, then everybody was getting what amounted to an average bonus value in most cases.

VICE CHAIRMAN HORN. I would like you to elaborate on that. I went over this last night with the staff and I'm afraid people reading the record, since it is unique or fairly unique, are not going to be clear on how the cash-out system works. Could you explain succinctly what the trade-offs are and just what does it mean for the individual—who loses anything, if anybody does, so forth?

MR. SMITH. Sure. The food stamp program, the way it normally works, there is a benefit level and then there is a purchase requirement. The difference between the purchase requirement and the benefit level is what we call bonus value. For example, if somebody is entitled to \$50 worth of food stamps and they have to pay \$40 for those, then that's a \$10 bonus value. What we do in a cash-out situation is we just add the value of the bonus value, the benefits from the program. We add that on to the amount they would have received through the SSI program. So, their check that they receive every month reflects that increase based on—

VICE CHAIRMAN HORN. And that \$10 increment is paid for out of what fund source?

MR. SMITH. It basically is Federal money. It's the SSI money.

VICE CHAIRMAN HORN. It isn't through the Department of Agriculture—

MR. SMITH. No.

VICE CHAIRMAN HORN. —food stamps in any way?

MR. SMITH. No, that's correct.

VICE CHAIRMAN HORN. So, it relieves the budget in terms of food stamp demand of individuals in California, or does it? I'm trying to get at the effect on the national food stamp program and the budgetary effect if a State adopts a cash-out proposal.

MR. SMITH. I suppose if you are looking at the Department of Agriculture's budget, it's a little bit lower because they are—

VICE CHAIRMAN HORN. They no longer carry the burden they would have carried?

MR. SMITH. That's correct.

VICE CHAIRMAN HORN. If food stamps were implemented here as they are in 48 other States?

MR. SMITH. That's right.

VICE CHAIRMAN HORN. So, it's increased the SSI budget at this point?

MR. SMITH. Yes.

VICE CHAIRMAN HORN. The Federal budget as a whole is balanced out presumably.

MR. NUNEZ. Commissioner Horn, I'm not too clear on that.

VICE CHAIRMAN HORN. That's what I am trying to get here.

MR. NUNEZ. Are we saying that the State puts up the \$10; is that correct?

MR. SMITH. No. The Federal Government does.

MR. NUNEZ. Puts up the \$10?

MR. SMITH. That's correct.

MR. NUNEZ. From SSI. But you have a situation by someone benefitting from two programs. One program ends up paying more so that another program can be secured. SSI puts up the extra \$10 and then the Department of Agriculture puts up the—

MR. SMITH. No, there is—for the adult aged there is no Department of Agriculture money in it. I'll tell you, when you get into the funding of this thing, it is extremely complex.

VICE CHAIRMAN HORN. This is why I'm pursuing it. We might as well understand it. So, let's take the time.

MR. SMITH. Okay.

VICE CHAIRMAN HORN. Start from ground zero. Our Acting Staff Director assures me he understands it in simple declarative sentences.

MR. NUNEZ. Well, the benefit of the \$10, that's the value added; is that correct?

MR. SMITH. Right.

MR. NUNEZ. Now, you are saying that SSI puts up that \$10?

MR. SMITH. That's correct. Part of the problem with the thing is that there is State and Federal money. The funding mechanism that was put together at the time the Federal Government took over is pretty involved. Okay. And the \$10 is added into the part of it that's Federal money.

VICE CHAIRMAN HORN. Why should a State pursue the cash-out option? Is it just in the belief that citizens ought to be able to decide themselves what to do with the resources the State makes available to them rather than have two sources of "welfare resources," one of which is cash, one of which is food stamps limited to certain "nutritional-type products" made in America, presumably to help them with a decent diet? One could argue as a matter of public policy you might be better off to say at least they've got that much for nutrition rather than just give them all cash and heaven knows what they do with it. That's one argument. The other argument is the earlier one. Why did California become one of the two States now to take the cash-out? Was there a philosophical basis for this?

MR. SMITH. There were, I think, basically two reasons. One is the philosophical basis and that essentially is that particularly the elderly ought to be entitled to spend their benefit money in any way that they choose. Some of the arguments that you get into when you are dealing with, for example, the AFDC program, where the bulk of participants are in fact children and you are trying to ensure these children a basic nutritional diet and that sort of thing. Some of those arguments when you are dealing with the elderly don't carry quite as much weight.

The other thing is that from an administrative point of view, frankly, it's a lot cheaper for the State and for the Federal Government to run the program through cash-out. We are not going through the monthly or semiannual recertification process and all of that.

VICE CHAIRMAN HORN. The redemption of stamps and so forth?

MR. SMITH. Exactly.

VICE CHAIRMAN HORN. Are there any studies to show whether people are really "better off" as a result of the cash-out option as opposed to at least having part of the funding they receive or resources they receive be in nutritional food?

MR. SMITH. There is not any studies I am aware of.

VICE CHAIRMAN HORN. And, so, we have no satisfaction survey, let's say, of the elderly population in this regard that we are aware of taken by the State or anybody else?

MR. SMITH. That's correct.

MR. NUNEZ. Why wouldn't other States adopt it? It seems to be a very fine system. It's more dignified, gets more dollars into the individuals' pockets.

MR. SMITH. Well, it gets increasingly expensive and to continue your eligibility as a cash-out State you have to make sure that your grant levels are of a sufficient level to cover it, and it's getting increasingly expensive to do that. And that was why, for example, New York and Nevada just a year ago basically decided to start issuing food stamps.

VICE CHAIRMAN HORN. Why does California continue in this regard? Are there any plans for us to change our policy?

MR. SMITH. No, we are pretty well committed to this.

VICE CHAIRMAN HORN. So, we aren't having the experience of New York, I take it, in this regard?

MR. SMITH. That's correct.

VICE CHAIRMAN HORN. Why is that? We are relatively the same size in population, I would think.

MR. SMITH. I have a hard enough time keeping track of California, much less New York.

VICE CHAIRMAN HORN. It's a diplomatic reply. Go ahead.

MS. TAYLOR. Mr. Smith, as I understand it on the SSI recipients who are able to receive the cash-out for food stamps—is that, in your opinion, is that a large population of the older persons in the State of California? What does that represent, the SSI recipients?

MR. SMITH. It's about 18 percent. I believe 15 to 18 percent of the population, something like that.

MS. TAYLOR. This is the total for SSI?

MR. SMITH. Yes. The SSI people who are receiving SSI, that percentage of the group over 65.

MS. TAYLOR. Do you have any way of knowing about the other elements?

MR. SMITH. Yes.

MS. TAYLOR. Other older persons who are not eligible for SSI but are for food stamps who are not able to take advantage of this cash-out?

MR. SMITH. Yes, I understand. The work that we've done on it indicates—and I think this is verified by some of the work that the Department of Agriculture people have done at the Federal level—a very small percentage of non-SSI recipients who are receiving food stamps, about 1, say, 1.5 percent of our population, of our food stamp recipient population that is.

MS. TAYLOR. Am I correct in saying that outreach is mandated in the food stamps?

MR. SMITH. Yes.

MS. TAYLOR. Federally mandated?

MR. SMITH. Yes, ma'am.

MS. TAYLOR. Have you had any problems? Have you encountered any problems in implementing the outreach program here in California?

MR. SMITH. Well, yes, we have. The outreach is, to put it delicately, a kind of controversial subject. It's a difficult concept for a lot of people to accept. You hear terms of going out and recruiting welfare recipients and that sort of thing. Of course, outreach has been on the books for some time. It wasn't until a 1975 lawsuit (*Bennett v. Butz*) that really put some teeth into it and everybody all of a sudden got serious about outreach. At that time we tried to treat it just like we do most of our mandates from the Federal Government, and that is to pass it on to the county welfare department who are responsible, of course, in California for running the program on a day-to-day basis. And the counties, we have had a small revolt on our hands. Most counties either ignored our mandate or did things like pass board of supervisors' resolutions against it and that sort of thing, which caused us obviously to go back and kind of rethink the thing, and we now operate the outreach program through community organizations in California where we at the State level contract with these people. They are responsible for providing outreach services in a particular geographic region, and the county role is basically limited to dealing with the referrals that come in from these organizations and a little bit of reporting that we are trying to keep set up, so we can keep some track of things going on.

MS. TAYLOR. Ms. Cashion, would you briefly describe the function of Self-Help for the Elderly and the Latin American Nationals Senior Citizens' Association, and in your explanation or that description of that, would you identify for both organizations the following: the age range which you serve, the number of people served, and how the two programs differ?

MS. CASHION. Okay. The Self-Help for the Elderly is under the EOC, as you know, under the San Francisco Council of Churches. And they've been in existence for I know—I've been working for them for

5 years and they've been in existence longer than that, many, many years. They do information and referral and they do job referral and then they have tax rebate assistance, escort service to doctors and hospitals, they have community aides that take people to different appointments that they have, health appointments. They have research on the issues pertaining to senior citizens' welfare. They—it's a community organization.

Ms. TAYLOR. Yes.

Ms. CASHION. We have assistance on social services, social security, SSI, housing. Also they have something to do with the Meals on Wheels, because when this Meals on Wheels was started in San Francisco there was a wife of a doctor that started it many years ago, and when they could no longer continue the program, then the Self-Help for the Elderly took over and they are still in existence now. And they have more size now in San Francisco. And they also were instrumental in starting the foot clinics, foot care clinic for senior citizens. They started them downtown and now they have them all over the city. They also are instrumental in getting the site ramps for the elderly and the handicapped in San Francisco. They also had something to do with the 5-cent fare for the Municipal. Now the senior citizens ride for only 5 cents on any bus they want to ride. They were also instrumental in the plate in the cafeteria. I forget what you call it, the plate, the special prices for senior citizens in the cafeteria. Unfortunately, about three of them are closed already, but they used to have all that for senior citizens; they come at a certain hour and they have a special price, have a special purchase on the food. So, they were instrumental in getting that in restaurants and cafeterias.

They also, they speak for groups of senior citizens at the board of supervisors' hearing when there is something that affects the seniors and they also help with the legislators. They go to Sacramento and they organize, they coordinate in groups and they go to Sacramento to hear and know about different bills affecting the senior citizens.

Ms. TAYLOR. Could you tell us one thing, tell us what special needs the Spanish-speaking elderly people have which are not being met by the food stamp program?

Ms. CASHION. Well, the main thing, I think, is their language barrier. I am talking about the Spanish-speaking seniors. Is that what you want to know?

Ms. TAYLOR. Yes.

Ms. CASHION. The language barrier is the thing, you know, really. Sometimes they go and they don't understand each other and, because they don't know how to say on the phone or they misunderstand, they get left out of the food stamps. I know also—well, this is in general for the senior citizen. They feel that they are discriminated because a few years ago when they got the \$10 raise for the SSI, they took the food stamps away from them. But that's for all of them, not just the Spanish. Which is true because with the increasing of prices now, with

the \$10 that they get in one hand, they took all the food stamps in the other hand, so they are worse now than they were before because with everything so high in the last few years, \$10 doesn't really mean anything. And then when they go to supermarket—I'm telling you what they tell me, you know, because in the center they come, a lot of them—and they go to the supermarket and they see all the age groups with a cart with so much food, you know, and all that they can buy, and yet the senior citizen, they get the SSI, they don't get the food stamps. So, you know, they feel discriminated against because they cannot buy, and they don't have any.

Well, about the Spanish-speaking, coming back to that, because it's the language barrier. They are brought up different ways and they feel like they are asking for charity and they feel like they don't want to get handouts and they don't want to be standing in big lines, you know. As you know, there are big, lots of lines. They get tired. They are not like the young people. They get tired with waiting. So, I found that's some of the problems they encounter. For the Spanish-speaking people especially because they don't know the language and they don't read the literature, and they cannot fill out forms and that happens not only in the food stamps, it happens in a lot of the other offices, State and government, Federal, State, and local offices they have the same problem.

MR. NUNEZ. Tell me, Ms. Cashion, when you referred to the Spanish-speaking, and I assume it's in the San Francisco Bay area, who are you talking about exactly and what kinds of people, from what countries are you talking about?

MS. CASHION. You mean that when we refer them?

MR. NUNEZ. Yes, what would you like, how do you identify them? Are they Mexican Americans, South American, who are we talking about?

MS. CASHION. We're talking about the Spanish-speaking community; we have this composed of—I'm talking about San Francisco because of where I'am—Central American, South American, Cubans—we call Spanish American, doesn't mean Chicano, means all those countries, all those people that are here. As you know we have really large minority group in San Francisco. In the Spanish-speaking people senior we have 20 in San Francisco. We have 10 just in the Mission district alone, so and I work in the Mission district because I also work with the Latin American National Senior Citizens—

MR. NUNEZ. Is there any one group that—

MS. CASHION. —They're composed of all these nationalities.

MR. NUNEZ. Right, is there any one group that is the majority of the Spanish-speaking group?

MS. CASHION. Yes.

MR. NUNEZ. Which one is that?

MS. CASHION. In San Francisco—

MR. NUNEZ. Yes.

MS. CASHION. The Nicaraguan.

MR. NUNEZ. Thanks.

VICE CHAIRMAN HORN. I'm trying to get straight in the Spanish people in San Francisco, we, the Mexican American community would be part of the—

MS. CASHION. Oh, yes, right.

VICE CHAIRMAN HORN. —that group—

MS. CASHION. Correct.

VICE CHAIRMAN HORN. Are they the majority of the Spanish-speaking in San Francisco?

MS. CASHION. No. Again, lot of people think that, I mean they are in San Jose and Los Angeles but in San Francisco, no. They are not the largest.

VICE CHAIRMAN HORN. How many Hispano Americans are there in San Francisco; do we know off-hand?

MS. CASHION. I have the figures in the office, but I was surprised to know how large was the Spanish-speaking community, was so large I couldn't, you know, we have the figures at the Self-Help for the Aging, but among the Spanish-speaking the, you asked me, the Nicaraguan is the largest one and then the Salvadoran, the Cuban, and the Mexican is four.

VICE CHAIRMAN HORN. In other words, the Mexican American origin of ancestry is fourth of the Hispanic American peoples here? You're saying Nicaraguans—

MS. CASHION. We consider them Latins, you see, when we talk to them we, although they come from South America, Nicaragua, can you blame we say they are Latin Americans so we, you see. So the Mexicans are Latin Americans, we are—we consider them as Latin Americans.

VICE CHAIRMAN HORN. Okay. Any further questions?

MR. NUNEZ. No.

VICE CHAIRMAN HORN. Ms. Bradley?

MS. BRADLEY. Yes. Mr. Smith, I'd like to pursue this question of outreach, which has been a critical concern of the study here. And Ms. Cashion has outlined very well some of the problems that one particular group faces. Here we have a program that is an open-ended program. You draw down Federal monies and the Federal Government, through a variety of sources, can pay up to almost 100 percent of the administrative costs involved in the administration of the food stamp program. As I understand it, please correct me if I'm wrong—my understanding of the cash flow here. What are the disincentives or the Catch 22s that make outreach an unattractive effort in bringing people into this program? Why aren't more people being served?

MR. SMITH. Well, one of the things is you're right on the benefit dollars coming in, that's 100 percent Federal, but it's only 50 percent Federal in the administrative costs to deal with the people that are coming in the front door, okay? So there is some local money that's involved in hiring eligibility workers and issuance costs and that sort of things.

MS. BRADLEY. Does eligibility for food stamps in this State automatically make you eligible for other services and other programs in this State such that, were you to come into the food stamp office and be declared eligible there, you would be automatically be referred to other services?

MR. SMITH. It kind of works the other way around. You come in and you apply for, for example, AFDC, and generally speaking you're eligible for food stamps and that sort of thing, depends on how effective the county is working.

MS. BRADLEY. Relative to those who are not ADC recipients but are still eligible for food stamps in this State, including those who are operating with the cash-out system, how does one go about, how does the State go about notifying these individuals that they're eligible for other services?

MR. SMITH. Well, it would be primarily through contact with the county welfare department, as most of the time they come in and they go through some sort of a prescreening kind of process, and the county, at that point, is, you know, in theory at least, is supposed to be alert to refer them to social services or some sort of medical care, other services that might be available through the welfare department.

MS. BRADLEY. How would you assess the relationship between the county welfare departments and the Social Security Administration district offices in terms of referrals and communications and so on relative to clients? Are clients that are receiving SSI automatically referred to the county welfare department as a matter of course here?

MR. SMITH. This really isn't exactly in my area, but my understanding, particularly like in the beginning when the thing was just getting started and there were a lot of problems, there were some district offices that were extremely responsive to problems and working with the counties and trying to get things straightened out. There were some others where there was less communication.

MS. BRADLEY. One final question. That check for the cash-out recipient comes from the Federal Government; am I correct?

MR. SMITH. That's correct.

MS. BRADLEY. Has the State requested of the Federal Government or taken any action to have a flyer, for example, in that envelope that transmits that check to the individual notifying the individual that other services might be available to them?

MR. SMITH. We periodically do things like that, not so much I don't believe in the social security check, but mailing out with the medical cards, which of course go to the same people.

MS. BRADLEY. Thank you.

VICE CHAIRMAN HORN. Do you have that on a flyer or brochure, those listings of other services?

MR. SMITH. Well, what we, the typically the kind of situation that would come up where we'd use that sort of thing is if there was some special program or something coming up and what we would do is

print it up on the, in the same size to fit the back of the stuffer, the medical mailing package, put it in.

VICE CHAIRMAN HORN. Now, I'd like as Exhibit 13, then, just a sample of the sort of outreach activities that the agency has done in this regard. The staff would work on with your staff—

MR. SMITH. Sure.

VICE CHAIRMAN HORN. —getting a variety and without objection that will be Exhibit 13 in the record.

MR. SMITH. Fine.

VICE CHAIRMAN HORN. Ms. Taylor, any further questions?

MS. TAYLOR. No further questions.

VICE CHAIRMAN HORN. Then thank you very much. We appreciate the testimony that both of you have given the Commission.

MS. CASHION. There's one thing I forgot to say, that I understand also that there is no contract for food stamps given to senior groups.

VICE CHAIRMAN HORN. I'm sorry, I did not—

MS. CASHION. No contract, you know the contract in order to get food stamps there have to be a contractor. They have no contract for food stamps with any senior group.

VICE CHAIRMAN HORN. Well, would you summarize that, Ms. Bradley?

MS. BRADLEY. Correct me if I'm wrong, Ms. Cashion, but what I believe you're saying is that since California is now using contracts for outreach purposes, you were pointing out that there are no contracts with older persons' groups to do outreach to older persons for food stamps?

MS. CASHION. I don't mean the outreach. I mean the contract, actually the contract it hasn't been given to any senior group, as far as we know.

MS. BRADLEY. Under the food stamp program?

MS. CASHION. Right. I may be wrong, but that's what my information. Okay? I thought I better mention that, since we are talking about age discrimination.

VICE CHAIRMAN HORN. All right, thank you. I would hope the staff would confirm that information and there will be an insert after this as to that situation.

The next panel is the panel of health, mental health administrators, Sheridan Weinstein, Jerome Lackner, William Goldman.

MS. TAYLOR. Mr. Chairman, Mr. Schwartz is going to take the questioning of this panel.

VICE CHAIRMAN HORN. Fine.

If you'd stand, gentlemen, and raise your right hands.

[Mr. Carlos Alcala, Dr. William Goldman, and Dr. Sheridan Weinstein were sworn.]

TESTIMONY OF CARLOS ALCALA, CHIEF DEPUTY DIRECTOR, CALIFORNIA DEPARTMENT OF HEALTH; WILLIAM GOLDMAN, ASSISTANT DIRECTOR OF PUBLIC HEALTH, MENTAL HEALTH SERVICES, CITY AND COUNTY OF SAN FRANCISCO; AND SHERIDAN WEINSTEIN, REGIONAL DIRECTOR, PUBLIC HEALTH SERVICE, U.S. DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, SAN FRANCISCO

VICE CHAIRMAN HORN. Please be seated. We have a substitute speaker now and, if we could identify all of the speakers and get a new sign made, I would appreciate it.

MR. SCHWARTZ. Dr. Weinstein, while Mr. Alcalá's taking care of that, would you please identify yourself for the record, giving your name, your address, and your position, please?

DR. WEINSTEIN. I'm Dr. Sheridan Weinstein. I am the Director of the Public Health Service, Regional Health Administrator here in San Francisco. My address is 50 United Nations Plaza, San Francisco.

MR. SCHWARTZ. And Dr. Goldman, please?

DR. GOLDMAN. Dr. Bill Goldman. I'm the Assistant Director of Public Health, Mental Health Services, City-County of San Francisco, and the address is 555 Polk, P-o-l-k, Street, in San Francisco.

MR. SCHWARTZ. And you are Mr. Alcalá?

MR. ALCALA. Yes, my name is Carlos Alcalá. I'm with the State department of health where I direct civil rights efforts, an exempt appointee of the administration and have the status of chief deputy director.

VICE CHAIRMAN HORN. Would you spell your last name, please?

MR. ALCALA. A-l-c-a-l-a.

VICE CHAIRMAN HORN. Very good, thank you.

MR. ALCALA. My address is 714 P Street, Room 1253, Sacramento, California.

MR. SCHWARTZ. Dr. Weinstein, do you believe that there is any age discrimination, or shall we use the broader term and say age differentiation, in community mental health center programs or community health centers program? If so, what form does the difference in services take and how is it—how does it occur?

DR. WEINSTEIN. With respect to the community health center program, we in the region, in preparing for the hearing here, have collected some data for you, and in collecting that data, our initial conclusions—and you've got to recognize that the data does not represent 100 percent of all community health centers here in the region—but our initial conclusion has been that the age of the users in the community health centers approximate the distribution of the age in the population in those particular areas where these community health centers are physically located. And I can provide for the record, if you wish, a summary of the specifics of that, vis-a-vis distribution of age by percentages, vis-a-vis population of the various areas.

VICE CHAIRMAN HORN. How long is the full study?

DR. WEINSTEIN. The study was a study that gleaned data from a, probably a 6-month period, looking at users of the particular center

during the 6-month period, vis-a-vis the most recent population estimates we had for that area. And that probably would go back to at least the 1974 census for the population base.

VICE CHAIRMAN HORN. How many pages is the study itself?

DR. WEINSTEIN. We can reproduce it down to one page if you'd like.

VICE CHAIRMAN HORN. I'd like it as Exhibit 14 and then please summarize. How are you titling this study; what is the official name of it?

DR. WEINSTEIN. There was no specific study. It was just a data collection exercise we had done to prepare ourselves for the discussion here.

VICE CHAIRMAN HORN. Well, without objection, it's inserted as Exhibit 14 at this point in the record.

DR. WEINSTEIN. I can provide some very general statements right now on that.

In the area of age 0 to 12, we recognize that about 29 percent of the users fall into this age bracket, which would compare with about 24 percent of the population in the area.

In the age—

MR. SCHWARTZ. Excuse me, Dr. Weinstein, are we talking about the entire Region IX?

DR. WEINSTEIN. We're talking about those centers that are, well, let's say a sample of centers that are in Region IX and we have about 25 in this region. And I think we selected the data from about 10.

MR. SCHWARTZ. And now we're talking about the community health or—

DR. WEINSTEIN. We're talking about community health centers, not community mental health centers.

MR. SCHWARTZ. Okay.

DR. WEINSTEIN. For the elderly at 65 and over as we were counting them for this particular data collection exercise, our clinics were averaging about 8 percent in that age group, and we have found that this is a little less than the average population in the particular areas. However, we will provide for the record a more comprehensive summary of this particular data.

As it relates to community mental health centers, we are not in the position to be able to provide at this time specific data, although we can provide some national data, and the national data may have been provided—well, since this, I believe, is your first session I don't know if you've had the opportunity to receive for the record a variety of charts that were prepared by National Institute of Mental Health, which are quite lengthy. I have them here with me and I can provide them for you, but the data for the community mental health centers on the national scale, and I have to say that the way in which we collect data is quite variable such that there's no comparisons in various age categories, vis-a-vis 0 to 4, some programs go 0 to 5, some programs collect it less than 12, so you cannot crosswalk these programs very easily.

But for community mental health centers on a national basis, they, the data appears such that age 15 or less represents about 16 percent, whereas age 65 and over represents about 4 percent. And I have a variety of data that fits in the intervals there too. You'll immediately recognize that in the age 65 and over it is not representative of the community.

MR. SCHWARTZ. Has there been any, to your knowledge in that national study, has there been any assessment of the needs of either of these groups so that we would have some way of determining whether or not that 4 percent, not based just on population but based upon the need for services, is underservice, overservice, or adequate service in that group?

DR. WEINSTEIN. Well, I'm not personally prepared to answer that question. I can surmise that in fact there has been a specific need identified both for children and for the elderly inasmuch as the Congress saw fit to write into [Public Law] 94-63 some very specific language that would target services both for children and for the elderly, despite the fact that the part F grants for the children had existed prior to the enactment of 94-63.

MR. SCHWARTZ. Exactly what requirements were enacted under 94-63 for children and elderly clients?

DR. WEINSTEIN. As part of the Community Health Center Act, which was enacted 2 years ago now, the community mental health centers were required to prepare and offer services that would be eligible to all members of the population.

However, over and above that, the centers were directed to provide, I'll read directly from the law, "a program of specialized services for the mental health of children, including a full range of diagnostic, treatment, liaison, and followup services, and as it relates to the elderly, a program of specialized services for the mental health of the elderly, including a full range of diagnostic, treatment, liaison, and followup services."

And so, for the elderly per se, the range of services are quite comprehensive, as they are for children. Although this is the first time that we are really targeting, in Federal legislation, a program of services in the mental health area specifically designed for the elderly.

MR. SCHWARTZ. We've had one witness earlier who testified that with regard to children the mental health centers, in this area at least, did not seem to be adequately serving the child population, particularly the infant population. And she had suggested that perhaps some changes could be made with regard to the expertise of these mental health centers that would direct services more adequately to these groups. What has been, what would be your assessment of how the community mental health centers in this particular San Francisco area have handled this problem and whether or not they've effectively implemented 94-63?

DR. WEINSTEIN. Well, as you know, 94-63 has been a very complex law which we have gotten very few regulations out on the table just yet. However, it, as a law, replaces a previously existing law for the community mental health centers. And I have with me today Ms. Doreen Loso, who is the director of our community mental health center program, and if you're interested in any of the specifics with regard to the community mental health centers here in San Francisco, I'm certain that Doreen will be able to respond to that directly. Doreen?

VICE CHAIRMAN HORN. Well, does counsel wish to pursue that?

MR. SCHWARTZ. I think we could pursue that at the end if we choose to do so. We can get some more general information out of the panelists who are now here.

Is that provided, by the way? Would that be available in a data form so that it could be submitted to the record?

DR. WEINSTEIN. To the extent that you would make your questions specific, I'm certain that we can provide that data for the record.

MR. SCHWARTZ. We would be interested in having for the record a breakdown of services made available to children, I guess we could count that 0 to, 94-63 went to what age?

DR. WEINSTEIN. Eighteen.

MR. SCHWARTZ. So let's make that from 0 to 18 in services provided and the amount of funds expended for children in community mental health centers in the San Francisco area, could that be—

DR. WEINSTEIN. We'd be glad to provide that for the record.

VICE CHAIRMAN HORN. When you say the San Francisco area, what do you mean?

MR. SCHWARTZ. I mean the City and County of San Francisco.

VICE CHAIRMAN HORN. You mean just the City and County of San Francisco?

DR. WEINSTEIN. That would be no problem.

VICE CHAIRMAN HORN. All right. Without objection Exhibit 15 will be services to children from birth to age 18 or prebirth, I assume prebirth is included in there?

MR. SCHWARTZ. I don't know.

VICE CHAIRMAN HORN. What's the—

DR. WEINSTEIN. By prebirth do you mean to expectant mothers?

VICE CHAIRMAN HORN. I mean during pregnancy, yes, treatment of mothers prior to birth in the case of children.

DR. WEINSTEIN. I'm not certain whether or not—

VICE CHAIRMAN HORN. The phrase 0 to 18, I was trying to figure out what 0 is. Amount—

MR. SCHWARTZ. Day one.

DR. WEINSTEIN. That's the way we count them.

VICE CHAIRMAN HORN. There's an argument, see, over that scientifically and every other way. See, community mental health centers and that is inserted at this point in the record.

COMMISSIONER SALTZMAN. Could I ask a word of clarification? The question was addressed to you about the expertise available to the infants in the community health centers on the basis of comments of an earlier witness. Are the community mental health centers prepared to deal with infants from 0 to 5?

DR. WEINSTEIN. With regard to that specific question once again, I think we would have to provide that information for the record. I am not prepared at this point to answer it.

COMMISSIONER SALTZMAN. I'm sorry, I wasn't sure whether—

VICE CHAIRMAN HORN. Well, that will be—

DR. WEINSTEIN. But we can provide, for the record, some information on that subject as well.

VICE CHAIRMAN HORN. It will be part of Exhibit 15.

COMMISSIONER SALTZMAN. In terms of the staff—

DR. WEINSTEIN. I understand—

COMMISSIONER SALTZMAN. Okay.

MR. SCHWARTZ. With regard to the other end of the population scale, 65 and over persons, who are also covered by the mandate of Public Law 94-63, what services have been provided to that group in this region, has that been—has that affected some change to the services that go to that age group in this region?

DR. WEINSTEIN. With the implementation of 94-63, I think we are not as far along as one might expect. As I mentioned before, the law has in fact not had its regulations implemented as of yet, and at this point in time I believe we have, we are in the process right now of notifying all of our grantees here or throughout the region with respect to a variety of guidelines, anticipating regulations coming out. We can provide those guidelines in addition for the record, which will define scope of services, which will set out a few definitions that will be used, vis-a-vis services to be provided and the variety of expectations. We have not as yet assessed any of our current grantees as to the level of service that they are actually providing.

VICE CHAIRMAN HORN. All right, Exhibit 16 will be similar data plus guidelines as to services. And amount expended on the elderly defined as what age minimum?

DR. WEINSTEIN. Sixty-five and over?

MR. SCHWARTZ. Yes, we can—that breakdown—

VICE CHAIRMAN HORN. Is that how you define it?

DR. WEINSTEIN. That breakdown would be appropriate.

VICE CHAIRMAN HORN. All right, for the City and County of San Francisco for what, both of these tables, the last 2 fiscal years or what? What are we asking for?

MR. SCHWARTZ. In what form do you have the data? That might be helpful.

DR. WEINSTEIN. We can provide the data best by fiscal year. And for us, we would be able to provide it at least for the fiscal year and hopefully for the fiscal year prior to that.

VICE CHAIRMAN HORN. Let's try the last 2 fiscal years so we can see if there are any trends between the two.

DR. WEINSTEIN. Sure.

VICE CHAIRMAN HORN. And that without objection is Exhibit 16.

MR. SCHWARTZ. Dr. Weinstein, community health centers in which we have conducted some interviews in prior field work conducted by Commission staff, administrators have stated that the Department of Health, Education, and Welfare emphasis on preventive health care has caused them to emphasize services to younger patients. Do you believe that this is true of the centers, the community health centers, in your region?

DR. WEINSTEIN. I believe that our emphasis on prevention has in good measure been targeted at the younger age groups. It has been targeted to children. It's been targeted at mothers. And it's both in the medical area as well as in the dental area. It does not represent any exclusion of services in the elderly, it is just our, or in middle age; it is just our belief that the payoff is a little better the younger you have intervention, vis-a-vis preventive activities.

MR. SCHWARTZ. The indication that we were given, at least in some parts, is that the emphasis in this area which does result in these centers that follow the emphasis at a—most services to the younger age groups, because of limitations in funding, do in fact result in perhaps not exclusion but in, let's say, a reduction of level of services to other age group patients. Do you find that to be true?

DR. WEINSTEIN. We have not noted that funds, per se, have been an issue, vis-a-vis the availability of preventive services or the emphasis on preventive services, vis-a-vis age groups.

MR. SCHWARTZ. Let me go on to another area. The community health centers and community mental health center program requirements emphasize third party reimbursement as a means to supplement their operation of funds. We've heard that centers have experienced great difficulty in obtaining such reimbursement. We've also heard that this has affected redistribution of their patients. Has third party reimbursement been a similar problem in this region?

DR. WEINSTEIN. I think that vis-a-vis third party reimbursements, both community mental health centers and community health centers have in fact been operating under a DHEW policy in an attempt to maximize the available third party reimbursements. But that policy, per se, has had some problems with certain activities in the centers, inasmuch as some services are not reimbursable. Medicare and Medicaid are not comprehensive coverage programs. Private insurance is not a comprehensive program. And so in this, in many cases services are being provided by centers for which they cannot recoup any payment and for which the patient may or may not have the ability to pay. Whether or not the centers are targeting their covered services so as to be able to match the reimbursable services is something that I—we have not found any evidence to demonstrate that.

MR. SCHWARTZ. Are the services that are not reimbursable oriented to specific age groups?

DR. WEINSTEIN. It varies.

MR. SCHWARTZ. Could you provide some examples of the services?

DR. WEINSTEIN. Under some programs immunizations are not covered, well baby care is not covered, there are limitations on outpatient or inpatient visits, vis-a-vis one program or another. Certain dental services are not covered, such as only restorative postsurgical services may be covered, whereas preventive dentistry may not be covered. But I don't believe there are any overt services that are specifically related to ages other than those that might be related to well baby care or immunizations.

MR. SCHWARTZ. Is the problem of not being able to find the reimbursement a particular problem for one age group or another?

DR. WEINSTEIN. Well, I don't necessarily believe that individuals discern that well what is and is not a reimbursable service, and so patients visit a center expecting to receive the service, not knowing whether or not the vagaries of a particular program allow for reimbursement or not. So, from the patient's point of view, I don't think he or she really are able to make that fine discrimination.

Within the context of the program policies, in the Public Health Service our programs are also not geared to linking together with that which is reimbursable. Therefore, I would have to say that I don't believe that the variety of programs that we have are in fact acting in a way that would discriminate against patients because of their reimbursement one way or another.

MR. SCHWARTZ. Well, let's look at it another way. Is it quite possible that some of these centers, knowing in advance themselves which services will be reimbursable and which will not be reimbursable, will set up their center in such a way so that they will be providing an accent on reimbursable funding, reimbursable programs?

DR. WEINSTEIN. I think that may be possible, but I don't think that that is necessarily the case. I think that our staff in their oversight of the various centers, whether they're mental health centers or community health centers, have a responsibility to assure that the scope of services provided by the centers meet the intent of the legislation, which talks to a comprehensive range of services in the community health centers. They are really targeted at primary care services, and I do not believe that a center would be flagrant in its approach to only providing those services for which they—for which the center director is aware that they recoup the services—recoup the cost of those services.

In good measure, the Federal grant, not the third party reimbursement approach, is the means for the coverage of many services that are not reimbursable in the third party programs, as well as supporting additional costs, the full costs for which may not be reimbursable under a third party program.

MR. SCHWARTZ. Let me explore one other area with you, Dr. Weinstein, which is, it goes back to the testimony of a witness that we heard earlier who was particularly concerned with child care in the community mental health centers and who said there was a great problem in determining whether preventive care at the really young age group, 1 to 5, was actually deterring any kind of mental illness or disorder and then, therefore, that center that would provide such care would be finding it quite difficult to produce a record of countable cases, and it was on this record of countable cases that they had to rely on for funding. In other words, to show their effectiveness in that area, they would have to show some kind of treatment, some kind of success, according to regulations as far as she knew. Is there a Federal policy or Federal regulations to the effect that for those types of services that would not be easily countable a community mental health center may suffer in its next application for funding?

DR. WEINSTEIN. I don't believe so. I believe we examine the full scope of services provided by the centers, their performance in providing those services, and we are not necessarily bound into the numbers game of how many particulars or how many widgets were seen or how many widgets were provided in order to determine what the future funding of a particular center would be, so I'm not aware of that particular regulation.

MR. SCHWARTZ. So this has no effect whatsoever on whether or not the center will be funded next time around?

DR. WEINSTEIN. I'm not certain if it has an effect or not, but I do not believe that, you know, that there is such a regulation.

MR. SCHWARTZ. Mr. Alcalá—

COMMISSIONER SALTZMAN. May I hitch onto that just one question, please?

VICE CHAIRMAN HORN. Yes.

COMMISSIONER SALTZMAN. Thank you.

DR. Weinstein, on the panel that counsel was referring to, a witness testified to the effect that 45 doctors were surveyed in order to secure one doctor as a consultant to their program. And they received no support or not one of the 45 would make themselves available and, specifically, 8 of the 45 indicated that they would not work in the area of the elderly, 55 and over. This happened to be in Sacramento. Is the same true in San Francisco? Do community centers and mental health centers find it difficult to secure consultative help from doctors with specific reference to the aging, 55 and over?

DR. WEINSTEIN. I personally am not aware of any problems that the community mental health centers are having vis-a-vis their ability to attract physicians who would have the capacity to provide services to the county—

COMMISSIONER SALTZMAN. How about just the community health centers?

DR. WEINSTEIN. The community health centers—

COMMISSIONER SALTZMAN. Not only on mental health.

DR. WEINSTEIN. I don't believe that's an issue, either, with community health centers.

COMMISSIONER SALTZMAN. You have no problem getting doctors to serve the elderly?

DR. WEINSTEIN. I don't know that we are having a problem in that particular area. We, in the San Francisco area, have not had an issue of there being an unavailability of physicians, whether they are to serve in the elderly or any other age population.

As I mentioned before, our—our centers are geared to provide a comprehensive range to services to all age groups. And so we would not necessarily have gerontologists unless there was a specific need on staff or there was a consultative activity or referral necessary, and this is generally the situation throughout the region, not limited to San Francisco.

Our major problem has been more in rural areas, as opposed to the more urban areas to attract physicians.

COMMISSIONER SALTZMAN. Thank you.

MR. SCHWARTZ. Mr. Alcalá, representing Dr. Lackner, has Dr. Lackner's department of health conducted any assessment or study of health or mental health need related to age or found problems relating to age in health or health delivery within the State of California?

MR. ALCALÁ. Yes, we have and I've made available to members of your staff a book entitled *Services for the Elderly*, which was prepared at the beginning of this year, February 22, 1977, and it's a three-part document, the first part consisting of 53 pages, outlining services for the elderly. The second part is a summary of recommendations and implementation steps, the third part being a matrix of service utilization background paper and, excuse me, there is a fourth major part, is a survey of programs affecting the elderly. And that's a 62-page study.

MR. SCHWARTZ. Mr. Chairman, I move that be submitted for the record.

VICE CHAIRMAN HORN. As Exhibit 17, what is the title on that study?

MR. ALCALÁ. *Services for the Elderly*.

MR. SCHWARTZ. Published by your department?

MR. ALCALÁ. Yes, it is.

VICE CHAIRMAN HORN. Very well, without objection that's entered as Exhibit 17.

MR. SCHWARTZ. Could you briefly summarize the findings with regard to services for the elderly made by the department of health?

MR. ALCALÁ. The department of health services to the elderly are predominantly financial and medical. Of the approximately \$1.1 billion spent annually in California, 49 percent goes for cash grants, 43 percent to medical assistance, and most of the remainder to social services.

However, an analysis of the problems facing the elderly reveals that they are primarily due to change in social role. For most people, grow-

ing older means increased social isolation. Second, declining income after retirement, and third, increased incidence of disease and disability. Furthermore, many of the health problems of the elderly are linked to social isolation and decreased income.

In other words, the problems of the elderly are predominantly social and economic. The current pattern of services does not reflect this. Instead, by focusing on medical and financial needs, the service system treats some long run results of underlying social and economic changes associated with aging.

Looking at service utilization in social services, medical and mental health, we find first, the elderly comprise 10 percent of the California population as a whole. However, since they are disproportionately poor, ill, and disabled, they comprise more than 10 percent of the medical assistance and social service caseloads. Twenty-one percent of the medical users are 65 or older and 27 percent of the social service recipients are elderly.

These service utilization patterns are detailed in tables which I have brought with me. They show that first, elderly use services that offer a place to live and personal and/or nursing care and supervision more heavily than other service populations. Second, the elderly tend to stay in the public service system longer than other population groups.

Table 1, which I won't read, I'll just tell you what, I'll summarize for you, shows that elderly service recipients are 27 percent of the estimated average daily caseload for the Title XX social services in California.

Table 2, which shows that the primary social services used by the elderly provide personal care and supervision, access to medical services, living arrangements, and protective services. For example, elderly are 62 percent of the homemaker chore service recipients, 40 percent of the health-related services, 29 percent of out-of-home care, adult, and 26 percent of adult care, adult protective services.

Table 3 would show for medical utilization that the aged are 16 percent of the medical eligibles who account for 22 percent of the expenditures. I won't go into that table. You can look at it at your leisure.

MR. SCHWARTZ. Mr. Alcala, how long is that document you're reading from?

MR. ALCALA. It is about, it is 10 pages long, it goes into—

VICE CHAIRMAN HORN. Well, all of this is being filed for the record, I assume, isn't it?

MR. ALCALA. Well, this is a draft copy of some oral testimony. I can make the tables available—

VICE CHAIRMAN HORN. Well, why don't we insert that at this point in the record and then maybe counsel can, have you seen this document?

MR. SCHWARTZ. No, I've not seen it.

VICE CHAIRMAN HORN. Counsel can engage in some further questions on it, but let's get it all in the record so you don't have to

read it. So, without objection, that's Exhibit 18. Counsel is free to pursue further questioning along that line.

MR. SCHWARTZ. Can you tell me on the basis of this study what kinds of actions the department would recommend with regard to services to various age groups, based on over or underservice to any individual group?

MR. ALCALA. We have begun to explore adult day care quite a bit as one of the things that we've been looking at. We currently are engaged in three pilot projects for adult day care, in—in California, On-Loc here in San Francisco, I guess is the one that the Commission staff has reviewed, and that's a department of health effort.

In the mental health area we are aware of what I believe to be discrimination against the aged. I don't believe that the aged utilize mental health services in anywhere near their proportion of the population. Since 1964, the population of mentally disordered people in State hospitals has been steadily declining. At that time there were 32,622 people in the State hospitals, of which 29 percent were elderly. That has declined in 1976 to 6,107, of which 6.8 percent are elderly.

VICE CHAIRMAN HORN. But on that point that's a conscious effort by the State legislature and approved State policy under the, what is it, the Landerman-Short-Doyle Act, is it?

MR. ALCALA. Yes.

VICE CHAIRMAN HORN. That we've talked about to remove patients and put them back in a community setting on the philosophical belief that they are better treated there than in State hospitals. Now, whether that's true or not is obviously a question, but that's the reason why the State hospitals have had that drastic reduction, isn't it?

MR. ALCALA. That's correct. However, I think it is important to note, 54 percent of the mental health services to the elderly in California still occur in State hospitals.

VICE CHAIRMAN HORN. How do you know that?

MR. ALCALA. Because we know the units of care that are given in the various—

VICE CHAIRMAN HORN. In other words, you check every—

MR. ALCALA. We note types of service. Local program 24-hour care service from community hospitals provide 429,254 units of service, of which 3.9 percent of the total units are used by the elderly, and local programs for 24-hour, nonhospital care, 2.4 percent of their units are the elderly. Whereas if you look at State hospitals, you will note that 9.6 percent of the total units used by the—are used by the elderly; this is for mental health services.

VICE CHAIRMAN HORN. This includes private psychiatrists?

MR. ALCALA. No, I'm just talking about the State hospitals; I'm just talking about—

VICE CHAIRMAN HORN. And local publicly funded health services?

MR. ALCALA. Yes, they were the others I talked about. There's also partial day care, which are 2.6 percent elderly, and outpatient, which

is 1.6 percent elderly. So although if you total that up, although the elderly make up 10 percent of the State, you'll find of the mental health service utilization, that only 3.7 percent of the total units, mental health service units, go to the elderly.

VICE CHAIRMAN HORN. And these, is there an explanation in your filed testimony of what is a unit?

MR. ALCALA. Yes, there is.

VICE CHAIRMAN HORN. Are these weighted at different levels?

MR. ALCALA. Service units for 24-hour care facilities are patient day. Partial day care is measured in partial days. Outpatient care service units are measured in number of visits.

MR. SCHWARTZ. Does that 3.7 percent meet the need as proportionately the need may be met among other age groups?

MR. ALCALA. No.

MR. SCHWARTZ. How much of a difference is there?

MR. ALCALA. We don't know exactly, but we don't feel that—we do not feel that it—we do not feel that the aged are getting their share of the service, certainly the stress which accompanies declining income, increased age, illness, would create mental stress, and heighten the need for mental care services, and yet the statistics don't reflect that at all. These are all factors that would increase the need for mental care services in any other age group of the population.

COMMISSIONER SALTZMAN. Would you care to comment on the question I asked Dr. Weinstein earlier, about the willingness of the doctor or physician to deal with patients 55 years and over?

MR. ALCALA. I can't really address that point except insofar as the State hospitals are concerned, and I know there we have a great deal of difficulty getting doctors to work in State hospitals, but we're losing them all the time and it's increasingly difficult to replace them. We are currently trying to get more money to pay doctors in the State hospitals, but I think it's the ambience of the State hospital, the wages may not be as competitive as the rest of the market, and we just can't find the doctors to replace those that we're losing. It is a very grave problem.

VICE CHAIRMAN HORN. What do you pay doctors in the State hospitals in California?

MR. ALCALA. \$36,000.

VICE CHAIRMAN HORN. \$36,000?

MR. ALCALA. Yes.

VICE CHAIRMAN HORN. Has the Governor recommended an increase for the doctors?

MR. ALCALA. Yes.

VICE CHAIRMAN HORN. How much?

MR. ALCALA. I think it's—we're going to try to get \$5,000 for the beginning.

VICE CHAIRMAN HORN. Is that in this current budget year?

MR. ALCALA. Well, we're trying with the State personnel board. It's not so much, as much a budget problem as it is something that we have to get past a State personnel board, which sets wages for the different classifications.

VICE CHAIRMAN HORN. Well, however, the Governor makes the recommendation, as I understand, because I'm told he's opposed to high salaries in State employees, so I just wondered if this applies to doctors?

MR. ALCALA. He's opposed to high doctors' salaries including exempt employees' salaries.

COMMISSIONER SALTZMAN. Including university presidents?

VICE CHAIRMAN HORN. And professors and medical school doctors.

MR. ALCALA. He's been against high salaries, but he's for quality health care and at some point the administration has, we have to push and the department is pushing for higher salaries.

VICE CHAIRMAN HORN. So there is a point where quality health care is related to being able to hire a doctor?

MR. ALCALA. Definitely.

COMMISSIONER SALTZMAN. Mr. Chairman, may I go on for a moment?

The earlier witness indicated that she felt part or she was informed part of the hesitancy or the unwillingness of doctors to provide medical care for the aging was the fact that there were so many suits that come out of that age group. Is that something that's verifiable, Dr. Weinstein; do you know anything about that suggestion?

DR. WEINSTEIN. We have not collected any statistics that seem to validate that; I don't think that it will be found.

COMMISSIONER SALTZMAN. Does the gerontologist pay higher insurance rates than the general practitioner?

DR. WEINSTEIN. I'm not aware; it depends on whether he does surgery or not.

COMMISSIONER SALTZMAN. So that you're not aware of any intenser load of suits coming from the aging than from any other age group?

DR. WEINSTEIN. No.

MR. ALCALA. I am an attorney by profession, and that would be of great interest to me, and I'm not aware of that either.

COMMISSIONER SALTZMAN. Okay, thank you.

MR. NUNEZ. Mr. Alcala, you defined or denoted a problem as to the lack of proportion of services to the elderly population and your department seems to be quite concerned about this problem and you personally seem to be quite energetic, but could you tell us specifically what steps you plan to take to begin to deal with this problem?

MR. ALCALA. It's our belief that the problem comes for three reasons. The staff in local mental health centers lack knowledge and/or interest about treatment of the elderly. This is reinforced by inadequate community resources for mental health services for the group. Consequently, elderly people tend to be referred to the State

hospitals, which have established geriatric programs, rather than to local facilities or programs.

Second, the elderly are not receptive toward mental health services. They seem to attach a stigma to psychiatric treatment.

Third, the elderly lack a means of transportation necessary to get to service sites.

We have, we receive a good deal of 314-D money from the Federal Government. And we have, this year, set this as one of the priorities trying to resolve this problem by funding some pilot projects to identify what could be done with better training, with outreach, and with some attempts at transportation, making facilities accessible to the elderly.

Along this line, the department is preparing regulations now, for example to enforce sections 503 and 504 and of the 1973 rehab. act. We hope in that there will be a good deal of accessibility language. And we hope that that will take care of one of the problems. The outreach efforts, we administer our mental health program through the county. Through the Short-Doyle program, Dr. Goldman here, from San Francisco, would be more familiar with what outreach efforts we could use.

As I said, the department is interested in developing better outreach for the elderly because it's our view that it's just not fair that these people worked all their lives to build this country, compose 10 percent of the State population, and then don't get their share of the services in the end, and it is a part of the current philosophy of this administration that the elderly should get their share of the services.

VICE CHAIRMAN HORN. Any further questions?

MR. SCHWARTZ. Yes, for Dr. Goldman.

I'd like to find out, since you are involved in the operation of the community mental health centers in San Francisco, could you give us your assessment of the particular problems which relate to the young and the old in particular, since that in community mental health centers has been identified as a problem area and any other problems which you see related to various age groups and services that are provided or the lack thereof in the community mental health centers here?

DR. GOLDMAN. Too few resources, inadequate training of personnel, an unstable mental health care system.

COMMISSIONER SALTZMAN. I'm sorry, I'm not sure I know what you mean by that.

DR. GOLDMAN. Well, the community mental health centers have been in a rather year-to-year, hand-to-mouth declining grant—

COMMISSIONER SALTZMAN. You mean the funding?

DR. GOLDMAN. And support, the entire record of the Nixon administration was one of unparalleled efforts to phase out their success story. The question is so broad, I mean it's a dismal picture and it's very hard to summarize that.

MR. SCHWARTZ. I guess what I'm asking you to do really is to assess the performance of the community mental health centers with which you are familiar on the basis of age, services provided to age groups, services that may not be provided to specific age groups, and whether something should be done about that, whether the Age Discrimination Act should cover it.

DR. GOLDMAN. The one thing that should not be done about it is more regulations issued without any more resources because that's what's continuously been done about it—with declining resources, increased expectations. And I don't see how anyone can relate to that.

MR. SCHWARTZ. What are the problems that should be addressed at all regarding services to different ages, for persons?

DR. GOLDMAN. Personnel, facilities, and funding. Personnel for other than adult mental health care are scarce as hen's teeth in terms of training and expertise, as well as motivation and commitment. Facilities, and you need special facilities for both the young and the aged, are more expensive; particularly in urban areas, facilities are extraordinarily difficult to be able to develop, particularly since the very governmental agencies that are mandating and requiring the services are not yet ready to preempt local zoning ordinances that prohibit the development of facilities.

And third, resources, though I think there's an enormous unanimity in the sense of the tremendous accomplishments of the community mental health centers nationally, even though youth and the aged have been underserved, but then again, so have all minority groups. In this State the Governor's policy is to not pick up declining Federal grants. The community mental health system as funded through categorical funds on the Federal level has been shifting from year to year, and you just don't know where it's going to be the following year. Increased requirements have brought with them scarce, almost token additional resources to match the increased requirements. There's gross discrimination in mental health coverage in all reimbursement policies, bar none.

So that, and one thing that I must say that surprises me is that the Commission has not undertaken an examination of Medicare, supposedly the funding base for health services for the elderly, which is the most discriminatory against mental health coverage. Less than 2 percent of all Medicare funds went toward mental health care. So that you don't have even the social legitimization of mental health services through the public funding sources, much less the resource. And that's a social policy statement.

To compound that, the reimbursement policies, inadequate and discriminatory as they are, are also in fact absurd and archaic such that Medicare funds equal inpatient services in general community hospitals for mental health coverage, which is not the large need, and virtually allows no outpatient service, which is the enormous need. Nor alternatives to hospitalization, nor home visiting, nor all the things the elderly need. It's very hard to know where to begin.

MR. SCHWARTZ. You had mentioned just a little earlier the need for special facilities to treat children and to treat the elderly. If they are to be treated adequately by community mental health centers, could you describe exactly what you mean by that, what facilities would have to be built?

DR. GOLDMAN. Children are smaller than adults; they require different space. They require, in fact, certain regulations that are much stricter in terms of safety ordinance, different bathroom facilities, different kinds of furniture. Those are much more; you have to fund those kinds of things; you have to have different kinds of buildings with different kinds of egress and ingress. You've got to be able to, well, that's obviously a laundry list. I think that's illustrative.

Similar for the elderly, their space needs are very different than the usual ambulatory adults. The emphasis, at least in many places, on services to the elderly is to go to where they are. In this city for instance, we have some services in which the emphasis might be to put our teams into the housing for the elderly, in which the major focus of some of the ambulatory services are in fact on home visiting. Particularly the problem of the infirm elderly with major compounding and compounded psychological difficulties require that you've got to be able to be with them. You've got to be intimately tied to the social and life support systems that can maintain these people in their familiar environments.

A large number of the elderly who are no longer in the State hospitals are not exactly living it up in the mainstream. They're in nursing homes. They're in board and care homes. They're isolated, in cheap hotels, where that's all that their SSI can afford. And to try and reach those things requires a great deal of manpower. It's more expensive to make home visits than it is to have people walk into your clinic. The private sector, to all intents and purposes, offers nothing for the elderly. Rarely are people over 60 or 65 seen in private practice.

For children, it is a tremendous difficulty in finding trained, competent child specialists to work with children and families. The funding base for the training of such specialists is shrinking and has shrunk drastically in the last 5 years, and it's on the skids.

I can take a day doing this.

MR. SCHWARTZ. Mr. Chairman, I have no further questions at this time.

VICE CHAIRMAN HORN. All right. Commissioner Saltzman?

COMMISSIONER SALTZMAN. No questions.

VICE CHAIRMAN HORN. Mr. Nunez?

MR. NUNEZ. No questions.

VICE CHAIRMAN HORN. Ms. Bradley?

MS. BRADLEY. No.

VICE CHAIRMAN HORN. Ms. Taylor, any further questions?

MS. TAYLOR. Nothing.

MR. ALCALA. I have the EPS and DT statistics and they are in the document.

VICE CHAIRMAN HORN. That's been filed for the record?

MR. ALCALA. That's been entered as an exhibit.

VICE CHAIRMAN HORN. Very good, do leave copies of that with the staff. We're most grateful to you for your testimony. Thank you very much.

The last panel is the panel of community health centers, Ms. Wong, Dr. Fink, Mr. Range.

If you would raise your right hands, ladies and gentlemen, and stand, please, raise your right hands.

[Dr. Donald Fink, Mr. Charles E. Range, and Ms. Sophie Wong were sworn.]

TESTIMONY OF DONALD FINK, EXECUTIVE DIRECTOR, SAN FRANCISCO MEDICAL CENTER OUTPATIENT IMPROVEMENT PROGRAMS; CHARLES E. RANGE, EXECUTIVE DIRECTOR, DREW MEDICAL-DENTAL CENTER, EAST PALO ALTO; AND SOPHIE WONG, EXECUTIVE DIRECTOR, NORTHEAST MEDICAL SERVICES, SAN FRANCISCO

VICE CHAIRMAN HORN. Please be seated. Ms. Taylor?

MS. TAYLOR. Would each of you please state your name, address, and position for the record?

MS. WONG. I'm Sophie Wong. I'm the executive director of Northeast Medical Services. My home address, 870 Tanglewood Drive, Lafayette.

DR. FINK. My name is Dr. Donald Fink and I'm executive director of San Francisco Medical Center Outpatient Improvement Programs, Inc., and the address is in San Francisco General Hospital, 2550 23rd Street, San Francisco, California.

MR. RANGE. My name is Charles E. Range. I'm executive director of Drew Medical-Dental Center, Inc. The address is 2111 University Avenue, East Palo Alto, California, Zip Code 94303.

MS. TAYLOR. Thank you very much.

Dr. Fink, national data indicate that the CHC program has a relatively low percentage of registered 65 or over whereas children, ages 1 to 14, and women of childbearing age are being served by the program. Is this true in your program?

DR. FINK. This is not as true in our program. I should make a distinction earlier. I'm sorry, I was not able to get our current census data. I think Dr. Weinstein's group were able to collect it in our reports, but we did not, we could not get it broken out for this area, but we have two neighborhood base centers and then services at the hospital.

So we have quite a range of services that tend to reflect the neighborhoods. One of our health centers is in the South Market district of San Francisco. That has quite a high elderly population, and a high elderly service population. Our other service satellite clinic at the Portrero Hill area has a rather high percentage of young people and single mothers, and that is reflected in the usage too.

We don't have as accurate statistics for the clinics at the hospital, which are also, get some support from the Federal grants. I would say in general there our experience is where we have neighborhood catchment areas that are being served they tend to reflect the neighborhoods, and it happens, two neighborhoods we serve are quite different.

MS. TAYLOR. Mr. Range, could you describe your program very briefly, including the age distribution of the participants?

MR. RANGE. Basically, our community health center is located in a pocket within San Mateo County. San Mateo County is viewed as one of the affluent counties in the State of California and it's just south of San Francisco; it's the next county south of San Francisco.

We primarily serve a predominantly minority community, a predominantly black community, a few Mexican American, but primarily black population. We draw from a population base of about 24,000 to 28,000 people. The age grouping that we basically serve, I would say that the majority of clients that we serve are in the area of youth and individuals probably between the ages of 25 to 45. Our senior population is relatively low. Our services to senior population is lower than the senior population in the area. Primarily youngsters and I would say that the majority of the clients that we serve between the age of 25 to 45 are probably females, from just off the top of my head, from observation.

I did not bring any hard data or statistics with me; this is my first experience and I wasn't quite sure exactly what type of information you wanted. But I do have quite a bit of information in terms of observation and feeling as it relates to areas where we have felt the impact of some form of discrimination.

MS. TAYLOR. That's fine. You indicated that the low utilization rate of older persons—

MR. RANGE. Yes.

MS. TAYLOR. —what factors do you feel account for this low utilization?

MR. RANGE. I can cite about, at least two or three off the top of my head. One would be in terms of transportation; another would be the lack of outreach services. Another would be, in our opinion, as seniors get older and progress to that magic age of 65 and over, their mobility becomes hampered, they have a difficult time getting into the center. We often wonder, as it relates to the delivery of medical services as it relates to this particular age group, as to whether it is feasible to consistently require that seniors come into the facility for services rather than the facilities going to the home of the particular clients to provide it for this type of age group, and it almost gets back to the old family doctor, I guess, that used to go out and visit. That was before my time, but I constantly hear those things from my grandparents. But that's one significant problem, is transportation, that seniors have.

Another problem I think that has affected utilization by seniors is the area of dealing with various payment mechanisms for the services that they are attempting to seek.

Ms. TAYLOR. Excuse me, various—

MR. RANGE. Payment mechanisms.

One of the areas that we talked about at our facility that we think is discriminatory is in the whole area of dental services, for example. From our own observation we see that as you get up in age there is a tendency to—to sometimes lose your teeth. And we have also felt that, in the type of community that we serve, that dental care is an area which there's been a scarcity of adequate dental care, for basically people come in when there's pain rather than a preventive process. As a consequence, there is more extraction rather than maintenance. And a process of that nature, as you get older you find out that it does affect your diet and so forth, your inability to digest your food, because you can't properly chew it.

We find that through the Denti-Cal process of billing, that it's not very frequent that Denti-Cal will pick up that tab for replacing a complete denture for a person who is in need for that particular type of service. So, therefore, in a way, that is affecting their overall health. It does affect our utilization because we cannot provide that service.

Ms. TAYLOR. Ms. Wong, would you briefly describe the Northeast Medical Service, I think referred to as NEMS?

Ms. WONG. Yes. We are serving the northeast area of San Francisco, which is bounded by Van Ness and Polk Street. Although the programs provide service to the whole target area, yet I think more than 97 percent of the population are Chinese because the location where we are.

In terms of the age breakdown, I think we had a unique situation at NEMS.

Ms. TAYLOR. Yes, would you please go into that for us?

Ms. WONG. Okay. And that is we serve more elderly in our population, we serve 20 percent compared to our target area of 15 percent, 14 to 15 percent elderly in the target area.

I think in the beginning, 1971, when we first provided service, our elderly registrants accounted for 25 to 26 percent because last few years of the immigration we register more new immigrants, the elderly population going down to 20 percent this year.

Ms. TAYLOR. How do you account for this large—

Ms. WONG. Elderly population?

Ms. TAYLOR. Yes, yes, please.

Ms. WONG. I would say number one, because the Chinese is really together in the area, Chinatown, and the elderly also is not mobile.

Number two, I think because the Chinese culture background, we always care for our elderly, our older people. And the last one I would think mainly because our outreach and our transportation effort at NEMS.

MS. TAYLOR. Can you tell us how this emphasis on services to older persons, if it—if it has an effect—

MS. WONG. Well, we really don't emphasize, I think we serve, you know, everybody.

MS. TAYLOR. All right, fine. That's what I was going to ask you.

MS. WONG. Because we have more elderly and we have more age from 0 to 15.

Okay, the 0 to 15, we serve 25 percent, compared to the target area of 14 percent, so that also, that is really a, the same situation which Charles' program, usually you serve young and the female, but I think because Chinatown's area, I would say in the early stage because of, they are not mobile, okay? Or I would say even 10 years ago or 20 years ago because of discrimination, okay? People just gather in that area, because also because the language barrier, okay? They just cannot move out and get a job outside if they cannot speak the language. At NEMS we have 70 percent of our registrants do not speak English at all.

MS. TAYLOR. Thank you. Mr. Chairman, I have no further questions.

VICE CHAIRMAN HORN. Commissioner Saltzman?

COMMISSIONER SALTZMAN. Dr. Fink, is there a cost effectiveness factor which influences the availability of services to particular age groups?

DR. FINK. That's a tough one because it depends how you want to define effectiveness, and I think Charles [Range] spoke to this and others that I heard, previous speakers. On a medical basis, if you have limited resources and limited funding, then it makes sense, for instance in dental care, to put your priorities into the younger age group because you can serve people with more long term results.

That happens to be one of the clearer areas. When you start to get into some other aspects, for instance, is it more cost effective to put money into outreach to have people stay in a high blood pressure treatment program rather than doing a bunch of laboratory tests to diagnose them, then it gets influenced by other factors than medical. For instance, are services reimbursable, and outreach and followup services as was mentioned in mental health and as true here are not reimbursable, so when you have limited Federal grant dollars and can't recover it, then those priorities get made and I think leads to a lot of *de facto* and sometimes very subtle discrimination.

Those based on clear medical priority are pretty easy, but it's like in the dental area which results, then, in some degree of *de facto* discrimination, in this case against the elderly. It works in the other direction against the young, where the result of limited services, babysitting or transportation and some outreach may not be available, so that single parents with young children who are working, it's very difficult to reach. So the effect, the medical decisions or dental treatment decisions seem to often be secondary to reimbursement and general funding.

COMMISSIONER SALTZMAN. Who makes those decisions; is it the policy of an administrator like yourself or is it something that, I mean are there regulations which determine those decisions or stated policies?

DR. FINK. Well, again, generally the *de facto*—the *de jure* decision is of a board of directors of a health center who determine how the service is going to be done, but there are certain effects that in a sense are taken out of the hands of both the administrators, who may make recommendations to the board, and of the board. If you have limited funding, in terms of your grant, and you have only so much for dental services or you are told, if you want more dental services, you have to cut your medical services or cut your outreach. That is, you are given a dollar figure that usually comes down to not very much choice in decision, so very often, whatever gets funded initially, gets chipped away proportionately except as some of us experience where larger cuts came in terms of grant funds and then very often it was the support services rather than the direct health services that were cut. And that was often by policy in terms of HEW, often concurred with I might say the—our board of directors, that it—we should cut, not cut the direct health services.

Charles made another comment too. I think most health centers try to look at what else is available in the community through other resources. So I think a lot of us have tried to keep dental services, perhaps even more so than others, simply because there's nothing else available usually in dental services. Sometimes there are medical alternatives. So I think the process of decision is often at a local level, but influenced by hard dollar amounts.

COMMISSIONER SALTZMAN. An earlier witness indicated that many of the outreach programs, too much is spent on them because the problem is not getting the target group to know about them, the problem is really the matter of resources to serve them adequately. Would you concur in that kind of evaluation?

DR. FINK. I wouldn't want to speak in general. I would say in our program we could be serving more people if we had more outreach and followup services.

COMMISSIONER SALTZMAN. So the problem is getting people to know what service is available?

DR. FINK. No, it's not even knowing. I mean, people often know that a service is there, but particularly for the people we serve, they have many problems in their lives and many priorities, and often it takes reminder and encouragement, the skills that Sophie mentioned, in terms of particularly older people, translating services, other things that make the whole experience an easy experience. So it's in that, to that degree it becomes a support for individuals to give health a somewhat higher priority in what's often a difficult struggle.

VICE CHAIRMAN HORN. Along that line, I have one of the two universities in the State where any senior citizen can go and take a full load for only \$3.00 under a special pilot program. San Jose State,

Long Beach are the two involved. We have slots for 200. Only 75 have gone into this program despite extensive communication at Leisure World, other senior citizens' centers, and we finally concluded after talking to a lot of the elderly that what's really needed here is not the paper outreach, not the phone calls, not the staff going to talk to them, but a fellow senior citizen taking them hand in hand and saying, "Come on, Mable or Joe, I have done it and it's fun and you'll enjoy doing it." Sort of to paraphrase the Lobach [phonetic] Literacy Fund, which used to have each one teach one, this is sort of each one take one, and I think the experience is that we're working on now, this is going to be much more successful. I suspect some of the access to the medical services, if there are fears involved, might well result in the same type of person-to-person efforts.

Mr. Nunez?

MR. NUNEZ. I know it's somewhat dangerous at times to make comparisons, but I was quite taken by the—Ms. Wong's description of her program, and its relative success in a rather gloomy area of delivery of medical services and I was so much struck, Dr. Fink, with your acknowledgment that you are perhaps working under capacity, and—

DR. FINK. I didn't say that.

MR. NUNEZ. —that you perhaps could service more people in your program.

DR. FINK. Yes, I didn't mean to suggest we were under capacity—

MR. NUNEZ. Well, you could serve—

DR. FINK. What I said is that the efficiency with which we could care for more patients I think would be enhanced by outreach, that's really what I'm talking about, and by followup. I mean the—it's, as I think anyone in health centers can tell you, just having, because of no show rates and support systems and so on, it's very hard to keep services at the most efficient level. But it's not that people are sitting around twiddling thumbs, and I didn't want to leave that impression at all. But I do think that that would enhance our effectiveness.

MR. NUNEZ. Is your area of service a contiguous area or is it a much broader area than the area Ms. Wong serves?

DR. FINK. Well, we have an unusual program in that we're considered an outpatient improvement program; we're not quite a neighborhood health center. We do have two neighborhood-based centers that do serve a limited geographic catchment area, and then some of our funds go to supplement the outpatient services at the San Francisco General Hospital, which is a city and county hospital that does not have geographic restriction, although we tend to serve the districts most immediate to the hospital. So that's why there's some variation in terms of the types of—

MR. NUNEZ. Is it a varied group ethnically, racially, minority, elderly—

DR. FINK. Yes, yes.

MR. NUNEZ. Youth—

DR. FINK. Yes.

MR. NUNEZ. It's not a homogeneous group by any means?

DR. FINK. No, the neighborhoods are rather different. Those clinics that are not geographic, for example, South Market area has essentially three populations, an elderly population and subsidized housing, young adult and somewhat older, often male, single adults, who is in skid row area, and then quite a large number of families that live there amongst the warehouse areas, a large percentage of Filipino immigrants, it's going to become a concentrated area and I think other districts like the Mission, which were physically located which you have heard a large Spanish-speaking population, quite a mix. Portrero Hill, also quite mixed but predominantly black minority group, same in Hunters Point. So it's a complete admixture. We don't get as high a percentage of Chinese-speaking people but significant enough that our translating services, the availability of translating services, may limit our capacity to receive some of the Chinese-speaking people. That's another service that often gets lost in the tight funding.

MR. NUNEZ. Dr. Fink, working in this area for a considerable amount of time, have you thought in terms of a kind of a model or a kind of a program which would maximize the ability of your health center, or for that matter any health center, to adequately service the needs of the aging population in this community? What are the factors that lead to success and all, whether some of the things that Ms. Wong indicated, a contiguous neighborhood, a strong sense of community feeling, acceptance of the fact that there was a responsibility? I assume they look upon the health center as their own facility, a part of their own mechanism for delivering services, and I wonder whether whoever they are would see the hospital in that same light, and maybe that's a factor.

DR. FINK. Yes, I think it would. We had one experience with that. We do have advisory councils at both of the satellite centers and, of course, a central board of directors for the grant, and they do tend to reflect the population and have some of that same identification.

For a time we had some funds from another source for consumer groups for each of the clinics at the hospital and were able to provide support for them and had in fact quite a number of older people who worked in relation to our adult health center at the hospital. Unfortunately, the funds for that ceased. Our ability to continue staff support for that, including all the clerical, secretarial, and training, so consumers could work effectively with the providers in looking at the quality of care, ended. And so those groups have tended, some individuals still remain active advocates on their own; we no longer have an organized group effort at the hospital base clinic.

MR. NUNEZ. One final question that I might raise with the various panelists, we've heard, during today's testimony, a kind of position advocated that perhaps what we really need is a set-aside, categorical grant for older people, so that they have this kind of program reserved for them and that's really the way you deal with it. And we've heard

contrary testimony. How do you see that as a possible solution, to really come to grips setting aside funding or setting aside a specific program for the elderly? Ms. Wong?

Ms. WONG. I am really doubtful. I feel, you know, if we had good outreach, I mean right now you do provide service to the elderly, but you cannot reach them. If you had money put aside, if you don't have means to get them, okay, you may still have problems. Just like Mr. Horn was saying, in the San Jose area you don't—want to serve 200 people and yet you only have 75.

I feel, you know, the outreach not just to get them, but to bridge the gap between the physicians or the dentists with the other supportive professional people that the elderly especially can talk to. In outreach, the community health aide, they have more time, they can talk to the elderly so that they feel more comfortable to join the program. And I think we really should, if you identify something that, to serve that particular population, I just, I don't know. I really have a doubtful, mixed feeling about it.

MR. RANGE. I'd like to express some opinion on that. I basically feel from my experience that I think that having categorical grants creates certain types of administrative problems, and I think that comprehensive health care should be one large umbrella with all the service components. We often find ourselves having to, especially in community health centers we're centers primarily funded through HEW, at the present time, but we often find that in our HEW application there are certain services which we may not be able to include, either because of a certain funding level or because of some particular type of policy or attitude that relates to the HEW in terms of what services they will fund.

For example, 2 or 3 years ago, maybe as much as 4 years ago, our particular facility was not encouraged to have funding component for health education or nutritional services. So that begins to set a tone as it relates to that particular service component. And yet, at the same time, we submitted applications for the WIC program, which is a categorical grant which is dealing with primarily with pregnant women and infant children, and under that program you do provide nutritional services. For several years that was the only nutritional component of our particular community health center, so, therefore, nutritional services to the other population was not provided.

Then we submitted a categorical grant for hypertension through the State funding mechanism and the State received funds, I think from the Federal Government, to support hypertension services. We secure a grant for hypertension services and under that we're able to implement a nutritional component. But again, the nutritional component is attached to hypertension and, therefore, those individual clients who are defined as having hypertension problems receive nutritional services connected with that. So, therefore, there's no nutritional services for the other population.

So, as an administrator, my feeling is that I think that when we talk about comprehensive medical services, I think we splinter that by having programs to seek categorical grants rather than having one comprehensive medical unit, and you have all those services and you're providing those services at the same time and not necessarily seeking funds here and seeking funds there and so forth. I think it affects the overall services of the program. So basically, I just think that that would be nice to have all the services under one umbrella without having a splinter in terms of seeking services in categorical grants.

DR. FINK. I'd like to make that unanimous, and just reemphasize what Charles said about categorical services, which lead often not only to fragmentation in the way he described beautifully, but also to duplication and excessive cost, because somehow no matter how it works out you've got another set of paperwork just within the same health center, but also special categorical programs and duplication of facilities and often duplication of staff and administrators and so on.

And I think that, as was perhaps suggested earlier, that if you wanted more services for the older age group to have Medicare begin to pay for drugs and pay for other services and reimburse nutritional services; you want more services for children, make sure that wellness examinations are reimbursed just as well as other kinds of examinations and that those become parts of the service package. And I think, within the settings of the comprehensive family-based care, more effective care and more efficient care will take place.

VICE CHAIRMAN HORN. Any further questions, Ms. Bradley, Ms. Taylor?

MS. TAYLOR. No further questions.

MR. RANGE. Excuse me, I'd like to respond to two things, if I possibly could. They were asked of the last panel and I made some notations because I felt they were the opposite as it relates to my experience and I wanted to share that from a community health center point of view.

One of the questions was asked, I think by Mr. Saltzman, as it relates to, is there a problem getting doctors to serve senior citizens and so forth.

I think it's a problem getting doctors to serve in community health centers period. I think it has a lot to do with where we are located. We are located in primarily, most community health centers that I know of are located in primarily minority communities and serving a particular type of population. And basically the majority of our population are poor or near poor, as it relates to their ability to be able to secure medical services.

And we find it to be a very serious problem, in order to get the proper physicians to provide the service. Not only in terms of salary, in terms of what the cost, when the guy from the State making \$36,000—I almost fell over in my seat. The amount that we pay our physicians is around \$32,000 or \$33,000, and that's extremely low, so that's another factor.

Yet, at the same time, we are controlled by the amount of funds that were allocated through HEW to provide comprehensive health care services, and again, the population that we serve.

The other question that we have when we do look at physicians is the receptivity of physicians to work with the type of population that we serve. So we have a sort of a dual problem and a dual bind, not only in terms of the cost for the service but in terms of paying the salary, but also where the physician's head is as it relates to coming into a community health center and working in a predominantly minority community. We find that that is also a very serious problem.

The second area that I wanted to respond to was, I think the person was sitting in this chair that indicated basically that it was a question dealing around transportation for senior citizens, and the response that I notated on my notepad was basically, that I, we're located in San Mateo County and we have a commission dealing with, commission on aging. And I'm sure that, like most county commissions dealing with aged, they receive categorical grants as it relates to funds for programs in this particular area. And generally, in most counties, what they do is, if the county system itself is not going to provide the service directly, they will ask other health delivery systems to submit grant applications. And one of the things that I think is discriminatory is when those grant applications, the guidelines are such that they have discriminatory guidelines. For example, in our particular county we could not submit an application that dealt with transportation, and transportation in a county like we have we don't have a—the public transportation to the volume like you have in San Francisco.

VICE CHAIRMAN HORN. Who made that guideline?

MR. RANGE. I don't know who made the guideline; all I know is that they would not accept any proposal that was dealing with any components dealing with transportation.

VICE CHAIRMAN HORN. Who is they, at this point?

MR. RANGE. This is San Mateo County; well, I guess the Board of Supervisors of San Mateo County is ultimately responsible for the action of the commission. It's a commission appointed by the board of supervisors in San Mateo County.

VICE CHAIRMAN HORN. That's very interesting. Do you have that in a written document?

MR. RANGE. I'm sure that I can provide you with the backup information concerning that issue as it relates to—

VICE CHAIRMAN HORN. Well, let's introduce it as Exhibit 19 and have the staff follow up, whether that is something that originates locally, whether it's under some general State or Federal guidelines, and let's put it in as Exhibit 19 without objection.

MS. BRADLEY. Mr. Chairman, I'd like to ask a question just to clarify the area of transportation. Was this transportation proposal for funds for hardware; that is, buses and something of this nature; or was it for payment of the services of drivers, for example?

MR. RANGE. I think it's, it could be for, if I can recall, basically I think it had to deal with hardware. In the area of hardware, and that is—I think it's in writing that you could not support any proposal in that area of hardware, whether it was a car or a bus or leasing a car or leasing a bus or something of that nature. In some area where you don't have public transportation, it's more expensive in terms of hiring a driver than buying a van rather than trying to lease something for providing of transportation.

VICE CHAIRMAN HORN. Mr. Range, let me ask you one question before I conclude the hearing. You're located in East Palo Alto—

MR. RANGE. Yes.

VICE CHAIRMAN HORN. Do you have any relations with the Stanford University Medical School at all?

MR. RANGE. Yes, the—well, in fact Stanford University Hospital is our major hospital for all inpatient care. And we have a relationship with the university in that their students do, many of their students participate in their field work in our particular medical facility.

VICE CHAIRMAN HORN. So at least some doctors being trained in the country are getting an understanding of the nature of these facilities on the ground; is that what I'm to gather from this?

MR. RANGE. Yes, yes.

VICE CHAIRMAN HORN. Okay.

DR. FINK. It's true in our area also.

VICE CHAIRMAN HORN. And this is in relation to which medical school?

DR. FINK. University of California School of Medicine.

VICE CHAIRMAN HORN. At San Francisco?

DR. FINK. Yes.

VICE CHAIRMAN HORN. Very good.

I want to thank the panel very much. We appreciate having your testimony.

Before closing this day's session, I'd like to announce that the subpoenas issued for the attendance of witnesses at this hearing remain in full force and effect until the hearing is finally adjourned tomorrow. This means the subpoenas issued to persons who have not been called to testify today will remain in full force and effect until those persons have either testified or been officially excused. Persons who have already testified are excused from any further duty to appear unless they have been otherwise informed by the Commission staff.

Copies of the schedule of witnesses for tomorrow have been prepared and are available from the Commission staff members. Since the time allotted for witness panels is subject to change and since the witness check-in procedure is necessary, all witnesses are hereby informed that they are expected to be here 30 minutes prior to the time they're scheduled to testify. Staff members have already informed individuals of this fact. I affirm it now to avoid any confusion on this point.

I would also like to call to your attention that time has been set aside for an open session tomorrow afternoon starting at 3:55 p.m. At that time persons who wish to make a statement for the record addressing any aspect of the matter of age activities will be permitted to do so as time permits. Persons who wish to address the Commission may sign the open session witness list located in Room 454. Staff members will briefly interview such persons before they appear to be assured that the testimony to be offered is relevant to the subject matter of this hearing and that it does not tend to defame, degrade, or incriminate any person. Your cooperation in following the procedure is appreciated.

Unless there is anything further from counsel, members of the Commission, this hearing is recessed until tomorrow morning at 8:45 a.m.

Morning Session, June 28, 1977

VICE CHAIRMAN HORN. The second day of the hearings by the United States Commission on Civil Rights in San Francisco on problems of age discrimination are convened. I would like to call to the witness stand the first panel. They are a panel of community mental health centers, the administrators and staff. Dr. Alexander Simon, Bernice Farley, Dr. Ira Plotinsky, Dr. William Pierce.

While that group is coming to the stand I would again announce at the beginning, at 3:55 p.m. today any individual who wishes to make a statement for the record addressing any aspect of the matter of age discrimination in federally-assisted programs or activities will be permitted to do so as time permits. Persons who wish to address the Commission may sign up on the open session witness list in Room 454. Staff members will interview such persons before they appear to be sure that the testimony offered is relevant to the subject matter of the hearing, that it does not tend to defame, degrade, or incriminate any person. And we appreciate your cooperation in following the procedures.

If I may ask the witnesses to stand a moment and raise their right hands and I will swear you in.

[Ms. Bernice Farley, Dr. William D. Pierce, Dr. Ira Plotinsky, and Dr. Alexander Simon were sworn.]

TESTIMONY OF BERNICE FARLEY, DIRECTOR, SOUTHEAST MENTAL HEALTH CENTER; WILLIAM D. PIERCE, EXECUTIVE DIRECTOR, WESTSIDE COMMUNITY MENTAL HEALTH CENTER; IRA PLOTINSKY, DIRECTOR OF CLINICAL SERVICES, WESTSIDE COMMUNITY MENTAL HEALTH CENTER; AND ALEXANDER SIMON, GERIATRICS SERVICE, SOUTHEAST COMMUNITY MENTAL HEALTH CENTER; SAN FRANCISCO

VICE CHAIRMAN HORN. Ms. Taylor?

Ms. TAYLOR. Thank you, Mr. Chairman. Would you please state your names, address, and position for the record, starting with Dr. Simon?

DR. SIMON. Alexander Simon. My address is 1980 Vallejo Street, San Francisco, California, 94123. I am associated with the Southeast Community Mental Health Center of the San Francisco mental health program. I am a psychiatrist. Pardon me, I work in the geriatrics service of the southeast program.

Ms. TAYLOR. Thank you.

Ms. FARLEY. Bernice Farley, director of the Southeast Mental Health Center. Our administrative office is located at 4119 Mission Street.

Ms. TAYLOR. Dr. Plotinsky?

DR. PLOTINSKY. Ira Plotinsky, 141 6th Avenue, San Francisco, director of clinical services for the Westside Community Mental Health Center. The address of the center is 1153 Oak Street in San Francisco.

DR. PIERCE. William D. Pierce. I am the executive director of the Westside Community Mental Health Center, 1153 Oak Street in San Francisco. My home address is 361 Upper Terrace, San Francisco.

Ms. TAYLOR. I would like for you all to react to the next question. In the community mental health centers program, there is a mandate that community mental health centers serve children and older persons because these groups were being underserved. However, the Commission found that few community mental health centers have implemented such programs. I would like to ask what difficulties have you encountered in serving these age groups, or other age groups for that matter?

VICE CHAIRMAN HORN. All four?

Ms. TAYLOR. I ask all four to react to that, please.

DR. SIMON. Who do you want to start?

Ms. TAYLOR. Starting with Dr. Simon.

DR. SIMON. I don't have to repeat what that mandate is in Public Law 94-63.

Ms. TAYLOR. That's correct.

DR. SIMON. But the various reasons that are given for community mental health centers runs something like this. In the face of rising costs and lowered budgets, there is insufficient financial support available to implement a new program, one doesn't exist, or expand where one, where a nucleus exists. Either ongoing programs must be reduced or extramural support must be available. It doesn't seem to be too easily available, at least in this State, at either State or our community level.

The second reason that's given is that the psychiatrists, psychologists, social workers, nurses, and other mental health personnel are not as interested in treating the aged as they are in younger patients. And that is true. And I think that is a fault of our educational program and I must confess I participated in it myself.

The third is that older patients are more apt to have a irreversible, untreatable illness, it is said, usually chronic, and one does not see the dramatic improvements that one can see in younger adults. And this is a myth and isn't based on fact. It is also regarded by many professionals as well as older people themselves, who hold to many of the myths about the aged, and by many health professionals that older patients are more rigid and inflexible in thinking and apt to be less well-educated and not amenable to psychotherapeutic approaches, and this is not true and is a stereotype not based on fact.

It is also said that older persons are more rigid and inflexible in thinking and apt to be less—I'm sorry—it is also said that older persons have a negative attitude about mental health treatment and resist going for help to a mental health center because of their fear of institutional placement. This is true not only of older people but of younger people too. With limited resources it is more practicable, it is said, to treat younger persons because they have more years to live and are more productive, and this is absolutely discriminatory.

There are very few practitioners in the mental health discipline with special expertise for the care of aged, and this is true in this country, and it is the fault of our educational system. It is not true in Great Britain.

Many older persons are homebound and it is too costly, it is said, to provide transportation for them and too time consuming to make home visits. It is expensive and it is more costly to provide the necessary direct services to homebound people and to coordinate the various support services.

Many of the older persons have associated serious and handicapping chronic or acute physical illness and it is time consuming and often difficult to obtain the help of other medical specialists and of social and other support services in the care of such patients and that is true. Medicare has a limitation on payment for ambulatory psychiatric care of \$250 annual limitation and does not pay for the many hours it takes to work with the various agencies supplying support services and seeing to it that they are coordinated in an expeditious and adequate fashion. And this is discriminatory in the Federal law. The same is true in taking time and in helping to train the support personnel, family members, and others. Medicare does not pay for this.

With increasing pressure to deal with emergency crisis situations, many of serious import and sometimes matters of life and death, it becomes almost impossible to provide outreach services, consultation, education, and adequate followup care. And even if outreach is undertaken, if there are few services to which older persons may be

served, may be referred—pardon me—it serves little purpose. It is essential that comprehensive, coordinated programs be developed and supported.

Ms. TAYLOR. Thank you.

COMMISSIONER SALTZMAN. Before we—excuse me, before we go on, Dr. Simon, may I ask, you made two statements and I confess I am subject to the attitudes that are reflected in these statements and I wonder whether you could enlarge on it. You said that older people are more rigid and less amenable to psychotherapeutic treatment and that younger people have more years to live and are more productive than older people and you said that wasn't true. But in the necessity of budgetary requirements, I guess the cost benefits by which the profession has to set priorities and the government isn't—you said it isn't true. But isn't that a factor? Could you comment why you say both statements are incorrect and discriminatory? The first one was less amenable to psychotherapy.

DR. SIMON. They are amenable to psychotherapy, and I think this is one of the myths that many professionals hold.

COMMISSIONER SALTZMAN. Isn't this—

DR. SIMON. The reasons are complex, but they are—you see, many professionals have the idea that the only emotionally upset people are the ones who are showing irreversible changes in their brain, things like senile dementia and mental illness associated with hardening of the arteries, arteriosclerosis, and while this is much more common in older people than it is in our younger adults, older people have the same kind of problems who do not suffer from this, and this constitutes only a small part of the illnesses of older people. They have got the same kinds of problems and the same kinds of emotional disturbances that younger people do, all kinds of emotional disturbances that we label as neurotic and particularly because they suffer from so many stresses and losses of a physical, psychological, social, economic nature that they develop, very frequently, depressed reactions which are quite amenable to psychotherapeutic and drug treatment approaches.

COMMISSIONER SALTZMAN. Equal with the middle-age person?

DR. SIMON. Exactly the same, no different.

COMMISSIONER SALTZMAN. Then how about the second point where you said they have less years to live and, well, you said it's not true that the treatment ought to be based on the assumption that the younger have more years to live and are more productive.

DR. SIMON. I don't think I quite said that. This is a rationalization, and I used the term quite advisedly that is used by people not to offer services to older people: that because they are old they don't have very much more to live and since we have limited amounts of money we are going to spend it on younger adults or on children or on whatever. My answer to that is any society that adopts such an attitude is discriminatory and is bound to go to perdition.

VICE CHAIRMAN HORN. Counsel?

Ms. TAYLOR. Fine. Ms. Farley, do you have anything to add to that?

Ms. FARLEY. Well, I think that Dr. Simon has listed all the reasons that we hear about discrimination that does exist among the older population. I can only underscore the rationalizations as he has already called them. The reasons given by Dr. Simon, I think, merely reflect a bigger issue and that is the general public's attitude, including funding agencies, persons who also are charged with the responsibility of serving older people. I think emphasis should be placed on increasing the awareness of the tremendous, the tragic waste that this really contributes, that a people in this age category can contribute and minimizing the positive effects that can be made to younger people. Other than the general things that Dr. Simon listed, I think this is where emphasis really ought to be placed.

Ms. TAYLOR. Thank you. Dr. Plotinsky?

DR. PLOTINSKY. Yes. Counsel mentioned P.L. 94-63 in terms of the mandates for services for elderly people and services for children, and the question was whether or not such service would be forthcoming and some surprise, I believe, that such services up to this point had not been forthcoming.

I think after a couple of years' experience with 94-63 we have to begin to recognize what that legislation really is. What Congress did was to put together a monumental piece of legislation, a beautiful piece of legislation, and then proceeded to go about the business of funding it inadequately and continuing to fund it inadequately. And I might add, under the veiled threats of presidential veto, if in fact P.L. 94-63 had been funded adequately.

What happened is that services have been mandated, but there is no way to mandate service without the kind of funding that is necessary to bring these things about, these services about. We've been fortunate in our center. We have received a conversion grant which allowed us—

Ms. TAYLOR. Excuse me?

DR. PLOTINSKY. A conversion grant.

Ms. TAYLOR. Okay.

DR. PLOTINSKY. That is a section of the public law which allows community mental health center services to fund other services which brings it up to convert it to a recognized community mental health center by the regulation of 94-63. And we've been able to set some services for the elderly in motion, but the amount of funding is sparse. And there's also the issue of who is going to pay for these things once the funding goes away, which happens in 3 years. I think a number of Senators, and perhaps correctly so for them, are loath to begin to undertake a project when the Federal dollar is going to drop out of it in 2 or 3 years. Where is the money supposed to come from, this mythical third party source that never shows up? Certainly not from Medicare. As Dr. Simon points out, Medicare is discriminatory against mental health services, particularly the ambulatory ones, particularly

those that are performed in the community and not inside institutions or inside of hospitals. So, I think that has something to do with why mental health centers have not leaped into the breach and set up services for the elderly.

Ms. TAYLOR. Thank you, Dr. Plotinsky. Dr. Pierce?

DR. PIERCE. I would agree with the issues that money is certainly a problem. I'll be just very down to earth about it: you don't have any money, you can't provide services. If you can't plan over a long period to provide services in terms of your fiscal planning, then you are in a lot of difficulty.

I would like to focus on another aspect that hasn't been mentioned yet in terms of community mental health centers' ability to develop whatever services they can for children and senior citizens because it is possible to develop it even though the money may not be what you would like it to be. I think a lot of it has to do with the input of the community in which you serve and, if you have adequate input from the community in setting program priorities and goals, you will begin to develop some sense of urgency about some of the problems that affect children and youth and your senior citizen population.

In our center, for instance, we are particularly concerned about the amount of community control, community input, in setting service needs and priorities, so that for the last several years we've had a mandate by our community advisory board and our board of directors to develop services for children and youth and to develop services for our senior citizens and geriatric population. So, we've had a history of trying to develop new services that history has shown us. And I will reiterate the point that, once you get the money to develop and start up the programs, you are now in a—you have a problem of how you can continue these programs. In addition, when you provide services to children and youth and to our senior citizen population, in many regards you are going to have to provide multiple services to this patient population because of the multiple problems that affect, for instance, the geriatric population in terms of health, social isolation, in addition to whatever mental health problems may directly affect them. With children and youth, you have to deal with the interface of several human service systems, the court system, the mental health system. And when you begin to deal with the myriad complexities of interrelating large systems with turf problems, funding problems, then it becomes even more difficult to implement. So, I think that those are factors that certainly should be recognized and the difficulty with community mental health centers implementing Public Law 94-63.

One more point I think that Ms. Farley said about the community attitude is very interesting, because we've had a Community Mental Health Center Act since 1964 and it wasn't until 1975, until they said, hey, you've got to provide services to children and youth and specialized services to the elderly. So, I think that in point of fact shows that the public attitude, the national attitude, in fact the congressional attitude, has been lagging.

MS. TAYLOR. Thank you. I suppose I can assume from what you've said that, even with the new law which mandates services to older persons and children, that at this point you are still underserving children and older persons. Am I correct in my—

DR. PIERCE. I would agree that that is absolutely true, at least in the southeast, and I'm sure it's true even more for any other mental health center in the city.

MS. FARLEY. I would like to make one other comment.

MS. TAYLOR. Fine.

MS. FARLEY. I think that our geriatric program, in fact I know it is, is one of the outstanding programs that we have in the district. This is accidental, however, because it is based on the dedication, the enthusiasm of the staff, which permits them to keep morale high to attract other people. We've done a second thing. We have applied for an NIMH [National Institute of Mental Health] grant which will permit us to expand services. However, this does not negate the other centers. This is just what we are doing. But there is still a great deal more to be done.

MS. TAYLOR. Thank you very much. Dr. Pierce?

DR. PIERCE. Yes, I would like to focus a little bit on when we say underserved. Particularly in a minority community, I think we rush out many times saying, hey, that population is underserved, and we make a patient population that doesn't necessarily have to be there. That doesn't mean that we shouldn't provide services, but I think we use the word underserved too quickly. Does that mean that because you have 21 percent children in your population you should be seeing 21 percent of the children? Not necessarily. I think when we say underserved we need to be very differentiating about that. I think what we need to say is are we providing the type of services that appear to be needed by the populations in your catchment area within your community. Now, that may mean that you are only going to have a few people using those services, or it may mean you have many people using those services. So, I think many times we use census data and population figures to talk about underserved. It's particularly important in minority communities that we don't run around trying to increase the patient population in the mental health center program simply because statistics say you should do that. Because we have enough stigmas and in a community we have to provide services that people accept, services that people want to use, services that interface with other human services without it necessarily being a mental health center.

VICE CHAIRMAN HORN. I think that's a very important point that you've made, and this is obviously one of the problems that this Commission has to try and grapple with when we make recommendations to Congress and the President as to what type of evidence needs to be gathered to show that unreasonable discrimination because of age has occurred. And the point you made is the one usually government bureaucrats descend to relying on, whether it has any common sense

behind it or not, as indicators to raise questions. And that might be a legitimate approach, but what you are saying is because 21 percent of the community is children it doesn't mean 21 percent of them all have to have mental health needs in the same proportion, and I wonder if you have any specific guidelines to give us other than to try and get some sort of needs assessment of a community through either survey or best professional experience interviews you could get as to what are those needs by age group and then to see if that profile is being delivered upon. But this is what any government administrator is faced with.

DR. PIERCE. Well, I am kind of an anti-needs assessment person because I think if you are awake and alive and conscious, you don't need a scale to tell you what is needed. If you can walk around the community and see what's out there, you don't need somebody there to sell you a scale to fill out and say what your need is and whether it is significantly different. I think our approach has been having the community say the kinds of things they feel are needed in terms of mental health services, with the staff trying to set some boundaries on what we feel is adequate and appropriate mental health services.

Mental health is defined very broadly and you try to do everything from helping people on the bus to putting them in the hospital. So, you do have to set some boundaries on the type of services. I think our approach has been: let's devise a service that's needed. Community mental health is a program that is trying to help catch up, is trying to help provide services to persons who haven't been able to get those services before. So, you are always trying to develop something that you know is needed that hasn't been there before. You don't need a scale to understand that. So, you begin to develop your priorities based on your service delivery system and your utilization patterns in your program, and one program will generate the need for another program in many instances. If you increase your inpatient services, you are going to also have to increase your hospitalization services. If you increase that, you're going to also have to develop some residential programs. And if you look at your utilization as we do, then it will tell you where to place funds and how you need to provide those services. So, I think that we need to look at our utilization, look at the types of programs, look at the types of programs that people don't have that we know exist in other places, and develop our "needs" from just common sense.

COMMISSIONER SALTZMAN. I have a few—

DR. PLOTINSKY. I just want to underscore some of Dr. Pierce's comments about needs assessments. Rather than doing it on a piece of paper for one time when applying for the grant, the needs assessment is something which needs to be done more individually, more ongoing, everyday, out-on-the-street basis. To accomplish this, what we have essentially done in our outreach program is, well, to begin with we know that we have four fairly clearly defined pockets of older people in our

catchment area. There's the black elderly in our Western Addition area and there are Japanese elderly in Japantown within our catchment area. There are a group of elderly in the Marina, which is the north section of our catchment area, and another group in the Haight Asbury, primarily around the Buena Vista area. What we have done is to employ community workers; that is, people who are relevant to the community in terms of their age, in terms of their ethnic background, and who have already been active in community matters and community politics and community care; and these people are now working for us. What they do is go around their neighborhoods, go around their communities, and assess the situation there individually, by word of mouth, in church groups, in meetings, in social settings, and find cases for us, find for us people who are in need at that particular moment. And at that point our staff makes a more formal evaluation and treatment disposition.

VICE CHAIRMAN HORN. Yes, Dr. Simon?

DR. SIMON. I would like to add to what Dr. Plotinsky said about needs assessment. I think we have in the area of aging, anyway, a pretty good idea of the proportion of people who are in institutions and a proportion of elderly people who are living in the community, and who from various surveys nationally and internationally have all indicated about the same proportion who are in need of mental health services. But I think you've got to define that need. Just because we are professionals thinking that somebody has needs it doesn't mean that this older person is going to see it and ask for it or accept it even when it's offered. So, we have to take this into consideration. And secondly, I want to repeat that old adage about a mousetrap. If you set up good services and make them easily available, they will be utilized. The trouble is that very few places have developed good multidisciplinary, interdisciplinary, coordinated services. And once they are developed they'll be used. They may not be used as much by many older people who really need the services because of their emotional blocks and resistances or whatever, but they will be used a lot more than they are being, well, than no service available at all. And that's been the situation essentially.

One point also, I think, is one of the most important points and that is the problems of education, and I'm not talking not only of education of physicians, I am talking of the education of psychiatrists who are themselves most discriminatory in terms of not being interested in aging problems. So, what we need then is the education of people at every level, not only physicians and nurses and social workers and rehabilitation therapists, but the people who are on the line actually doing the job and in the institution. I'm thinking mostly of the nursing aides, who are deplorably poorly educated, and the thousands and thousands of patients that we now have in so-called board and care homes and shelter care homes and other euphemisms that are applied to them where the operators have absolutely no knowledge of mental

health problems and how to deal with other people. And they have been sadly neglected in terms of training, and personally I think it's up to the community mental health centers to supply that kind of training and the funding for it ought to be coming from Federal agencies because many of these programs have been supported originally by Federal agencies. And one of my recommendations would be to support particularly the National Institute of Mental Health Center on Aging that has recently been established to support the National Institute of Aging, which is essentially involved in basic science, both social and biological, and to support the Administration on Aging and developing projects.

What Dr. Plotinsky has mentioned is the bane of our existence. One gets a pilot project for 3 years and you hope at the time that you get the project that it will be supported by your local community. And I don't have to tell you about the taxpayers, the property owners, and so on, and we are facing this particularly badly in San Francisco, so when the money comes from an extramural force, dries up, the program folds up and that's the end of it.

VICE CHAIRMAN HORN. I can understand your feeling that it ought to be federally funded, but I must say, with the States funding the public school system by and large with the exception of certain categorical programs, I for one cannot understand why the States cannot fund mental health just as they have long recognized their responsibility for a broad public health, and why is it that every time we have a problem this is sort of said, well, it will only happen if the Federal Government gives it. And it is just one great big multibillion dollar blob. But if these services are really needed by a community, what is it in the community that prevents the community from treating elderly people just as they invest in younger people, K through 14, just as they invest in county and State public health service?

DR. SIMON. I agree with you. I think it ought to be a sharing arrangement. But apparently there are limits to the support and that is where we hit the question of priority. And that's why the elderly have been discriminated against because they have not gotten their fair share nor have the children gotten their fair share.

VICE CHAIRMAN HORN. Do you have a question?

DR. SIMON. I think one of the reasons is because both of them are very, very expensive.

COMMISSIONER SALTZMAN. Could I ask Dr. Pierce—I have three questions—shouldn't census percentages have some triggering effect?

DR. SIMON. Census percentages?

COMMISSIONER SALTZMAN. Yes, you know, if there are 21 percent kids.

DR. SIMON. Certainly they are a factor. If you have 10 percent of the population that are aged and only 4 percent of the aged are being seen in community mental health centers and not being seen very often except once, something must be wrong. That's a key. But just

a census percentage doesn't mean that necessarily 10 percent of the funds available ought to go to aged or some other proportion to the children and another proportion to the 15 or 17 year olds or whatever because needs are much more complicated than just on the proportion of people.

VICE CHAIRMAN HORN. You would agree with the administrators we had here yesterday from various community health centers that essentially we should try to get away from the rigid, categorical grants approach, and we should be looking at what are the needs of that community, not saying, you have got 23 percent and that must be spent on this or that group? I assume that's the burden of your testimony.

COMMISSIONER SALTZMAN. Well, under the Public Health Service Act 314, section 314, one of you mentioned it. There are project grants under that for specific categories and it seems to me what's coming out, Vice Chairman Horn, is that there has to be a mix, some categorical or special projects oriented to special needs in special categories and as well as the comprehensive kind of treatment which yesterday's witnesses were—in context I will get back to that, but I just want Dr. Pierce to comment on the triggering necessity of a percentage.

DR. PIERCE. I think that there needs to be a spur to prick the sides of people's intent and I think that one of the ways to do that is to say, if you have this number in the age group in your population, you want to at least try to approach in some way serving that number. But, as Dr. Simon has said, it shouldn't be a one-to-one relationship because that then precludes your looking at it a differentiated way, at what type of services you should be rendering. The other issue is that services cost different amounts of money.

COMMISSIONER SALTZMAN. For different categories?

DR. PIERCE. For different categories. It costs a lot more to provide children services and some of the services that are a mix of a lot of services for the elderly than the other age population, so that you may have less people spending more money in your service. But I don't think that we should have a one-to-one relationship because we get into a myth. It's too easy to say, well, you have so many underserved people out there. It's like in the schools.

COMMISSIONER SALTZMAN. No, I think it's the easiest way to look at it, but there has to be some triggering effect in order for—you would agree, I assume, some triggering relationship to the number factors?

DR. PIERCE. Yes, I would agree.

VICE CHAIRMAN HORN. What do you mean, triggering? You mean just so you review it?

COMMISSIONER SALTZMAN. Yes, to ask questions.

VICE CHAIRMAN HORN. I think the danger here is some rigid assumptions that if you got 21 percent in one category and you were only spending 18 percent on them, there is discrimination that's occurred. And I think that's what a Federal bureaucrat, as you see in OCR and others start willy-nilly running around the country yelling discrimination, and I think that's what is concerning program administrators.

DR. PIERCE. We have had the experience of budgeting a certain number of units of services based on a fact that we were "underserving" a particular age group and after we see how the service is utilized, we find out that we budgeted too many units of service for it. And, so, we have to reduce that and place the monies elsewhere.

COMMISSIONER SALTZMAN. The law has to provide a certain flexibility for those in the field in the community mental health centers to evaluate. But I think there has to be some relationship in asking questions at that point, not assuming. Dr. Simon?

DR. SIMON. Could I add just another brief comment, a very practical one? If I go out on a home visit with a social worker as I usually do, it may take me with travel time about 2 hours to complete that home visit. So, 20 minutes or so going, coming, and the rest of the time I am with the patient and the family. When I come back that social worker may be on the phone for anywhere up to 6 and 8 hours trying to coordinate a multitude of different services to come to bear on that patient. That amount of time is paid for in no categorical program that I know, Medicare, Medi-Cal, whatever. You don't get paid for that. That is a very expensive service. It is absolutely necessary because the care of the patient rises and falls on one's ability to bring all these support services in to keep that patient at home and not institutionalized. Now, when you talk about needs, then, in terms of numbers and tie it to censuses, you don't get any picture then of the expense that's involved in just treating one patient and his family. It's these factors which have to be taken into consideration.

COMMISSIONER SALTZMAN. A second question for Dr. Pierce. I understand what you were driving at when you said relationships with minority communities, not to stereotype them and impose an additional burden by certain assumptions. But a witness yesterday offered, I think, an assumption that I would like you to comment upon and that was that those children living in urban situations are going to have more mental health problems than others. Is that an accurate—

DR. PIERCE. First, who said it?

COMMISSIONER SALTZMAN. I forget which witness it was.

DR. PIERCE. I'm just not going to go behind anybody. I think that there is reason to expect that with the problems in particularly inner cities in the minority communities which are usually lower socioeconomic income brackets that there are going to be a myriad of problems, social problems that can lead to emotional problems at a greater proportion. There is no doubt about that in my mind that you have a lot of problems. But I think we have to look at this also in a differentiated way that because we know that these variables exist, that we just don't go out and say, hey, here's some poor black kid. Let's get him into the center here because we know they've got these problems. So, we are going to call them mental health problems.

So, what we've got to do is develop preventive kind of programs that make some sense in terms of how people accept them also. That's what I am trying to drive at. Because we know we have these people in the community and we know all these poor have all these problems, we have got to set up a community mental health program and that's not going to solve the problem. There's too many variables, the unemployment, school systems, which mental health has no control over. And many times we suffer for having to be responsible for correcting many of the problems which we have nothing to do with in terms of causality. So that mental health program could become the receptacle for many "social programs" that really the problems belong to other areas, social service, education, employment, and if we set up mental health programs just to deal with this, I think we are perpetuating a stigma that isn't necessary, and that's the point I would make.

VICE CHAIRMAN HORN. I think that's very wise advice. I think too often usually it's white liberals that look in at a community and say, "Gee, they must have problems," when they can look at an upper-class white community and they find similar problems in terms of complete chaos in the family structure and so forth.

COMMISSIONER SALTZMAN. Dr. Simon, I wonder whether you would like to comment on the mandatory 65-year age retirement principle, your attitude.

DR. SIMON. A question like that raises a host of other questions as most questions do. I welcomed my retirement from my university position. Thank God I don't have that to put up with anymore and now I can be a real doctor again. But there are people who look forward to retirement at 65 and the point I'm going to make is that when we talk about the elderly we talk about them as if they were one homogeneous group. They are more diversified, believe me, than adolescents are. The adolescents wear the same kind of clothes, same length of hair. They go on and have the same kind of language, go on and on. And a woman who has lived for 65 or 70 years of age has a multitude of experiences beyond that period. No wonder they are more diversified one from another. Yes, I am opposed to the mandatory age retirement law. I gather in Los Angeles that they've already been repealed and I gather also that Mayor Moscone said he was going to try to get it repealed in San Francisco.

There still remains the fact that there are some people who ought to be retired at 22 and others that can go on for many years beyond 65. It is going to be a very difficult problem in the public employment system and certainly in the private system to really carry out the provisions of removal of that age 65. The decision of making the decisions that surround the issue of whether one is competent or not, I don't have to tell you because we've had one in California which was difficult enough and one of the supreme court justices—

COMMISSIONER SALTZMAN. But will the remedy be worse than the problem in taking away mandatory—

DR. SIMON. I think it can be carried out, but it depends upon the ability of an individual to make one good, accurate assessment of the quality of one's work. And the same criteria ought to be applied to the man or woman who is 65 as is applied to the man or woman who is 24, no difference. If he can't do the job, then he ought to be asked to retire or to, excuse me, resign or be fired.

VICE CHAIRMAN HORN. Let me pursue that with you, Dr. Simon. I just happened to listen to the debate some of you might have heard this morning between the president of Carnegie Mellon University and Congressman Pepper on this very issue. Congressman Pepper, in his mid-seventies, quite correctly feels, as does our chairman, in his early-seventies, and I, who am getting there eventually, on this issue feels people should be judged on the basis of competency. Then you and I face the problem that we're both involved with universities and there is a problem of constantly generating opportunities in a very limited number of positions in the university to bring in people with new knowledge, the latest graduate school education, so forth. And, now, the question comes as to what type of mechanism, in fairness, does one devise to determine competency after a particular point in time? We also have this overlord with the tenure system in a university where we make a decision, I believe, in the late twenties or early thirties to give the person a tenured employment which they would really have to commit previous crimes in order to be removed in most universities in America and that would have to be done at high noon with the cameras rolling. So, we then face they go on 30 years merrily with, in essence, no real review except for promotion and that varies from university to university. Now, comes 65 and I remember some of my favorite professors at Stanford who bitterly opposed mandatory retirement at age 65 and would point out constantly that so and so had created this opera at 83 and this symphony at 79 and so forth. Nevertheless, they retired at 65. This law school, of course, was built on people that were retired by other distinguished universities at 65 and some first-rate professors came to Hastings.

What concerns me, though, is how does one make that judgment in an organization in an age of litigiousness, grievances, arbitration, etc., etc.? And I want to try out on you two options. One is obviously the one I think Claude Pepper would be talking about is you continue the person until you prove incompetence. Another approach—and that's very difficult to prove. And you've seen that with the California State Supreme Court. The other approach would be to set a mandatory retirement age where at 65 one would know one retired unless on the positive side one proved continued competence. In the case of the universities, this would again be like a tenure reappointment where the burden of proof is on the individual to prove they are worthy of tenure, not on the institution. It's up to the individual. It's a question of burden of proof. And I just wonder where you would line up, since you've obviously had a lot of experience in the area, 20 years a depart-

ment chairman at one of America's distinguished medical schools and you know the problem of getting new knowledge in and you know the problem of limited positions available. We have hundreds of doctorates unemployed in the country right now and, if we continue everybody that's now employed at the universities, there are going to be thousands in fields in each region unemployed. And I just wondered what your advice is.

DR. SIMON. As an administrator or as an individual?

VICE CHAIRMAN HORN. Both.

COMMISSIONER SALTZMAN. Dr. Simon, we need a microphone if you could move it over.

DR. SIMON. Yes.

COMMISSIONER SALTZMAN. That's right.

DR. SIMON. To develop a general policy loses sight of the individual. So, we are caught always in the problem of what is best for the individual versus what is best for the institution, and in the broadest sense, including society. So, what always happens is that we come to make compromises. And watching as an administrator and in watching other administrators who have had to deal with this kind of issue, I've noticed that what they tend to do is to dodge it and to postpone it and other kinds of matters relating to competency. I think, well, I better not cite that anecdote.

My own feeling is that, if you make a general kind of rule that if it has built into it a sort of mandatory retirement in the sense of reconsideration and individualize it that unless it is a case of rank incompetence, that it would be best to develop a flexible system, which was done with me. I still am working at the university. I am still being paid part time. This coming year, I'll be paid less than I have in the past few years and the following year it will be still less and probably it will be out for whatever teaching, with whatever involvement I have with the university. I think this can also be done in industry. But as I've seen, among some of my friends in industry, what they do is give them an honorary title on a board of directors where they are absolutely useless, have no sense of responsibility, and that kind of situation really plays havoc with their psyche and leaves many depressions among these kinds of people. So, it's important to give them not busy work but actual work to be done unless they are self-initiating and many people are in academia.

I'm tired of hearing about the Churchills, the Picassos, the Leonardo da Vincis, and so on and on. Most of us don't belong in that class of people, but we are just plain ordinary people and especially is this true of the workman who has been on a job which bores him to tears and has for the past 10 years. Often if he only has enough money and he does have some little avocation, he welcomes his retirement, if he has enough money. And I'm sure you've all heard those cliches about the retired man's wife who says, "I married you to love, honor, and obey but not for lunch." And also the business of the retired man who has

his wife who says, "It's okay for you to be retired, but now we have to live on half of what we made before." And sometimes that isn't sufficient.

So, there are so many factors involved in what happens at retirement that one has to individualize it. But if one has to make a general policy, I would say a flexible policy of gradual retirement is much the best. And this can apply as well to the academia person as to the individual who is a worker.

VICE CHAIRMAN HORN. Very good. Counsel, proceed.

MS. TAYLOR. Yes. Just one more question. I would like to direct it to Ms. Farley and Dr. Pierce. Dr. Pierce, I'm sorry I don't know exactly who said this yesterday, but there was testimony yesterday with regard to the number of countable successes for refunding of community mental health centers, and I wanted to ask you, are there measures of success which you evaluated for the purposes of refunding, Ms. Farley?

MS. FARLEY. I didn't understand.

MS. TAYLOR. There was testimony yesterday that countable successes at the community mental health centers were very important in getting refunding and that they were not very easily countable. If you took a child and treated it and prevent some mental illness from coming on, that that was not very easily shown, say, as in community health where you give immunization shots. Okay? But she indicated that this was very important in the refunding situation and it caused some problems, and I wondered if that had been a problem with you or if that is true?

VICE CHAIRMAN HORN. What counsel is saying is typical of government agencies; it is known as Vietnamese battle statistics. In other words, you count what you think impresses the funding or the supervisor or whatever and it might not be relevant to the successful completion of the mission of the agency. So, pretty soon we are diverted to doing those things we can attach a number to—

MS. TAYLOR. Right.

VICE CHAIRMAN HORN. —rather than perhaps those that ought to be done.

MS. FARLEY. Yes, I would agree that does create difficulties because there is the refunding based on that. I have another term that bothers me more than the success point of view, but what is called productivity. And this is in terms of you begin to count noses. It doesn't matter, as Dr. Simon and several of the other people pointed out, that maybe giving service in one particular situation would take 8 hours—not consistently but that amount of time. On the productivity level, you only get reimbursed in terms of face-to-face contacts and, so, this does create a problem. I think that there are people in the field who can develop certain measures of success and many times they're in conflict with what the funding agencies and the evaluators point out in terms of what they say may be success or failure. It isn't as easy in dealing

with human services as saying, this is a good automobile. You can look at something and tell whether it is. So, the yardstick ought to be different. Yes, it does create a problem.

Ms. TAYLOR. And does that impact upon certain age groups?

Ms. FARLEY. Yes.

Ms. TAYLOR. Can you speak to that?

Ms. FARLEY. Well, it has its negative impact on all services really.

Ms. TAYLOR. Sure.

Ms. FARLEY. But we are here talking about discrimination or services as it relates to older people and children. But I would say it's not just limited to, that it's really related to all services.

Ms. TAYLOR. Dr. Pierce?

DR. PIERCE. I think that that is a problem. If you want to get the money, you've got to learn how to do the thing to get the dust, and you do that and complain and/or don't do it and complain. I would rather complain and get the money. So, you learn how to count.

But I think that there are some data that make some sense when we talk about successful community mental health center programs, and one is your unduplicated count. How many people do you see? How many people do you see and how many people use your services? One of the things that happens in community mental health programs is that there is multiple service utilization; that is, one person uses more than one or two of your services. So, your unduplicated service count, as we call it, should be much greater than your unduplicated individual count. It gives you some idea of the capacity of your center. If you have some indication of the capacity of your center, then you have some indication of how your dollars are going to be used across the board in your programs. Now, I'm not going to sit here and say I am an advocate for counting, but what I am going to say is that that kind of data can help you demonstrate that your program is reaching for people.

The other is, how much quality of service is involved? Now, that's a different kind of issue. It is difficult in mental health to demonstrate, I believe, tangible outcomes outside of a very gross measure such as is the person functioning in the family; is the person functioning on the job; whether we got him over his mania or not. I don't know. But we can look at other kinds of social indicators that indicate that something is happening at least correlationally between the person coming through our program and the person's functioning. So, I think that we can look at those things and we should look at those things.

I think another one of the problems in the terms of criteria is that we have people making up these criteria who have never worked in the pits. For instance, the President's Commission on Mental Health was here. Not only did they have only one black person testify in San Francisco, most of the people were from the universities and had never worked in the community mental health center. The last time they saw a patient was on a residency or in the internship. So, we had that kind

of input setting a criteria, and us in the pits kind of resent that because we are the ones that really have to implement whatever criteria there are and have to massage the data so we can get the money. Well, I don't mind massaging the data because this is not the dress rehearsal. Just give me the money to provide the services. But that's the game you have to play.

One final word on criteria and funding, and I think this is important that we have Public Law 94-63 which increased the number of services that community mental health centers have to provide from 5 basic services to 12. Inclusive in those 12 basic services are specialized services to children and to the elderly population. We are on the brink of, hopefully, developing a national health insurance. It would be absolutely discriminatory, age discrimination, race discrimination, since community mental health centers serve more minority nonwhite population than any other health delivery system in terms of mental health, for those 12 basic services mandated by one Federal law not to be absolutely and fully reimbursable under any national health insurance, and I think that's very important, that if national health insurance doesn't fund what is mandated by another Federal law, then I think we have a lot of discrimination.

Ms. TAYLOR. Thank you very much. Mr. Chairman, I have no further questions.

VICE CHAIRMAN HORN. Commissioner Saltzman, any further questions?

COMMISSIONER SALTZMAN. No.

VICE CHAIRMAN HORN. Mr. Nunez?

MR. NUNEZ. No.

VICE CHAIRMAN HORN. Ms. Bradley?

Ms. BRADLEY. Dr. Simon, in your testimony you criticized the educational system for not turning out the kind of personnel that are able to provide the services that are necessary. In terms of your experience and background—medical school people tell us that they will offer geriatric and chronic care not as requisites but rather as electives to junior and senior medical school students—do you suggest that these kinds of courses be made mandatory or what kind of other alternatives would you suggest in terms of medical school education?

DR. SIMON. I must confess I would have answered that question when I was a chairman of the department differently than now. Let me talk just about the medical school. The pressures on the medical schools from every specialized interest are tremendous. One time when I was chairman of a curriculum committee in a medical school, I figured out that if we added the time that was requested of every specialized group, the alcoholics, the geriatrics, the children, or this, that, and the other thing, that we would have medical students going to medical school for 8 years. I mean that literally. So, the demands are becoming greater and greater.

Let me give you another. I approached someone in the department of medicine some 8 years ago asking that we develop a geriatric clinic in the outpatient department and I didn't care whether it was a psychiatrist or internist who was in charge. And in fact I said, "You be it. You have named somebody to be in charge. We will supply the psychiatric and social work help." His response was, "I don't think that's a specialty. To treat pneumonia in an older person is the same as treating pneumonia in a younger person." And I insist that it is not the same. They may use the same antibiotics, but they react physiologically differently than an individual who is 30 or 40 or even 50; that not only do they react differently physiologically, but they have different psychological and social situations in which this illness occurs and on and on and on. And this must be taken into consideration.

Now, my personal feeling is that if someone develops a good geriatric unit in the outpatient department of a university clinic that the medical students would clamor for it and the way to get a required course into the curriculum is to convince the medical students that it's the best course in the school and it becomes required. So, one has to go this kind of path if it's going to be implemented. And, now, what I've said about medical schools applies to schools of nurses, schools of social work, schools of rehabilitation therapy, schools of psychology. The psychologists, with due respect to Dr. Pierce, are the least represented of the mental health discipline in the actual operation of mental health problems. We've got many social workers involved, an increasing number of psychiatrists, but the psychologists, not that many. And they don't get very much training in schools on aging.

So—but the educational system has to go even further. It has to be involved in the people who are in the direct line in institutional care, and I think I have mentioned those to you. These are the nursing aides in the various nursing homes. We've got 23,000 nursing homes in the country. There are over a million patients in those nursing homes. This industry has mushroomed in the past 10 years. Who is taking care of those patients? Not the RNs. She is running the whole place. It's the nursing aide that is taking care of them, and they have not been well-educated. In this State we have thousands of patients and we don't know how many mentally ill people discharged from mental hospitals or admitted directly into board and care rooms. Those board and care operators have very little training, and the westside district, where Dr. Plotinsky and Dr. Pierce are, they've had a pilot project running educating these board and care operators. This has to be universal. Somehow it has to be built into the requirements of licensure. So, I think it's across the board that education in geriatrics has to take place in the health discipline. It's already moving more rapidly in the general gerontological field, in the area of social sciences in particular. But it's in the direct service personnel that the educational requirements are sorely lacking.

Ms. BRADLEY. Thank you.

VICE CHAIRMAN HORN. Any further questions of this—

Ms. TAYLOR. No further questions.

VICE CHAIRMAN HORN. I would like to thank each member of the panel. We deeply appreciate your coming here and sharing your experience. Thank you very much. ||

The next panel are the panel of Title XX administrators—Lucy Ellison, Joe Lain, Edwin Sarsfield. Please come forward. Remain standing and raise your right hand, please.

[Ms. Lucy Ellison, Mr. Joe Lain, and Mr. Edwin S. Sarsfield were sworn.]

TESTIMONY OF LUCY ELLISON, REGIONAL PROGRAM DIRECTOR, PUBLIC SERVICE ADMINISTRATION, OFFICE OF HUMAN DEVELOPMENT, U.S. DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, SAN FRANCISCO; JOE LAIN, CHIEF, SOCIAL SERVICES PLANNING BRANCH, SOCIAL SERVICES DIVISION, CALIFORNIA DEPARTMENT OF HEALTH; AND EDWIN S. SARSFIELD, GENERAL MANAGER, SAN FRANCISCO DEPARTMENT OF SOCIAL SERVICES

VICE CHAIRMAN HORN. Please be seated. There are signs for each witness. Counsel?

Ms. TAYLOR. Mr. Chairman, Mr. Schwartz will be directing the questions of this panel.

VICE CHAIRMAN HORN. Fine. Mr. Schwartz?

MR. SCHWARTZ. Would each of you please state your name, address, organizational affiliation, and position for the record, starting with you, Ms. Ellison.

Ms. ELLISON. My name is Lucy H. Ellison. I work for the Department of Health, Education, and Welfare. I'm a social worker by profession. My current title is Regional Program Director, Public Service Administration, Office of Human Development, Region IX, San Francisco.

VICE CHAIRMAN HORN. Would you move that microphone right in front of you as you talk, if each of you could do that, please? Thank you.

MR. LAIN. I am Joe Lain in the [California] State Department of Health, the Social Service Division, and I head, as of just a couple of weeks ago, the Social Services Planning Branch.

MR. SARSFIELD. My name is Edwin S. Sarsfield, General Manager of the San Francisco Department of Social Services, P.O. Box 7988, San Francisco.

MR. SCHWARTZ. Ms. Ellison, from your experience in Region IX in working with the Title XX program, would you tell us which age groups in your estimation experience a lack of service or an abundance of service as a result of that program and why that is so for any age group that you care to identify?

Ms. ELLISON. I don't believe I can answer that question in that context because that will vary by the jurisdiction in which the services are being administered. Each State has the right upon the receipt of fund-

ing to identify what services are to be provided to what, you know, group of people disadvantaged rather than necessarily age groups and that can vary even from year to year as well as from the State to State.

MR. SCHWARTZ. Are there any general trends which you can recognize across the region with regard to any particular age?

MS. ELLISON. I don't believe I can talk very much about that, and I think maybe I prefer California to talk about their experience. It's been my impression that—I don't have any figures on that but—that there is, that there is a pretty good amount for children perhaps under 6 or under 8 years of age in the form of child care, not nearly enough, and there is a pretty good amount for services related to the infirm or the disabled, either in the form of home health services, homemaker chore services, or other kinds of activities. Beyond that my impression is that there is a sort of wide deficiency or gap in terms of other kinds of services that could be made available that are not.

MR. SCHWARTZ. We've heard some testimony with regard to some specific groups, for example, displaced homemakers from Ms. Shields in yesterday's testimony, and we have heard some testimony with regard to certain infant categories of children or other categories of children, teenage groups, and also with regard to the elderly. Let's talk about California's program for a moment. Do you see services provided in larger or lesser numbers to any of those particular age groups and for any particular reason?

MS. ELLISON. I think I would rather defer the answer to the State of California who is more familiar with the distribution of the services. I wasn't sure what you meant when you used the term displaced homemaker. That has two kinds of connotations for me. To what was the witness referring to?

MR. SCHWARTZ. The displaced homemaker group was defined for us yesterday as mostly referring to women, although there were some men in the group, very few, who have not been the breadwinners of the family but have remained at home while the other spouse would be earning an income, and then due to separation or death or some other problems the income stopped and the homemaker would then try to get into the job market and at that point faced a lot of serious problems.

MS. ELLISON. Yes.

MR. SCHWARTZ. Can you comment on that?

MS. ELLISON. I would like to talk to that for just a minute and that is in terms of I don't think it's solely the displaced homemaker, but I think it's both single and married individuals without children, minor children, between the ages of 21 and 64 who don't—you see, usually the major access into our office through the categorical aids of public assistance and this has been in the past and I am not of the impression that perhaps, except for maybe children, that this is changed dramatically. So that you have a situation in which there is a group here who is not necessarily being served consistently by anyone, in terms of the

money payment program. They are not known to the agency, and I think their access to services is made that much more difficult because of the lack of affiliation with any particular delivery agency.

MR. SCHWARTZ. Has this problem with regard to outreach; that is, if they don't already have a mental service that is being provided to them they won't find out about a Title XX service?

MS. ELLISON. That I don't know, but it seems to me that we have a plethora of, even an excess of, information and referral service available around the communities without enough service agencies offering service to the recipient. By that I mean there are a lot of people telling people where to go, but the availability of services when they get there is very minimal.

MR. SCHWARTZ. Of these services which exist in your experience in the region, would they be available to this middle-age category if people knew about it?

MS. ELLISON. I imagine it would depend on the State agency and what they have to offer in the way of social services, and I think it would probably be less true. I don't mean that anybody would necessarily be thrown, you know, be thrown aside or thrown out. But I think the emphasis is really on the kind of services we identified before for children either in the terms of protective services, homemaker chore services, foster care, child care, and for the adults the services that help them remain in their own home in the community.

MR. SCHWARTZ. There are several requirements which the Federal Government places on States in developing their plans of service under the Title XX program. I would like to go into some of those to see what effect in your experience some of these requirements have had. The first requirement I can think of is that the program requires needs assessments to be performed. And this question has been raised a number of times as to how effective needs assessments are and what if anything they do accomplish. In your experience, what impact has the needs assessment requirement had on the actual provision of services under the Title XX program?

MS. ELLISON. Well, I think basically it's an art that we haven't really developed a great deal of expertise in. I think that's the basic problem. I think there are needs assessments going on ad nauseam and I don't mean just in the XX program. Every delivery system in the Federal system has some kind of needs assessment activity going on. They are not necessarily in "synch" or are they consistent with each other and in many instances don't even know about each other. I mean, they are going on in a kind of tunnel vision kind of a way, and then when they get to the local level it's more difficult because it's very difficult even to get a feel for what's actually going on in a community. But various kinds of service monies are being expended. What kinds of needs are being addressed and who is being served by them and you have what you end up with which is often recognized in the community field for years as gaps in services. But then you get into the position where the

various service agencies, particularly where they have closed into the appropriations or are competing with each other for how they can make use of each other's resources rather than in my view of looking at how can we work together to meet the gaps. I don't know how you come to grips with this. But I think my first statement is, we aren't really doing very well in terms of needs assessment and I think it's something we need a lot more experience in before we can be successful.

MR. SCHWARTZ. There seems to be two problems. One is whether the needs assessments are showing the needs that are there—are they effectively assessing the needs first of all and then whether they are or not as a result of whatever need assessment is done. Is the program likely to change as a result of that needs assessment? Will funding be funneled differently into different social services because the needs have been identified differently?

MS. ELLISON. Again, that would depend upon the situation and, with my coworkers' permission, I will give California as an example. I think California has been in a tremendous bind. I feel in the vernacular of being between a rock and a hard place where you start talking about doing need assessments when you have a legislature that has mandated a certain number of mandatory services. You have a cap on your appropriation or your allocation for services that was over \$20-some million deficient before you even got your cap. So that it seems to me that the efforts to try to identify needs and to try to meet those needs becomes somewhat farcical because you have only a certain amount of dollars that you can spend on the service and you've got mandated things that you have to provide. I don't know if this answers your question, but I think this is a perfect example. I think it can vary from group to group and from time to time in terms of who is getting the major share of what little flexibility you have left over.

MR. SCHWARTZ. How about those States in the region which do not have California's problem with the ceiling limitation or are there?

MS. ELLISON. Most of them are rapidly approaching the ceiling. Again, I think they are subject to the demands of the people who have the most clout, in terms of, you know, political situation, or those people who vote. I mean, everybody may not agree with me, but it seems to me my experience over the years has been that the elderly have done quite well influencing legislatures to, you know, appropriate funds or identify or earmark funds for their needs; and, with the exception of child care, I think children have fared less well. They used to say this is because they don't vote. But I think in the Bay area at least we've had a great groundswell of interest groups, particularly in the child care areas where they have done a lot in advocacy and lobbying, as well as in trying to get their needs more identified. I won't say that this has been entirely successful.

MR. SCHWARTZ. What effect have the requirements for State plan development and public participation in that development had on the provision of services under Title XX?

MS. ELLISON. I'm not at all sure. I think there has been a good deal of frustration in some places, mainly because of the statement I made earlier about the limited financial resources, the mandatory services that must be provided, the fact that, you know, with certain interest groups and we have many of them in California—the mentally retarded, the aged, the children, there are disabled; we have welfare rights. Everybody, I believe, feels that they are entitled and I think the, really, the degree to which they are able to have their needs met varies.

MR. SCHWARTZ. If the needs assessments are not the prime method on which the services are being established in a particular State, the ceiling really can have an effect if it's a grappling for funds. What are the dynamics that are going on which really result in priorities of service to be provided by a particular State or a particular locality?

MS. ELLISON. Well, there is a planning process. Again, as I said earlier, this is conditioned upon whatever a legislative basis they have that requires certain things be provided. The money amount again is significant. I think the interest groups are able to participate effectively, and this varies on the part of the interest groups who have certain needs that they want met and it may influence the degree to which services get shifted, if that's what you mean, or whether other kinds of priorities are recognized. I think by and large the State agencies do the best job they can in trying to be evenhanded involving community representatives and people's needs and interest. I think it's just a very tough assignment.

MR. SCHWARTZ. One problem that we've seen in the field work, has been done with regard to the services that were provided, is that services, the nature and extent of Title XX services purchased from the provider agencies, are determined by the availability of providers, the relationship those providers have established with the service control agency, the county department of social services usually. From your experience has this, is this an accurate assessment of how the service package is at least in part designed?

MS. ELLISON. I don't know that I have any hard facts on that, but I think it would almost be, you know, realistically expected that would happen. I can recall some and there are some counties here and I imagine this is in many States which have very little in the way of private agency resources, they just aren't existing. In many counties the public agency is the agency which provides services, and they become very adept in providing things that normally are provided by private agencies. We have one in the Bay area. That was at one point in time. So, I think you do have to relate to what you have available. Of course the law does permit the State agency or its counterpart at the local level to provide whatever is necessary. I think there is a requirement that they do so themselves, you know, that they not purchase services unless they are unable to provide them themselves.

MR. SCHWARTZ. Thank you, Ms. Ellison. Mr. Lain, how has the State of California established its priorities under the Title XX program?

MR. LAIN. California at the point the Title XX was enacted had a fairly full range of social services programs already in place which were for the most part mandated by State law. We also, at the time of passage of Title XX, were fully utilizing our allocation of Title XX funds. So that we did not have a great deal of flexibility in terms of making changes that seemed to be promised by the enactment of Title XX.

MR. SCHWARTZ. The question that I raised with Ms. Ellison about needs assessment and public participation, I take it from your answer would probably would result in California in very little impact on any change in the provision of services; is that the case?

MR. LAIN. I would say that's true to date. I think that we are—well, needs assessment is in its infancy, I think, in terms of the technology involved and the technology required. I must say that I feel some hope for the future in terms of getting a good need assessment process in place. At the point that does occur I do feel that it will be possible to make the types of changes that such a need assessment will, I think, point up as necessary. And in many cases this would involve some change in California law. I must say that I think that needs assessment, again, I must say that needs assessment is very much in its infancy. We are hopeful in the coming planning year to begin to lay a foundation that in a year or two will result in a fairly decent process or at least the beginnings of a very good need assessment process.

MR. SCHWARTZ. How are the other federally-assisted categorical programs such as Title IV of the Social Security Act or the Older Americans Act taken into account in any planning priority setting done under the Title XX programs in the State of California?

MR. LAIN. Well, the other—the Title IV eligibles and Title XVI eligibles are basically the basic client groups served in the social services program in the sense that they are the cash grant recipients who are eligible. In addition, our eligibility criteria does include for practically all programs a large portion of the income eligibles; that is, persons up to 80 percent of the State's median income.

MR. SCHWARTZ. Thank you, Mr. Lain.

Mr. Sarsfield, what measure of flexibility does the local government have in choosing the services to be provided and the funding levels to be provided within your services in San Francisco?

MR. SARSFIELD. That's a very difficult question to answer. I think if I could back into it. As a vignette, I would say we have close to 500 people now sitting up at the Governor's office with about 60 people sitting in who are termed developmentally disabled, many of whom are elderly. Many have been in State hospitals 10 to 20 years. We've been 6 months attempting to inform the State of the dilemma that this county is in that we are a million and a half dollars short next year of our Title XX allocation; that we will be reducing services by some 44 workers, 24 social workers and 10 general service workers, as well as cancelling our contracts with all the day activity programs that serve dein-

stitutionalized adult individuals. That gives you some idea of our flexibility.

MR. SCHWARTZ. Would you say that any age group in San Francisco is receiving more or less services under Title XX program as established?

MR. SANSFIELD. I think that there is extreme discrimination and, given the nature of the program in this county as well as the other counties in the State, that the young are pitted against the elderly, that their own supportive services vie against the blind and disabled. Nobody seems to talk about the universality aspect of Title XX or that they should be at 15 percent of the States serving those populations. I think that the programs are absurd.

MR. SCHWARTZ. Why do you say that the program is absurd?

MR. SANSFIELD. I think that's because I just spent a day or two in Sacramento and will be spending the next 3 days up there. But I don't think, the competence is not there for the receipt of human needs; that the technical assistance from the State, I think it's just not there and that we need a much stronger input from the Federal Government and a civil service cadre with experience to be able to consult with the States and local entities. I don't think that the States are competent as far as leadership and as far as intellectual ability to deal with local needs, vis-a-vis social services.

MR. SCHWARTZ. Given the Age Discrimination Act which we're charged with investigating, the Title XX program allows a great amount of latitude to States and then to localities at least in the provision of optional services to age groups that will be served—child day care programs, for example, is going to serve children, obviously, and adult protective services will serve adults, and the optional programs, they may be directed to one age group or another. How much latitude do you think a State or a county, city jurisdiction, should have to be able to design its Title XX program before an age discrimination provision should be looked at as effectively requiring redistribution of any services? On the basis of age?

MR. SANSFIELD. I think the answer to that lies in budget items, especially maybe Lain's earlier comment, incoming monies into California here—these have been legislative mandates. I think even if we're to see a national ceiling raised by \$200 million under H.R. 7200, that money is desperately needed by the State again even though we have a \$2.17 billion surplus to bail themselves out of homemaker chore again. We're hopeful that some of that money could be passed on. We're showing an absolute need factor in San Francisco that demonstrates very clearly a million and a half dollar deficit that's clearly not being dealt with. I think very little flexibility—the counties in the State of California don't know from one year to the next how much Title XX allocation they're going to get. We've never had a fixed formula; we continually return money back to the State.

MR. SCHWARTZ. To what extent is San Francisco dependent on State decisions as to the priority of services in funding?

MR. SARSFIELD. I think in our current situation almost totally.

MR. SCHWARTZ. What percentage of your Title XX budget is allocated for purchase of service contracts?

MR. SARSFIELD. We have roughly, out of \$5.2 million, \$858,000.

I might add it's important to note there that of our Title XX allocation, if I hire a social worker within the department of social services, it costs about \$40,000 per annum with indirect and administrative costs. Contractual agencies can hire two social workers for that amount, not have civil service and be more ethnically relevant, and we hope to move in that direction.

MR. SCHWARTZ. How do you decide who the service contractors are going to be?

MR. SARSFIELD. We have a competitive bid process in the homemaker chore programs. We also have various programs that service the developmentally disabled. Our prime contracts right now, the only contracts we have are for servicing deinstitutionalized, primary diagnosis of mental retardation, elderly, and younger children. We have three contracts there and one with the downtown senior citizens center.

MR. SCHWARTZ. Were these service providers under any prior program in the city of San Francisco?

MR. SARSFIELD. Yes, they're under prior and multiple contracts currently with the regional centers, some under community mental health service centers.

MR. SCHWARTZ. Has the service provider situation changed greatly from the prior program Title XX?

MR. SARSFIELD. I think with more policies of deinstitutionalization that there are increases of providers at the local level, yes.

MR. SCHWARTZ. I'd like to just ask each of you, since the Title XX program varies so much from State to State, since there are so many options provided, and since the funding seems to be so complicated, how, in your experience, would the Age Discrimination Act, which says that there should be no age discrimination in federally-assisted programs, how should it apply to the Title XX program and in your estimation how would it apply to the existing Title XX program? Ms. Ellison?

MS. ELLISON. I don't really know because my basic feeling is that there isn't anything in Title XX inherently that militates against any one or another age group. I think it happens in the implementation and again in terms of some of the other, you know, tangible, like shortage of funds, the outspoken groups.

But in terms of the basic legislation, no, there the State can serve, evenhandedly, anybody that they would like to serve. So I think the fact—I don't know what your Commission could do to, short of being, you know, mandating certain kinds of things, and again I think we've talked about the undesirability of getting into such a narrow mode that you dissipate any flexibility that might be needed in a certain area.

MR. SCHWARTZ. Mr. Lain?

MR. LAIN. I think there are a couple of principles that need to be applied. One, I think there has to be recognition that there are different needs at different ages. This is in social services programs, by and large are directed to meet certain needs and may serve one group other than another. And this can be a very normal, natural, very proper kind of decisionmaking, and while it involves distinctions in terms of ages, it's not discriminatory.

The second point I think is related to the first, and that is I would hate to see a formula-kind of rule which directed certain percentages of funds or certain numbers of persons to be served in order to not discriminate by age.

And I appreciate the Commission's difficulty in this area. I really have found it very difficult to think of specific kinds of suggestions that I could make here today in terms of the proper rules to assure that there is no age discrimination in Title XX programs. I think it is a very tough problem.

MR. SCHWARTZ. Thank you, Mr. Lain.

Mr. Sarsfield?

MR. SARSFIELD. I've kind of grappled with that question because it was asked by the team members that came out prior to this hearing. I would think the only built-in discriminatory factors in Title XX would deal primarily with the fact that the intent of Title XX and its thrust toward universality and the fact that supposedly at least in the national law, when it was written, that poverty and social services should not be inextricably linked any further, that we should go from individual goal planning to large scale social planning, etc.

I think, by the very nature of taking 80 percent of the State's median income, you exclude many people from the universality aspect, which is discriminatory. I also think that it shows us very clearly that there are tremendous discriminations such as in Title XVIII or the Medicare legislation. We do deal with a lot of elderly who are in State hospitals. We looked at our funding for them when they are out of the institutional setting as Title XX primarily, but they have supportive services and community treatment programs and you look at the Medicare laws nationally, I think they allow one psychiatric episode after the age of 65, which is not renewable and a maximum ceiling of \$500.

That's about the only focus on discrimination I could make.

MR. SCHWARTZ. Let me ask one additional question, Mr. Lain. The homemaker chore item in the Title XX program for the State of California is a huge chunk of that budget. How would you view this in terms of equity of service by age under the Title XX program?

MR. LAIN. I think the inhome supportive services program, or the homemaker chore program as it's also called, is one of the better social service programs in the State. I think it meets a tremendously valid need. I think that the budget expenditure on it could probably justifiably be multiplied by several factors and it still would not meet

all the need. It serves, it—the legislature has limited the eligibility for that particular program to the disabled, blind, and aged. And about 65 percent of the population being served is over 65.

I think that another program that also draws a great deal of State funds is at the other end of the age scale and that's the child day care program, which has a total budget of around \$130 million for the coming year, most of which, with exception of only \$32 million, is all State funds. So that balances the expenditures on the other side.

MR. SCHWARTZ. Thank you, Mr. Lain.

Mr. Chairman, I have no further questions.

VICE CHAIRMAN HORN. Mr. Schwartz, what type of exhibits are you planning to include in the record so we can see very clearly the amount of funds involved? People served, etc., from the Region IX to the State level to perhaps the city and county level, if you're following that trail? What are your plans?

MR. SCHWARTZ. I think we could include some exhibits. We could include the comprehensive annual services plan, for one, for the State. We could include the Title XX county level plan.

VICE CHAIRMAN HORN. Title XX what?

MR. SCHWARTZ. What would be the official name of that, Mr. Sarsfield?

MR. SARSFIELD. County's annual social services plan?

MR. SCHWARTZ. County's annual social service plan.

COMMISSIONER SALTZMAN. Is that different than the administrative plan? It is?

MR. LAIN. Yes.

VICE CHAIRMAN HORN. Go ahead, Mr. Schwartz, what else?

MR. SCHWARTZ. We could also include the funding breakdown among the Title XX programs in the State of California, mandated as well as optional services funding, broken down also by Federal share.

MS. TAYLOR. And State share.

VICE CHAIRMAN HORN. Anything else?

MR. SCHWARTZ. I think that would serve our purposes.

VICE CHAIRMAN HORN. All right, without objection, Exhibit 20, then, will include the comprehensive annual plan and also the social services plan, the various funding breakdowns from the Federal flow through the States and into the various counties, into mandated, nonmandated services, so forth, it will be included in the record.

Now, just so I understand, Mr. Sarsfield, since you are operating these programs at the local level, I'm particularly interested in how all this comes down through the Federal and State government and bears on you as you are trying to render services within the City and County of San Francisco. If you were a national legislator, how would you revise Title XX to do the job that the founders and authors of Title XX thought they were doing when they wrote it? What would you do?

MR. SARSFIELD. Well, initially I would remove it from State jurisdiction, and hire without desk audits or downgrading some competent

Federal people who have at least 20 to 25 years in service to consult with the States, and then I would move toward the problem of defining what a social service is without using a vignette, establish unit costs, and I would mandate State governments to take on a rate setting function for all social services, and I would raise the ceiling to what it formerly was in the late sixties of double what it is now.

VICE CHAIRMAN HORN. In removing from State jurisdiction, it's your feeling what, that this is an attitude, an unnecessary layer of bureaucracy, this is incompetence or what, how do we get this?

MR. SARSFIELD. I think we're caught in the dilemma of what was started to be under President Nixon a new federalism and I think where States' rights were extremely adhered to, and I think they gave five national goals to the Federal level and then allowed the States to determine and define their own social services, and I think we're in serious trouble not here just in California, but on the east coast, etc., in defining just what our social services are.

I think all States in the Union now are up to their maximum of the \$2.5 billion or hopefully the \$2.7. I just don't think the competence rests in State governments, especially nationally where half the State legislatures only meet for 2 weeks out of a year and some less than that, the remaining 25. And I certainly don't think the competence exists here in California and we have literally hundreds of pages of documentation of that.

VICE CHAIRMAN HORN. In terms of the States' defining social services, I take it, then, you would favor one definition nationally applied to all people with no real variation at the local level? Or would you favor any optional services to be added at the local level, if you're going to eliminate the States—

MR. SARSFIELD. I would think there should be optional services at the local level, but I'm saying that we use terms like homemaker chore, where nobody can define the difference. We're into hourly rates that compete 58 times around the counties here. We're told by States' bureaucrats, if you will, that we have to go competitive bid. We're told that the aged, blind, disabled here in California are the employers and must fill out W2 forms for State and Federal withholding for people that work in their homes. We're told that there's a limit on how much we can pay the individual providers, yet we're in violation of a Federal minimum wage law to people that are delivering the services. I think California's social service plan is rather confused, to be polite.

VICE CHAIRMAN HORN. Would you say that the California plan is confused because it's the result of a political process where various pressure groups were able to get their particular pet project adopted and which forces the various State administrative departments then to carry out those particular wishes?

MR. SARSFIELD. I think it's a combination of that and incompetent personnel. I think that there's no getting their act together, so to speak, as far as policies of deinstitutionalization, Short-Doyle funding

interface between Titles XVIII, XIX, and XX, Titles II and VI, Title III of the Older Americans Act, absolutely nothing as far as leadership at the State level.

VICE CHAIRMAN HORN. Mr. Lain, you're at the State level. What's your reaction to this?

MR. LAIN. I think—

VICE CHAIRMAN HORN. I realize most of the decisions are made at a higher level than you are, but you're in the organization.

MR. LAIN. Well, I think when one, Ed's last point is a very valid one. In the sense that there are many Federal programs being implemented here in California, there certainly is a need to have coordination, integration, between those programs.

It is extremely difficult to achieve that necessary kind of coordination. In part it's a reflection on the Federal programs themselves. Each of the programs has different funding ratios, has different rules, has different reporting requirements, and often very different fiscal control requirements. And it makes it extremely difficult, then, to really array the various programs, the various federally-funded programs in such a way that they are coordinated, that they do work together, and that they do complement one another rather than compete. And I am in agreement with his, that portion of his comment.

VICE CHAIRMAN HORN. You're saying that the way the various Federal programs have been written, there is no way you can get coordination, I take it, of the programs? Pardon?

MR. LAIN. I wouldn't go quite that far.

VICE CHAIRMAN HORN. Well, where is the responsibility for getting the coordination, in the Department of Health, Education, and Welfare or at the State level? Who needs to get whom—

MR. LAIN. I might say in both places, I think that federally it, the means needs to be made a little bit easier than it has been to date. I believe at the State level we do need to do a better job than we have in the past in trying to integrate the programs.

VICE CHAIRMAN HORN. In trying to what?

MR. LAIN. Integrate.

VICE CHAIRMAN HORN. Well, presumably you've got the relevant agencies all coordinated by one cabinet secretary in California. Why can't you get coordination?

MR. LAIN. Well, I—one of the difficulties I mentioned earlier in terms of the different rules that apply for all the different programs, making for separate eligibility determinations being required in the various programs.

VICE CHAIRMAN HORN. Are these rules set by HEW—

MR. LAIN. Yes.

VICE CHAIRMAN HORN. —as an administrative regulation?

MR. LAIN. Well, they're set by law and by HEW.

VICE CHAIRMAN HORN. Well, okay, that gets back to my original point, then, to what extent does Title XX and various other Federal

programs interrelated with it need to really have sort of a uniform-code-type approach to it to get rid of some of these inconsistencies or some of the areas in one law which prevents effective coordination at the State and local level of other laws? I mean, isn't there some way that the profession of social work can deal with these matters and that the State, Federal, local agencies can grapple with them? It just seems to me like what we've got here is a bureaucratic machine that grinds on endlessly, chewing up people in the process because nobody is—as was suggested, can get their act together. I'm just wondering, how do you do it? You're experts, you're living with the problem.

MR. LAIN. I really don't know how to respond to that. I think that it is an effort that is required at all levels. I think that it's essential that the means to achieve the coordination first occur at the Federal level. I think that it's, for instance, just the eligibility determinations, that's always the beginning function in any social work organization. And when you have to do different things for Title XVIII or Title XIX and for Title XX, and different things for the aging programs, in order to determine whether the person is eligible for the particular service, you really are, in that example, you have triplicate eligibility determinations being required because the requirements do differ in those three programs.

VICE CHAIRMAN HORN. Well, right on that point, let's get in as Exhibit 21, counsel, just what are those requirements. It seems to me that if this Commission is to do anything constructive after getting into some of these areas as they relate to age discrimination, one possible recommendation is to ask the Secretary of Health, Education, and Welfare to convene the relevant people from the State and local levels to really sit down and explore what these differences are and come up with a program that could be either recommended to Congress, if that's what is needed in terms of change in the law, or get HEW to change its administrative regulations as they relate to State and local programs, to get some common approach to these matters. So, without objection, Exhibit 21 will include those varying eligibility definitions as they apply to the programs you cited and any others that the staff feels are relevant.

Go ahead, Mr. Lain.

MR. LAIN. Well, I think that was it.

VICE CHAIRMAN HORN. Okay. Ms. Ellison, do you have any additional comment you'd care to make after listening to this discussion?

MS. ELLISON. Yes. I think I do. You raise the question of why we strayed so far afield from what the Congress intended. And I guess I feel that if I were clearer about what Congress intended, I could answer that question better, with respect to Title XX and social services.

I do know that there was an impression that there was an anxiety to have States have more flexibility and not have so many restrictions and constraints on how they would identify who they would serve, and

who they would serve. It seems to me, though, if you're talking about correcting so that you do move away from the multitude or multiplicity of competing regulatory requirements that relate to eligibility and funding and fiscal constraints and so forth, that you're moving again away from the flexibility. I just don't think, you know, my personal opinion, you can't have it both ways. That—and I think my feeling, this is a personal observation that the lower the, closer you get to the action, which I know is part of the forest of either a block grant approach or a flexibility approach, that the heavier the pressures are on the people who have the decisionmaking responsibility to either go this way or that way or to accede to demands.

I think there are people in the country who have worked for a long time in social services and have seen the evolution from '66, when we first, as I mentioned, in the act, to the present time, through IV-A, VI, Title XX, who believe that we're almost back to square one, that in a lot of ways maybe we were providing more services before we had a separation of services from income maintenance and before we had all the other requirements mandating services and then moving away from it.

And really, Title XX is, as Mr. Sarsfield mentioned, has been modified in such a fashion that it is now closer to what it was intending to get away from than currently and that was intended and that, in reality, this then has been in response to a variety of public interest expressions through the hearing process and the published regulatory process and the, you know, it's one of our feelings in the field has been if they would just leave it alone for a while so we could get this implemented because every time we turn around seems to me we're responding to either another amendment to Title XX or a revised regulation, but I don't think the flexibility necessarily and some kind of evenhandedness go together. So I think this is one of the choices you're going to have to make.

VICE CHAIRMAN HORN. Very good.

Mr. Saltzman?

COMMISSIONER SALTZMAN. No questions.

VICE CHAIRMAN HORN. Mr. Nunez?

MR. NUNEZ. Ms. Ellison, it would appear that some of the witnesses have some concerns as to the interrelationship of the coordination mechanism between the Federal, State, and local levels. Do you subscribe to that pattern of coordination? It does seem fraught with some possibilities of confusion and spinning of wheels and we in the Federal Government seem to be quite committed to that concept. But in your experience, it requires a lot of energy just to keep the system going, without really doing much?

Ms. ELLISON. You're asking me for my comment?

MR. NUNEZ. Yes.

Ms. ELLISON. I guess charity begins at home. We don't do very well about coordination within HEW, I don't think. I think we struggle with

it; I think we try. I don't think we do as good a job as we could in terms of coordination and integration of the various pieces. There are some, you know, really, without falling back on the legal basis, we do have a vast array of different kinds of requirements in the various programs, and I don't think the fault is all within HEW. There are a lot of programs that we impact upon and which impact upon us, outside of our Department, which makes it even more difficult to do the kind of coordination.

Secondarily, we're forever reorganizing. Once we get our act together in terms of, I think, if we have a mechanism somebody has a bright idea that if we do it this way—and then the boxes are shifted, then, of course, it will be easier—and we've got to relearn or set up new pathways of communication and coordination.

I'd like to move away, because I could say a lot about our deficiencies, but I'd like to talk a little bit also about California in their defense. One of the things that we have—I think this is true of all States—one of the things that we've been on their backs about, if you will, to the degree we're able to and we don't have a great deal of clout, is the shortage of staff that they have experienced in terms of being able to do the kind of things that are demanded of them. Just to stay up to, you know, even with both program accountability as well as the other piece of it which is financial accountability. The fact that they cannot make more frequent consultation contacts with the localities who have the action, the administrative responsibility; the fact that they lack sufficient staff to monitor, to really provide the information they need at the State level to decide how these programs are to be changed or modified. I think all of our States go with it on a day-by-day basis and of course GAO was always on our backs about the fact that we don't do what we're supposed to do and our basic answer is we don't have enough staff.

Look at the Federal bureaucracy and the numbers you have. It sounds kind of ridiculous, but it is an absolute fact that we are extremely handicapped in that respect. And we don't do as well as we would like to do, but we keep struggling with it and I think the States do too.

VICE CHAIRMAN HORN. Very good.

Ms. Bradley?

MS. BRADLEY. Ms. Ellison, pursuing the question of coordination, we have found in other areas of the country that once the SSI program was instituted, federalizing payments to the aged, blind, disabled, and thus moved out of the normative of public welfare or the normal public welfare system, that some problems occurred for SSI recipients in receiving services under Title XX and whatnot. First, let me ask you, has that been a problem in this region?

MS. ELLISON. Yes.

MS. BRADLEY. Secondly, has the regional office when you are part of the Social and Rehabilitation Service and now being part of the Of-

office of Human Development, but did the Social and Rehabilitation Service at the regional office level attempt to negotiate any kind of agreement with the regional office of the Social Security Administration here?

Ms. ELLISON. Well, it wasn't so much a matter of negotiating agreement. We had working committees made up of representatives of the various affected or involved agencies, Aging, SSA, SRA, a few others, which we worked consistently on how to overcome and—pardon me, the States. Particularly the State of California had an active membership in this, and we did come up with, you know, suggestions and devices, but part of the problem is related to the inherent gap that was left by the legislation.

Ms. BRADLEY. Did you find that this kind of interagency committee or group had any kind of effect or was able to move the referral process between the Social Security district offices and the county departments of public welfare?

Ms. ELLISON. I think we had some success, more so than we would have if we hadn't done anything. I personally was disappointed and I think you know with the degree that we were able to be successful. I think I'd like for Joe to talk—to add a comment.

Ms. BRADLEY. Yes, I was going to raise the same point with you.

Mr. LAIN. Yes, I think that the impact of H.R. 1 in terms of the SSI population has been fairly large in terms of the reduction in the number of referrals for social services. And I think that, as Lucy has indicated, that our efforts did have some impact.

One idea that we would love to have mandated throughout the State was the outstationing of social service personnel in SSA offices. But, and that did occur in some locations and is still continuing in some locations throughout the State.

Ms. BRADLEY. Why hasn't it occurred in all locations? Were there some impediments that you ran into?

Mr. LAIN. Yes, namely, money, because it does take staff and dollars to do that. And we did not feel that we were able to impose that kind of requirement on counties when already the funding was being utilized towards policy.

One other effort that I just wanted, briefly want to touch on is the training effort in terms of SSA personnel. SSA has ordered 100 copies of a slide-tape presentation. That's to be delivered before the first of the month to them for use of all their personnel throughout the State and it's a very slick job, and was developed with ourselves—SSA, the regional office, and L.A. County actually did the technical aspects of it.

Ms. BRADLEY. Ms. Ellison, as you have already indicated earlier, one of the major issues in the development of this piece of legislation was the conflict between Federal specifications and State discretion and State authority. Among some of the age advocate groups who were pushing for earmarking of funds within legislative authorities, this issue

has also come up relative to resolving the problem of age discrimination. What kind of advice would you offer relative to the problems you've outlined with this kind of block grant approach and yet with the problem of categorical programs and dependent categorical programs or categorical requirements within block grant programs? Is there anything that can be done relative to resolving age discrimination given the variety of mandates and theories and public policies underlying these kinds of statutes? I ask you that because you've been notable in the public welfare field for many years and have seen the changes that have occurred in these programs.

MS. ELLISON. Well, I guess I'm an idealist and I really believe that what we ought to be moving toward is a, what Mr. Sarsfield referred to as a universal service system, which is—I'm talking about ideal—unhampered by the lack of funding, but also which enables some assessment to be made of the needs of the respective communities so that there is again an evenhandedness in terms of meeting a need there.

You may—to me that would be the ideal arrangement, rather than setting of categories, I think we'd be back in the same kind of thing we are now in terms of the pressure groups and the conflicts in terms of the competing demands for the funding when, and of course as long as you've got a commitment—I don't mean, I'm not one of these people that feel that we don't have enough money to provide service, I just think we haven't had enough commitment.

VICE CHAIRMAN HORN. Enough what?

MS. ELLISON. Commitment. In this country. Enough commitment.

VICE CHAIRMAN HORN. Commitment.

MS. ELLISON. And so far as I'm concerned, there is a need to readress that kind of a concern and then not be so concerned about categories but perhaps set up the system that is comprehensive and it is designed to meet people's needs as they appear there, and then not worry too much about age groups, but I think some of that, hopefully, would fall out.

MS. BRADLEY. Mr. Lain, in terms of meeting the Federal matching requirements for Title XX, is this mostly made up of State appropriations or do you rely substantially or in what part on local revenues?

MR. LAIN. No, it's a combination of county and State funds basically. The county would be matching, about \$40 million, I believe, would be the county commitment. The State commitment would be several times that, and due to our overmatches in so many programs, or in several programs—well, I don't have a figure off the top of my head on it, but it's well over \$100 million.

MS. BRADLEY. Mr. Sarsfield, in terms of the county match for San Francisco County, are these out of the general revenues of the county or do you rely on private third parties for coming up with matching funds?

MR. SARSFIELD. We have a United Way contributor factor plus the *ad valorem* tax base here in San Francisco.

Ms. BRADLEY. I'm sorry, could you repeat that?

MR. SARFIELD. We have both public and private match. The only program we do not participate in financially with the State is the in-home supportive service program. It's 100 percent State and Federal.

Ms. BRADLEY. Does the availability matching by third parties in your experience at all play into who gets contracts, purchase of service contracts under Title XX in the county?

MR. SARFIELD. I think the whole concept of donated funds is fraudulent. You receive donated funds when you have them clearly earmarked for which group ahead of time anyway.

Ms. BRADLEY. Then would you make the same statement about the competitive bid process?

MR. SARFIELD. Well, the competitive bid process for the human service field, this city is—just speaking for this city, city charter, and it's run by a city administrative code where the purchaser makes all decisions, to have the State require that we take the lowest competitive bid which means that we have a 400 work force here, primarily black women who were formerly recipients of AFDC—at least 65 percent of them are—the State telling us to go competitive bid and take the lowest qualified bidder forces those women every year to go back to the minimum wage and to lose accrual of all seniority, sick benefits, etc.

Ms. BRADLEY. But let me just pursue this point just a bit further. Competitive bids, lowest bid as well as technical capacity—that is, the best for the lowest price—are generally the prerequisites for contracting, generally speaking. But the availability of matching from a United Way organization, a senior center, a local health organization, in fact is a condition precedent to either, one, proposing on the bid that's been put out, or two, even being seriously considered as a potential contractor. Would that be a fair assessment of the competitive process?

MR. SARFIELD. I just don't see how you can have the competitive bid process in the public service arena. I think it's absolutely absurd.

Ms. BRADLEY. Thank you.

Ms. ELLISON, would you comment on the problems or issues that have come through in the purchase of services versus direct services area following Mr. Sarsfield's comments?

Ms. ELLISON. Well, there are all kinds of Catch 22s, I think, in the—I'm sorry, in the purchase of services arena. And I'd like to move away from California and talk about some of the other States in the region where the availability of service resources are perhaps not nearly as great as they are, perhaps, in an industrial State like California.

But the pressure upon the State agency to concede to and to serve, if you will, as a funding source, as a funnel through which the Federal funds get to the local private sector, is unbearable almost and very often that often conditions the variety and the quality of services that

the State ends up providing, rather than what they might have wanted in the way of planning or whatever.

MS. BRADLEY. Would you also say that that also creates a continuing pool of service providers that maintains or sustains itself and that in fact it's the same people doing the same things for the same people?

MS. ELLISON. I don't know if I want to go that far.

MS. BRADLEY. Okay. Thank you.

VICE CHAIRMAN HORN. Thank you very much. We appreciate each of you having come here and joined us, shared your experience with us. It's very helpful.

The next panel is a panel of State legislators, the Honorable Willie Brown, State assemblyman, Honorable Art Agnos, State assemblyman, and Honorable John Francis Foran, State senator.

Please come forward.

MS. TAYLOR. Mr. Chairman?

VICE CHAIRMAN HORN. Ms. Taylor? Counsel?

MS. TAYLOR. It appears that Assemblyman Brown will not be here. He has sent a representative, and Assemblyman, Senator Foran has sent a representative. On yesterday we were informed by Assemblyman Agnos' office that his stand-in, he and his stand-in had a crossup and neither one would be able to make it this morning, so these are the only two.

VICE CHAIRMAN HORN. That's very good.

Ladies, if you will stand and raise your right hands, we will swear you in as witnesses.

[Ms. Maria Alcalde and Ms. Deborah Fagan were sworn.]

TESTIMONY OF MARIA ALCALDE, ADMINISTRATIVE ASSISTANT TO CALIFORNIA STATE SENATOR JOHN FORAN, DALY CITY; AND DEBORAH FAGAN, AIDE TO CALIFORNIA STATE ASSEMBLYMAN WILLIE BROWN, JR., SAN FRANCISCO

VICE CHAIRMAN HORN. Please be seated. Counsel will identify the witnesses.

MR. SCHWARTZ. Would each of you please state your full name, your address, the legislator whom you are associated with, and the position—

VICE CHAIRMAN HORN. Should be said with whom you are associated.

MR. SCHWARTZ. Thank you very much.

MS. FAGAN. My name is Deborah Fagan and I work for Assemblyman Willie Brown, Jr., 540 Van Ness Avenue here in San Francisco.

VICE CHAIRMAN HORN. You're his field representative?

MS. FAGAN. No, I'm not. I'm one of his aides.

MS. ALCALDE. Maria Alcalde with the office of Senator John Foran and our office is at 15 Southgate, Daly City, and I'm his administrative assistant.

VICE CHAIRMAN HORN. Would you mind spelling your name for us, please?

MS. ALCALDE. A-l-c-a-l-d-e.

VICE CHAIRMAN HORN. The first name? If you could spell the first name, I have trouble hearing up here.

MS. ALCALDE. Maria, M-a-r-i-a.

MR. SCHWARTZ. It's my understanding, Ms. Fagan, that you merely have a prepared statement to present for the record from Assemblyman Brown; is that correct?

MS. FAGAN. First of all I would like to apologize; due to other commitments Mr. Brown could not be with us today. And he sent a message that he will answer all of the panel's questions with a written response. I also have a bill here that Mr. Brown has introduced that will prohibit discrimination in any State funding agencies, Assembly Bill 803.

MR. SCHWARTZ. Are you prepared to discuss that bill with us or—

MS. FAGAN. I would prefer Mr. Brown to discuss the bill with you.

MR. SCHWARTZ. All right, thank you. Mr. Chairman, I would suggest at this time that the prepared statement and the bill be introduced as two separate exhibits.

VICE CHAIRMAN HORN. All right, as two separate exhibits?

MR. SCHWARTZ. Just to be able to keep them straight.

VICE CHAIRMAN HORN. They'll be introduced as Exhibit 22, and give me the bill number again, if you will?

MS. FAGAN. Assembly Bill 803.

VICE CHAIRMAN HORN. 803 will be Exhibit 22, or rather the statement will be Exhibit 22 and the bill will be Exhibit 23. Without objection they're entered into the record at this point.

MR. SCHWARTZ. I'll ask you, Ms. Alcalde, are you—do you have a prepared statement to submit for the record?

MS. ALCALDE. Yes, I have a prepared statement from Senator Foran to submit.

MR. SCHWARTZ. Mr. Chairman, may we take that as Exhibit 24?

VICE CHAIRMAN HORN. That will be, without objection, the statement from Senator Foran will be entered as Exhibit 24.

VICE CHAIRMAN HORN. Does counsel wish to read the questions he intends to ask or under the subpoena is there any problem with that in terms of sending them to various legislators involved?

MR. SCHWARTZ. Mr. Chairman, the State legislators were not served. They were not going to be here under subpoena; they volunteered testimony.

VICE CHAIRMAN HORN. So, apparently they're willing to answer these questions and we will submit them in writing for a written response.

MR. SCHWARTZ. I believe that would be best and rather than read them into the record, I think we can just add them to the record as an exhibit if necessary, and send them on to the offices of the legislators.

VICE CHAIRMAN HORN. That will then be Exhibit 25, the questions we had planned to ask the various legislators if they attended, and they will be, then, communicated, including Assemblyman Agnos, by counsel, and we would appreciate any response that the various assemblyman would be able to provide us.

MR. SCHWARTZ. Ms. Alcalde, I'll ask you, since you may have been prepared to answer some of these questions, if you've had any oral statement that was going to be—that you're prepared to make on behalf of Senator Foran?

MS. ALCALDE. Well, I had prepared a few, you know, answers to questions, but I am quite willing to submit them in writing also, if this will save time for the panel.

MR. SCHWARTZ. I would suggest that we utilize the procedure of sending the questions on.

VICE CHAIRMAN HORN. Very good. We thank you very much—yes?

MS. FAGAN. Excuse me, I have a question. On behalf of Deborah Fagan, not on behalf of Mr. Brown. I work with housing in the office and I would like to make a statement on housing discrimination in age.

VICE CHAIRMAN HORN. Please do.

MS. FAGAN. Okay, I used to reside in Daly City and I resided in the Country Club Apartments; no children are allowed in the pool apartments. I called this morning—I do not reside there anymore—to see if this was still current; it is so. The manager's reasoning for no children being admitted to the pool apartments is that two children have drowned in this last 22 years of being a manager. However, those apartments have not been up for 22 years. Also—

VICE CHAIRMAN HORN. Presumably, he might have been a manager at another apartment—

MS. FAGAN. Correct, and I don't have any facts for housing discrimination against senior citizens, but I know for a fact it occurs. I—it's hard to explain, but it does occur.

VICE CHAIRMAN HORN. Well, I share your concern, having lived in Sacramento, California, for 6 months in 1958. My wife went to 23 apartment houses within four blocks of the State Capitol of California and only one could we find a place to live with our 4-year-old daughter. So it is a very real problem. That was partly due to the fact that State senators and State assemblymen did not wish to be disturbed by small children, I am told, so I wish you luck in terms of the adoption of Assemblyman Brown's bill.

MS. FAGAN. Thank you.

VICE CHAIRMAN HORN. Any further questions?

MR. SCHWARTZ. No further questions.

VICE CHAIRMAN HORN. If not, thank you both very much for coming down, we appreciate it. We will appreciate the help of your legislators. We know they have very fine records in this area. Thank you.

MS. FAGAN. Thank you.

VICE CHAIRMAN HORN. The next panel is the panel on the legal services program, Mr. Celaya, Mr. Estoker, Mr. Smith, Rosenzweig, Ms. Crisp. Please come forward.

[Mr. Joaquin Celaya, Ms. Jean Ann Crisp, Mr. Charles Estoker, Mr. Michael Gilfix, Mr. Stefan Rosenzweig, and Mr. Hiram Smith were sworn.]

TESTIMONY OF JOAQUIN CELAYA, REGIONAL OFFICE, LEGAL SERVICES CORPORATION, SAN FRANCISCO; JEAN ANN CRISP, SENIOR ADVOCATES, SAN MATEO COUNTY; CHARLES ESTOKER, SAN FRANCISCO NEIGHBORHOOD LEGAL ASSISTANCE FOUNDATION; MICHAEL GILFIX, SENIOR ADULTS LEGAL ASSISTANCE, PALO ALTO; STEFAN ROSENZWEIG, YOUTH LAW CENTER, SAN FRANCISCO; AND HIRAM SMITH, SAN FRANCISCO NEIGHBORHOOD LEGAL ASSISTANCE FOUNDATION

VICE CHAIRMAN HORN. Please be seated.

Ms. Taylor?

Ms. TAYLOR. Thank you, Mr. Chairman.

Would each of you please state your name, your address, and your organizational affiliation, please?

VICE CHAIRMAN HORN. Starting with Mr. Celaya.

MR. CELAYA. Joaquin Celaya; 690 Market, Suite 700, San Francisco. For the regional office of the Legal Services Corporation.

MR. ESTOKER. Charles Estoker, 1095 Market Street, Suite 302, San Francisco Neighborhood Legal Assistance Foundation.

MR. SMITH. Hiram Smith, 1095 Market Street, Room 312, San Francisco Neighborhood Legal Assistance Foundation.

MR. ROSENZWEIG. Stefan Rosenzweig, Youth Law Center, 693 Mission Street, San Francisco.

Ms. CRISP. Jean Ann Crisp, Senior Advocates, San Mateo County.

MR. GILFIX. Michael Gilfix of Senior Adults Legal Assistance in Palo Alto, California.

VICE CHAIRMAN HORN. I'm sorry, I couldn't hear; would you move the microphone toward you?

MR. GILFIX. Yes, Michael Gilfix, director of Senior Adults Legal Assistance in Palo Alto, California.

VICE CHAIRMAN HORN. Thank you.

Ms. TAYLOR. Thank you very much.

Mr. Smith, I would like to direct the first question to you. Would you just briefly describe your program of the San Francisco Neighborhood Legal Assistance Foundation—am I correct?—in terms of funding level, the sources of funds, the geographical area covered, your neighborhood law offices, the size of staff, and the services provided?

MR. SMITH. The San Francisco Neighborhood Legal Assistance Foundation provides civil legal assistance to the poverty community of San Francisco; that is, the entire City and County of San Francisco. We are funded by the national Legal Services Corporation. Our present funding level is \$1,200,000. We maintain five neighborhood

offices in what were the traditional target areas under the OEO [Office of Economic Opportunity] program. These offices are located, each of them, in areas of intense need. However, there are other areas of need which are—in which we do not have offices.

We have approximately 70 paid, full-time staff. We also use the services of volunteers, law students, clinical students in colleges and universities, someplace in the neighborhood of, I guess the average would be 50 or 60 individuals. We serve between 15,000 and 18,000 persons a year.

The offices which we maintain where the neighborhoods are located in the Chinatown-North Beach area of San Francisco, Hunters Point area, Mission district, the central city area, which is that area south of Market, intended to serve the Tenderloin and South Market area, the Western Addition, and the Mission district.

We maintain a central office at 1095 Market Street in which we have located our specialized units. Those specialized units deal with domestic relations problems. We have a woman's litigation unit there which primarily deals with the problems of women in the society, and a welfare advocacy unit which handles SSI, SSDI, food stamps, Medicare, Medi-Cal, and other administrative matters. This program is staffed by two attorneys, several senior paralegals and a number of law students and other clinical students; usually they number between 30 and 40, depending on the time of year. We have our greatest number of students during the school year.

Our neighborhood offices provide general assistance, general civil assistance, to people who have problems in the areas of housing, consumer problems. We do some domestic relations work in the neighborhood law offices, representing respondents. We handle some tort litigation—that is, the defense, primarily, of uninsured motorists—and other civil matters such as wills and formation of nonprofit corporations and things of that variety.

Ms. TAYLOR. Thank you.

Mr. Estoker, I believe you are a senior paralegal at the same institution?

Mr. ESTOKER. That's correct.

Ms. TAYLOR. Would both of you, either of you, comment on whether you have more clients or more potential clients than you can actually serve?

Mr. ESTOKER. Well, at the present time I'd say right now we probably have more clients than we can serve.

Ms. TAYLOR. Mr. Smith, what are the priorities of the San Francisco Legal Assistance Foundation?

Mr. SMITH. Well, we are attempting to do the best that we can with what we have. There is such a large area of unmet needs that we have, of necessity, involved ourselves in the past with dealing with the problems which seem to be of foremost concern to our client constituents. In San Francisco, that problem seems to be housing. Now,

up until very recently when we began to do some rethinking about our approach to the problem, probably 40 percent of our total legal resources were put into the problem of dealing with the housing problems of our clients.

The priorities have been pretty much based on the needs that we've perceived in the number of complaints, of consultations, and referrals for service that came from our clients. There obviously are some things which we have decided not to do because of the services are available elsewhere, because in the context of the need we did not feel that we could, that we had the luxury of doing certain kinds of civil legal work such as change of name, bankruptcies, and a few other related kinds of areas. However, we do handle those cases where we feel that the need is extreme and this is, as I said, based on what we get from our communities.

MS. TAYLOR. Thank you. Do you have with you the records kept by, SFNLAF I believe you referred to it, on the aged clients served in '76 and the first quarter of '77?

MR. SMITH. Yes, I do.

MS. TAYLOR. I'd like to ask you a few questions on that. Could you tell us what the percentage of total clients in '76 that were 65 and older?

MR. SMITH. These figures are based on the, all of 1976 and the first quarter of 1977. They were a total of 15,552 people served during that period of time.

MS. TAYLOR. That's total?

MS. SMITH. That's correct.

MS. TAYLOR. Can you pull for us quickly, of that total, persons 65 and over?

MR. SMITH. All right, there were approximately 8 percent of the total persons served were—7 percent, beg your pardon, of the total persons served—

MS. TAYLOR. Seventy-seven?

MR. SMITH. Seven, 7 percent. Approximately 1,157 people of the 15,552.

MS. TAYLOR. Could you give me the percentage for clients 21 years or younger?

MR. SMITH. Our statistics are, don't happen to be broken down that way; we have under 22, so I guess—the total number were 8 percent of the 15,552, 1,315 people.

MS. TAYLOR. Eight percent?

MR. SMITH. Correct.

MS. TAYLOR. 1,352.

MR. ROSENZWEIG—I'm sorry, Mr. Chairman, before we go on to it would you please submit that to the record? Mr. Chairman, I'd like this introduced as Exhibit No. 26.

VICE CHAIRMAN HORN. How do you wish it identified? Have you got a title to it, Mr. Smith?

MR. SMITH. Yes, it is denominated San Francisco Neighborhood Legal Assistance Foundation, clients served in 1976, age breakdown, and bears the date June 1977. I will affix my signature to it.

VICE CHAIRMAN HORN. Is that a fiscal year or a calendar year?

MR. SMITH. That is, as I indicated earlier, these statistics include the calendar year 1976 and the first quarter of 1977.

VICE CHAIRMAN HORN. Okay, so it's five quarters' data?

MR. SMITH. That's right.

VICE CHAIRMAN HORN. Very good. Without objection it's entered as Exhibit 26.

MS. TAYLOR. Thank you, Mr. Chairman. Now, Mr. Rosenzweig, could you describe the nature of the organization for which you work?

MR. ROSENZWEIG. Yes, the Youth Law Center is the nationwide support center for legal services programs for the poor in the areas of youth law, defined broadly as juvenile justice, education, anything that has to do with young people. We also do local California work. All of our work is what we consider test case litigation. We don't see individual clients. We—

MS. TAYLOR. You don't see individual clients?

MR. ROSENZWEIG. No, we make referrals of individual clients. Quite frequently an individual client will come in, we'll end up doing a case for that person, but we only have seven attorneys, two of whom are VISTA attorneys, on our staff, so we're somewhat limited in what we can do.

MS. TAYLOR. Right. Well, could you address this point, what, in your opinion, what has been the extent of the representation of eligible young people, I guess I mean 21, under, at that age, for the Legal Services Corporation-funded programs?

MR. ROSENZWEIG. I think there's been really a very serious underrepresentation of young people in legal services programs. I, myself, worked for the Legal Aid Society of Alameda County for about 7 years and also worked for the Center for Law and Education, which does backup in the area of educational law for legal services programs. As a legal services attorney you rarely see a young person come into your office. I know, in my own experience over a number of years in neighborhood work, I only saw a couple of kids and usually they involved school suspension cases. Occasionally a young person will come in concerned about an emancipation, but unlike the old, there are very, very few programs that specialize in young people law. There are a number of very, very serious lacks of representation in legal services programs. I'd like to name a couple of areas that I think are really gross.

MS. TAYLOR. Please do.

MR. ROSENZWEIG. One area is adoptions. When a parent relinquishes a child for adoption, the child rarely receives any kind of representation in a case like that. Children of foster care rarely have counsel. The ABA standard would provide for all kinds of reviews of foster

placements, but who's to represent children in those kinds of instances?

Status offenders, the runaways, the unruly children—frequently they're represented by a public defender or a court-appointed attorney. Generally, I think it's fair to say that they receive inadequate representation from those sources. I know in my own experience—I've handled a number of status offenders—I've had experiences where I've walked into a holding cell before a hearing to determine whether or not a status offender should go home. There will be 9 or 10 kids in there; I'll be representing 1 and the PD will be representing 8 or 9.

The most important thing that you can do for a young person in that type of instance is to create some kind of a disposition. There's been a problem at home, the kid has run away. You have to do your homework. The PD frequently just doesn't have time to do homework; Legal Services, as a matter of priority, does not get into that kind of case.

Termination of parental rights is a whole other area where Legal Services frequently doesn't get involved. Parents are represented by the PD in those kinds of instances; very often we could represent children in Legal Services. Dependency and neglect cases, another instance where Legal Services is very, very hesitant to get involved. Same is true in custody cases; there are some legal services lawyers that don't like to do custody cases.

Finally, there are a lot of kids in institutions, juvenile institutions and mental institutions, who are not reached by legal services programs. Juvenile institutions, I've seen a couple of programs, some privately funded, where law students will go into institutions and find all kinds of flagrant violations of constitutional rights. They're able to get a lot of kids out of jail by filing writs of *habeus corpus*. Legal Services generally has not gotten into that kind of work.

In the mental institutions, the public, there's an area where the public defenders have little involvement these days because in the State of California juvenile court can no longer send a child off to a mental institution, but it's created somewhat of a vacuum and the local legal services programs are understaffed and have very large caseloads and haven't gotten into that.

VICE CHAIRMAN HORN. Excuse me, on that point, you say the State of California Juvenile Court can no longer send a juvenile to a mental institution?

MR. ROSENZWEIG. Well, they have to go through what they call the Landerman-Petry-Shore Commitment Proceedings, which are more technical and more complex. What used to happen in California was juvenile courts would just be sending kids off to mental institutions without any determination that the child was gravely disabled. The courts have held that that violates the kids' rights, and they have to go through the normal commitment procedure.

VICE CHAIRMAN HORN. Okay, but then they can send them to an appropriate State-funded institution?

MR. ROSENZWEIG. That's correct. That's correct. So those are some of the areas where children aren't receiving what I would regard as adequate service.

VICE CHAIRMAN HORN. Thank you very much. Could you just briefly point out to us some of the pattern and practice kinds of suits that your organization has been involved in—you say you don't represent individuals, just briefly tell us that, will you?

MR. ROSENZWEIG. Okay, in the area of juvenile justice reform, we've done a lot of different kinds of cases, perhaps the best-known cases, *Breed v. Jones*, which extended double jeopardy protections of the Constitution to young people. We've been involved in educational litigation involving special education. The State of California has limits on the number of children who can go into special education classes; we've had challenges against that. We have a case challenging the building of a juvenile home on an earthquake fault down in Los Angeles. This was a situation that was destroyed a number of years ago in an earthquake.

We have a case, a damage suit, against the Alameda County Welfare Department for shifting a foster child from home to home without ever putting the kid up for adoption, a case against the San Francisco Unified School District for damages for failure to teach a student how to read. Out of State we're working on challenge to detention of status offenders beyond the age of 18 in the State of Tennessee. There are a lot of other cases, but that's the kind of work that we've done.

VICE CHAIRMAN HORN. Are you aware of any suit involving housing situation? We—

MR. ROSENZWEIG. Well, we were involved in getting an ordinance passed in the City of San Francisco to prohibit discrimination against young people in housing and now there is a bill before the legislature to do that statewide.

We haven't been involved in that type of litigation. We are involved in litigation against Lucky Stores for their failure to allow kids to enter.

VICE CHAIRMAN HORN. Thank you.

Mr. Gilfix? Would you briefly describe your organization?

MR. GILFIX. Thank you. Our program is an independent legal aid program; it's not a part of any other legal aid society. It was created in 1973, really to address what we thought was a very obvious and unmet need which was delivering legal services to people who are 60 years of age and over.

We have staff that includes staff attorneys, paralegals, and a great number of law students from both the Stanford and Santa Clara law schools. We're funded currently as a model project under Title III of the Older Americans Act. At the current time I believe we're the only project in the Nation that actually delivers legal services to clients who are funded in that way.

MS. TAYLOR. Thank you. So you say certainly that the elderly are underserved in the—

MR. GILFIX. Oh, absolutely. In initiating the program I met first with people who worked in senior centers, for example, in a number of cities in northern Santa Clara County, and I could, but I won't, take the time to give you a running list of the cases where elderly people needed legal services and simply did not get them. Some of them did qualify for legal services programs, but really wouldn't go down because of their own attitudes.

MS. TAYLOR. There's certainly not the lack of need that you're pointing out?

MR. GILFIX. Oh, absolutely not.

MS. TAYLOR. Could you point out for us why this is true? Why the elderly or older persons are generally underserved?

MR. GILFIX. Well, there's really many, many reasons. One of them, I think, really has to do with the attitudes of some service providers. I think many people who have been working in legal services programs have come in with the orientation that they will serve what their own conception is of the poor, and that, and this has, to a large extent, been minority people.

And there hasn't been any real consciousness about older people. It's different to provide legal services to older people. There has to be an aggressive outreach program, for example, you can't sit there and wait for clients to come in the door. I think there also has to be a housecall program where you can, you can simply go to the house of the elderly person. There's also the obvious mobility problems. That's what I've been getting at in the outreach and need for housecalls. People are simply not able to get around very much.

Perhaps the most important restriction on the delivery of legal services to the elderly, I think, flows from the means test, which I see no alternative than to get into at this point. A great many elderly people really don't qualify by the strict income guidelines that are in existence.

MS. TAYLOR. Why is that? Explain that to us.

MR. GILFIX. Well, one thing is that as the guidelines are established, SSI, which is available to people 65 and over, puts them over the minimum income. I think there is a way of getting around that for programs, but that's a major cutoff.

MS. TAYLOR. Would the fact that older persons usually would have a home, a few assets that maybe younger people would not have at that time, and that's counted, is that counted in and would also serve to—

MR. GILFIX. I think most programs exclude the residence. I'm not positive about that around the country.

MS. TAYLOR. Fine.

MR. GILFIX. But again the statistics reflect the extent to which they're underserved. From the studies that I'm aware of the client representation among the—the clients that are served by the Legal Services Corporation-funded programs varies between 2 to, I think, 8

is a new high for me, 8 percent of the clientele. And it's not enough, by the way, to say that you have to look at the percentage of the population, which might be around 10 percent; you should really look at the percentage of the poor population. And then you're talking something like 20 percent, that older people constitute approximately 20 percent of the poor people in this country.

Ms. TAYLOR. What suggestions do you have, Mr. Gilfix, for dealing with this problem?

Mr. GILFIX. Well, one thing certainly is to extend additional funding to programs that do provide legal services to the elderly and part and parcel of that is this ingredient of the flexible or, in the case of our program, a nonexistent means test. You can avoid handling cases for people who have a lot of money by simply excluding certain kinds of cases from your work. You don't have to do it by a means test which keeps a lot of people out of the door who really belong in your door.

We've had clients who have qualified for free legal services but wouldn't go down there because you know, to quote one gentleman, "That place is for poor people. I won't go near it." And yet he comes to us, that man was destitute; he was living on under \$200 a month at the time.

Ms. TAYLOR. Thank you.

Ms. Crisp, could you briefly describe your project, its funding source in relation to the corporation funding program, the Legal Aid Society of San Mateo County?

Ms. CRISP. Yes, since August 15, 1976, I have served as directing attorney for Senior Advocates. This is, you might say, an offshoot of the Legal Aid Society of San Mateo County, having been created in February of 1976.

We are funded primarily under Title III of the Older Americans Act. Our funding comes through the area agency on aging, and would you like the approximate amounts?

Ms. TAYLOR. Yes.

Ms. CRISP. \$50,289 for the calendar year 1/29/77 to 1/28/78; through CETA, Comprehensive Employment and Training Act, 32,600, a few odd dollars; and then a private foundation supplies \$7,000.

I might add that some of these figures are a bit misleading because there are about four different fiscal years with which we have to deal, so some of this funding will run out; for example, our Title II CETA paralegal is not funded past September 30, 1977.

We have on our staff at present, you might say six and one-half full—six and one-half staff members, full-time directing attorney, three full-time staff attorneys, two full-time paralegals, and one secretary who works 20 to 27 hours per week.

We have fleshed out our service personnel by occasional students who are taking an intern program at various law schools in the vicinity, volunteers who have come in to do paralegal type work or secretarial

work, and we presently have, until September of this year, one person who is funded under ACTION-VISTA. From time to time we have had someone funded under Title IX. However, it's very difficult to fill the two slots to which we are entitled because of a lack of qualifications of people.

Now, as to the relationship of the services provided by the Legal Aid Society of San Mateo County to us, they consist primarily, I would say, of four things. We are allotted an 800-square-foot space in the west corner of the second floor of the old Fox Theater building in Redwood City. We have in that space the people who work in our organization, sometimes as many as 12 people. One room, 10 feet by 17 feet, includes four desks, two attorneys, and two paralegals. And I might add, two telephones.

We are also, provided with the—we are permitted to use the library that belongs to the Legal Aid Society of San Mateo County. We were provided with secondhand furniture by them, and also we have been provided with financial assistance from time to time such as connecting up the telephones that I mentioned, and that sort of thing.

Now, would you like me to state the kind of caseload that we handle?

Ms. TAYLOR. Please briefly, ma'am.

Ms. CRISP. As of May 31, 1977, total number of cases served since the 15th of February 1976, totaled 1,722. I might add that we see clients not only at the central office, which is located at 2221 Broadway in Redwood City, we also see them at seven outreach sites.

We have, as of this month, been requested to supply two more outreach sites; that is, to staff two more outreach sites. We have also been requested, this fall, to supply personnel and service to an additional two outreach sites, which I believe would bring up the number of outreach sites to 11.

COMMISSIONER SALTZMAN. Ms. Crisp, excuse me, do you have a breakdown by age categories of that 1,722?

Ms. CRISP. Sir, I could obtain that for you from our records. However, we do serve only persons over 60 years of age who are residents of San Mateo County.

COMMISSIONER SALTZMAN. So it's the elderly?

Ms. CRISP. We have a breakdown, I have before me a breakdown of our last monthly report figures as minority and nonminority and so on, if that would interest you.

Now, as to the types of cases that we handle, primarily we handle cases involving income maintenance, public benefits, that, of course, includes social security, SSI, Medicare, Medi-Cal, veterans' benefits, pensions, and so on. We have a great many overpayment cases, SSI overpayment cases, in fact, an avalanche recently. We also handle a great many will cases. Some conservatorships, guardianships, not very many; a number of consumer problems, a great load of housing problems, and problems connected with nursing homes.

Sometimes we handle, oh, what I can all lump together as information and referral cases. People come in with what appears to be a legal problem to them and the legal problem is actually the tip of the iceberg. The main problems are social and economic, so we have a very, we work very closely with the information and referral service in San Mateo County and endeavor to place those people where they can be helped.

MS. TAYLOR. Ms. Crisp, do you believe that the elderly are underserved?

MS. CRISP. Yes, ma'am. I certainly do.

MS. TAYLOR. What, I'm directing this to you and Mr. Gilfix, what efforts have you made in your programs, these unique programs, to overcome these difficulties in either reaching the elderly, and quote, serving them?

MS. CRISP. Well, I think the primary way in which we have endeavored to reach the elderly is with our program of distribution of materials which deal with legal rights in areas that are of particular concern to the older person. We have developed brochures dealing with such topics as funerals, funeral insurance, the Natural Death Act, which by the way there is the very greatest demand at the present time. We have handouts on the tax laws, as they affect the elderly; consumer information, how to avoid being ripped off by various concerns. We also have information about holographic wills and formal wills, just to name a few of our brochures. We also have an ongoing program of public relations in which our staff members go to senior groups and make presentations, during which our services are made known to the public.

Because of our very limited staff, however, we have, in accordance with a mandate of Title III of the Older Americans Act, had to limit ourselves strictly to serving those people in the office who seem most needy, and we had also to curtail our outreach, by which I mean we have had not only to have as few outreach sites as possible, some of which are served only once a month, but we have had to limit the number of presentations of our services that we make because we just don't have enough people to do it.

VICE CHAIRMAN HORN. Ms. Crisp, let me ask you, on the limitation of services due to economics, what is the guideline you are following that as to where you decide who gets what service and who doesn't?

MS. CRISP. As I mentioned, we are not funded primarily by, in fact at all this year, by Legal Services Corporation. We are funded under the Title III of the Older Americans Act.

VICE CHAIRMAN HORN. Right.

MS. CRISP. Therefore, we follow that guideline, which, as you probably know, requires us to serve everyone over 60 who is a resident of San Mateo County, if it is possible to do so. That is, we have to be limited by our resources and we are mandated as we do to serve those persons who are of the lower economic bracket.

Now, we are also mandated to serve the minority people first if we must make a choice between nonminority and minority. We, therefore, keep a running list of their income levels and of minority people who we serve.

VICE CHAIRMAN HORN. Excuse me, is this written out in the agreement between the Administration on Aging and your organization or are these local rules with the legal aid society or what? Is it in your contract?

Ms. CRISP. Yes, sir, it is, I think you might say, impliedly written out. We have also, for our new work contract, which went into effect the 28th of January this year, a one-page summary of our guidelines, and that expresses more or less what I have just said, that we will direct our primary efforts toward the most needy.

VICE CHAIRMAN HORN. Well, I understand that, but I guess what I'm thinking of is the person down there handling the intake, some weeks there might not be too much to do and you will take people, other weeks—of a certain economic level. Other weeks you might not know where the next minute is coming from, and people are cut off based on economics. Now, what I'm fishing for is, is there a minimum standard that you apply? I mean that language, you know, in the Older Americans Act is interesting, but it's so vague it's meaningless.

Ms. CRISP. I quite agree. It is extremely vague and rather frustrating at times. We do not have an absolute standard to determine. In fact, I do not believe it is anywhere expressed in the regulations. We, therefore, try to use a sort of rule of thumb.

Now, you made one interesting statement that I have to speak to, you said some weeks you might have time on your hands. Would that we ever did. We have absolutely a huge load. If you will note the length of time we have been in operation and the cases covered at the end of May, I think you can see what I'm talking about.

All of us do intake. All of us handle clients. We, for example, to give you the sort of thing that we have to decide every day, a gentleman walked into the office who, in filling out his intake form, revealed that he had an estate of \$455,000. We, rather gently, discouraged him from staying with us for legal assistance and we did refer him to the lawyers reference service. Now, we simply do not have time to engage in extensive estate planning. We do not have time to. We do not feel we're justified in representing a gentleman of that type when we have four or five people waiting who are on SSI.

VICE CHAIRMAN HORN. Well, I understand that, that's the easy one to solve, but I guess what I'm after are the borderline cases, and how does—do you keep records on how many people are turned away and for what reason?

Ms. CRISP. We keep records on everyone who walks into the office and the disposition of the case, yes, sir.

VICE CHAIRMAN HORN. But you don't really have the income standing on those records, or do you?

Ms. CRISP. We have—yes, we do have the dollars and cents that they give to us as their income. And I might add here that I have talked with Peter Reid, who is executive director of the legal aid society, for, asked for more specific guidelines, and he has been quite frank to tell me that he felt it was not advisable to make a completely inflexible standard because we meet many times clients who are in situations that might possibly be a very valuable case to take because of the consequences in impact litigation, because of the possibilities of impact litigation.

Now, I don't know whether I've answered your question or not.

VICE CHAIRMAN HORN. Well, I'm just fishing for what is a rule of reason here, if you will, when you're drafting Federal regulations. What I'd like as Exhibit 27, then, are the standards as, in terms of services rendered on the basis of income, given an age minimum, in this case 60 or 65, and starting with the Federal law, the regulations, and how it gets right down to the operating level, including the particular guidelines in the contract of the Senior Advocates, Legal Aid Society of San Mateo County. Now, does counsel have a comment on that? Or Ms. Bradley?

Ms. BRADLEY. Counsel doesn't, I don't think, but I do. Let me just ask for precisely what you're looking for. As I understand it your program is funded under Title III of the Older Americans Act, so, Mr. Chairman, are you looking for the income guidelines requirements relative to the administration of that program as it operates in this legal services program or are we talking about the legal services under Legal Services Corporation or both?

VICE CHAIRMAN HORN. Well, I'm talking about a complete record and if it takes both, let's do that. I'm talking really at getting at the problem of income standards in relation to any program related to the aging. Now, if it goes beyond those two, you're the staff experts, what are the others?

Ms. BRADLEY. Nearly every program on which we've been receiving testimony for the past 2 days has income guidelines or income eligibility rules. They vary from program to program, they vary by age group or status, they vary by income resources and assets test; and I believe one of the exhibits that we've already stated for the record, will be supplied, covers the eligibility requirements for all of these programs; that would include income eligibility requirements.

VICE CHAIRMAN HORN. Well, yes, we had one exhibit on eligibility requirements for three programs, which would get at some of this. What I'd like here, then, are the means test, if you will, standard for any Federal program that is related to services to the aged. I'd like to see them in one place at one point in time and then, in addition, I'd like to know the guidelines and how this trickles down on this particular example in relation to the legal services program. So, are we clear what we're hunting for? All right, so without objection that's Exhibit 27.

Go ahead.

MR. GILFIX. If I could make one addition to that, the—there are, at one point there were 11 projects funded as model projects in legal services under the Older Americans Act, and at one point we addressed this issue and we designed what at one point we felt would be a model set of economic guidelines. Their essence is flexibility and they're very long and because they're so long they might not be workable, but for your work you might be interested in including those.

VICE CHAIRMAN HORN. That will be very helpful as part of the exhibit then.

Go ahead, counsel.

MS. TAYLOR. Mr. Celaya, what are the functions of the regional offices of the Legal Services Corporation?

MR. CELAYA. The functions include a lot of things. Primarily, one of the functions is the monitoring function under the Legal Services Corporation Act, and we're concerned with two primary areas in monitoring. One is complying, that the programs are complying with the regulations in the act and so on, and the other is to identify problem areas and then to provide technical assistance to that program.

In relation to income eligibility, the Legal Services Corporation has a regulation that applies to all programs, and we do not use a means test, it's an income test, and I don't have a copy of the regulation with me. But the regulation provides that even people whose income is slightly or maybe above the poverty level which is set by the—by OMB, even a person whose income is beyond that poverty level may still be eligible for services if their income is derived from government programs for the poor or if they're unable to afford legal assistance due to age or physical infirmity, high medical expenses or substantial debts. Our regulations do not penalize an applicant who owns a home. As they are, they do provide flexibility by not using a means test and not that type of discrimination that can come out of a means test.

MS. TAYLOR. Thank you. Can you give us your views, please, about the use of the cost per client served as a measure in evaluating the efficiency of legal services program?

MR. CELAYA. Well, I think it has its place. The corporation acknowledges that certain members of the poor community have special needs. To provide access to those people entails higher spending oftentimes than to reach other people. For that reason the corporation has funded special programs that deal with the problems of migrants, that deal with the problems of senior citizens, that deal with the problems of Native Americans, and other people who have additional access problems that the rest of the poor people wouldn't have.

As part of our alternative delivery system study, we have funded a number of model programs whose focus is on problems of the elderly. We hope to gain information from those programs as to what the best way to reach elderly people is.

The area of outreach is an area that we're particularly concerned with. It's fair to say that there's been a lack of outreach just as there's the poor and I think every segment of the population that we serve has been underserved, and it has to do with the funding; as all of you, I'm sure, know, the funding levels were static for a large number of years. You've heard the testimony of the other people here that keeping up with the people who make it to the office has taken the lion's share—in fact, it's taken more than the 40-hour week on the part of the employees.

Then, when you do outreach, of course, once you finish that outreach, the work has just begun because the product of that outreach and that, you know, community education is that people, more people will be aware of what legal services can do for them, and you have additional people needing services aware of what their rights are and wanting an attorney or legal assistant to help them with their problems.

COMMISSIONER SALTZMAN. May I pick up on that, Mr. Celaya? As I understand what you're saying, then, is that the funding of your program ought to be a mixed kind of thing with targeted groups as well as across the board to meet the requirements of the poor. What brings it to mind is that in many of the areas of Federal funding, medical services, etc., the question of categorical grants or special targeting of funds versus giving the instrumentality total flexibility has been discussed again and again, some saying that it ought not to be targeted groups, you meet the need without discriminatory or special, which has eventually discriminatory impact. And as it comes across to me, it seems now that the needs across the board without especially highlighting any group is a partial solution, but not the total solution, that certain groups, aging, young, will have or, as you pointed out, certain parts of the population within the poor community need special funding. And so it would seem that there has to be a mixed kind of funding apparatus rather than a single. Would you agree, is that what you're—

MR. CELAYA. Yes, and I'd like to point out a couple of things that are going on and that relate to that.

One, there's a second round of demonstration projects that the corporation will be funding. It's my understanding that the emphasis and some priority that will go in picking which of those projects will be projects that focus on the needs of seniors or handicapped or other people who have special access problems.

I'd also like to add that we also fund national backup centers who are primarily concerned with impact areas, and centers that we already fund that do a lot of work in seniors area are first of all National Senior Citizens Law Center in Los Angeles, the Council of Elders, which is located in Boston, Legal Services for the Elderly Poor in New York, Senior Citizens Project, which is funded to CRLA. Now, many of these programs—well, specifically Senior Citizens Law

Center—focus on problems of the elderly, and like as I think, the Housing Law Center also focus on many problems of the elderly; in fact, I believe 20 percent of their caseload at the present time is elderly-related litigation.

So, I think it's safe to say that in the programs if you look at statistics and what I have available is anywhere from 5 to 20 percent across the Nation, if you look at those statistics, seniors are perhaps underserved in the staff attorney programs, but if you look at what's going on in the backup centers, they are not overserved, but there is more focus in those areas on those particular problems.

VICE CHAIRMAN HORN. On the gathering of statistics by the Legal Services Corporation, caseload is obviously one approach. Is another approach professional hours actually spent on particular types of clients? How does one really measure the adequacy of service in federally-funded operations? You could be taking nothing but easy cases, let's say, for the elderly or they could be simple cases and it would give the impression of, my heavens, we're going really beyond the pale in helping that particular group. On the other hand, the staff hours might be minimal.

MR. CELAYA. What we stress in our monitoring activities is that every attorney should have a balance of some impact litigation, some service work. One of the problems is that we find in many programs that the caseloads have just gotten so astronomical that we're really concerned whether you're getting high quality litigation. If any attorney, for example, handles 500 cases a year, which they frequently do, and usually more than that, that breaks down to about 3 hours per case if a person is working a 40-hour week. You can see that that's not really quality legal services in each case.

One of the things that we're stressing is the use of good management systems, both programwide and on the part of each employee, so that they keep on top of their cases and move them along and not just have a lot of open cases, but that the cases that are open actually be going somewhere, and result in some benefit to the clients rather than just having a lot of open cases.

But even with that, then you get it down to caseloads and so on, and I think it all then gets back to inadequate resources. And I'd just like to point out what a couple of other areas that we're working on to help correct this problem in the staff attorney programs.

And it's a combination of two things I think. It's to provide additional training to those people working in programs—we just finished a paralegal training course in San Diego, I believe, went for a week that was offered for paralegals and it focused on handling governmental benefit-type cases and to provide that kind of training for paralegals and attorneys and also to try and heighten the level of sensitivity to seniors' problems on the part of all the staff. And having the backup centers and having training, I think we're going to see an impact from that which will be the programs will be handling more cases that affect

the elderly because, if a relatively inexperienced attorney knows he can get backup from a backup center on a case involving seniors' issues, that case is going to be more attractive to that attorney and I think that case is going to end up being litigated and it's going to end up litigated well because of that backup resource available.

MS. TAYLOR. Ms. Crisp? I'd like to ask you a couple of other questions, please. Your project, correct me if I'm wrong, but your project is a component of a Legal Services Corporation-funded program. What financial contribution does the program make to the elderly component which is your organization, as I understand it.

MS. CRISP. Ma'am, when you say a component of, I am a little at a loss to answer except with a rather lengthy explanation. Before I came to Senior Advocates as directing attorney in August of 1976, the program had been, the Senior Advocates program, had been in operation since February of that year. And it was originally funded as a sort of, I think you might say, spinoff, to borrow a term of corporate law, sort of a spinoff there and was actually receiving a small amount of funding, of hard cash, as I understand it, from Legal Services Corporation. However, the fiscal year of Legal Services Corporation, as I understand it, ends on the first of April. And so you might say after that, this year, we were sort of on our own and for any expansion or additional outreach we were always on our own, as far as I know.

Now let me explain what I see as a contribution from Legal Services Corporation. The fact that we are provided 800 square feet of floor space, office space in the building which is presently leased by Legal Aid in Redwood City. The fact that they have provided us with a number of desks and chairs, they provide us with their library, they let us use their library, their Xerox machines—I think I failed to note that in my list of things but that is included—we also are permitted to go through their receptionists. There is a central switchboard and they receive any initial calls from our clients. And then once in a while we'll get an extraordinary expense such as some repair or some necessary change in the equipment, and that has been, on occasion, picked up by funding from Legal Services Corporation, unless I'm mistaken.

Now, I'm not, probably, as able to give you accurate figures about what those in-kind services are worth as our bookkeeper, as the bookkeeper for Legal Services would be able to do. But she has all of that information and I could only estimate.

MS. TAYLOR. All right, I think one important point that I want to ask you and maybe I should ask Mr. Smith and Mr. Celaya, is that are all of the potential clients, 60 and over, referred to the legal services program to the senior advocacy component regardless of the nature of the legal problem? And either could answer that.

MR. SMITH. I can speak for my program. Insofar as I am aware there is only one organization that attempts to provide legal services for the elderly as a specialization in San Francisco and that is the American Jewish Congress, which operates on a volunteer basis at present.

They have, I believe, a few CETAs, a few VISTAs, a number of volunteer attorneys, maybe 50 in number, and for the most part, an uncompensated staff. They have been operating in the past out of the Jewish Center, here in San Francisco, and in the past their activities have been restricted to Sunday morning.

They are presently, with the assistance of a number of other groups such as, well, there is a coalition that is concerned about the provision of legal services to the elderly; San Francisco Neighborhood Legal Assistance is one of those—one of the members of the coalition. The other members are the San Francisco Bar Association, California Rural Legal, the Kniomachi, Incorporated, and the National Paralegal Institute. We have banded together in an attempt to find ways and means of increasing the availability of legal services to the elderly in San Francisco because there is an appalling need for these services.

We estimate, I don't know how reliable these figures are but they are the only ones available, that there are approximately 144,000 people in San Francisco age 65 or over and those, of those number there are approximately 44,000 who would qualify under Legal Service Corporation rules for the provision of legal services, and these are the hard core poor. So we are, therefore, very much concerned, but you can see, based on the statistics that I have provided you which deal with those 65 and over, that there are a very small percentage of the elderly poor with legal services probably—problems in the provision of legal services who are being seen.

In my conversations with the director of the American Jewish Congress, for instance, I have been informed that they have on a volunteer basis represented someplace in the neighborhood of 700 people a year. Now, they have been in operation for a period of about 3 years, the latest year's figures represent the greatest number of clients served at any time in their history. This has been because of the fact that they've had a good deal of publicity about their activities and there has been a good deal of concern expressed in the neighborhood, and the city as a whole, about the lack of adequate legal services for the elderly, which has caused people in some manner to focus on the activities of the American Jewish Congress just because they're there making noise, or noises are being made about them—this has attracted a larger clientele than they are presently capable of handling.

MS. TAYLOR. Mr.—

MR. SMITH. While I have your attention, I would like to clarify one point that was raised by Mr. Rosenzweig. The lack of representation of juveniles in most instances is not a matter of program priority with Legal Services recipients such as my program. We are specifically prohibited from representing juveniles in most matters, by the regulations of the Legal Services Corporation. The rule is that when there's adequate legal representation available from other sources, that we are prohibited from representing the juveniles.

VICE CHAIRMAN HORN. That's a very interesting point, and along the line of Exhibit 27, let's get Exhibit 28 in here that deals with the Federal programs that are under our age discrimination study's jurisdiction and what are the age-oriented prohibitions that have been established by Congress and/or various Federal agencies in administrative regulations, or that might have been added, given a world of limited resources, by State or other jurisdictions in the study States in which we are conducting these hearings. And without objection, that will be entered as Exhibit 28 because I'd like to get at just the point you've raised so we have that fully laid out. Now, Ms. Bradley, is there anything else that should be added to that exhibit?

MS. BRADLEY. Actually I think that covers it.

VICE CHAIRMAN HORN. That's broad enough that you can—that you can put in anything you wish.

COMMISSIONER SALTZMAN. Could we ask Mr. Smith and Mr. Rosenzweig whether the present restrictions in their judgment are discriminatory upon young people?

MR. SMITH. Let me say this, there is some flexibility in the rules. There is enough flexibility, for instance, to provide that in areas where there are—there is a system of court appointments for juveniles that legal services attorneys may participate in such programs if the local court rules require the participation of all attorneys. And, in other words, if there's no way out of it. There is a—the rules do permit legal service attorneys to represent juveniles in certain kinds of juvenile proceedings if there is no adequate representation available from the private bar or from other governmental agencies.

Now, the question, then, becomes, you know, what is adequate legal representation? I think that in San Francisco we are perhaps in a fortunate situation in that the local public defender, as indicated by Mr. Rosenzweig, does an adequate job and there are people, there's a Children's Law Center in San Francisco that handles some juvenile cases, and operations such as Mr. Rosenzweig's program with whom I've had the pleasure of working when I was in private practice, who have handled the impact aspects of juvenile problems. It is my impression that between the private bar, the new Youth Law Center, the Children's Law Center, and the public defender's office that the representation of juveniles is adequate.

VICE CHAIRMAN HORN. And not discriminatory?

MR. SMITH. I would think not. I do not think that the rules of the Legal Services Corporation produce a discriminatory effect. Not in the County of San Francisco.

VICE CHAIRMAN HORN. Mr. Rosenzweig?

MR. ROSENZWEIG. Well, there are rules of the Legal Services Corporation which prohibit representation in desegregation cases, abortion cases, selective service cases. There's a regulation that requires a juvenile for certain kinds of cases to have a written request of the parent or guardian—seems to me that all of those are discriminatory against young people.

COMMISSIONER SALTZMAN. Where do these rules exist?

MR. ROSENZWEIG. These are the Legal Services Corporation regulations.

VICE CHAIRMAN HORN. This is a congressional prohibition, I'm assuming—

MR. ROSENZWEIG. Yes.

VICE CHAIRMAN HORN. Yesterday, it was a prohibition against defending homosexuals, was that not correct?

MR. ROSENZWEIG. That's correct.

VICE CHAIRMAN HORN. So that in their annual flight of emotion Congress says this on abortion—

MR. ROSENZWEIG. That's right.

VICE CHAIRMAN HORN. —which this Commission disagrees with and so it goes.

MR. ROSENZWEIG. But I think the desegregation limitations are clearly discriminatory against young people. I don't see any question about that.

MS. TAYLOR. Mr. Chairman, I have no further questions.

VICE CHAIRMAN HORN. Commissioner Saltzman?

COMMISSIONER SALTZMAN. No further.

VICE CHAIRMAN HORN. Mr. Nunez?

MR. NUNEZ. Just one final question, Mr. Smith, do you see the efficacy of getting special categorical grants perhaps to deal with specifically the problems of older Americans as a partial solution, or would you prefer to get more general funding? How would you see it as an administrator?

MR. SMITH. I think a lot of problems can be solved with money, and I wouldn't care where it came from. I'd be happy to have it, and I think that with the—we would be quite pleased to have a funding outside of the Legal Services Corporation which would provide us with a component that would allow us to provide the kind of outreach that is needed to reach the elderly.

The problem of serving the elderly, in San Francisco in particular, is complicated by the fact that we have a number of ethnic communities that are sort of the focus of the lives of many of our people. In the Chinese communities, in the Mexican American communities, in the Japanese communities, there is a great reluctance to leave those communities to obtain any kind of services, and to add to this the problem of mobility, the problems of personal security that keep the elderly at home or keep them away from areas where services are provided, you find that we have a situation of great deprivation because of the cultural component being added to the problems of mobility and access, in other words.

There's no question about the fact that if San Francisco Neighborhood Legal Assistance Foundation had the funds, we would be providing home visits to the elderly, we would be providing access in senior citizens' residences and senior citizens' centers and the nursing homes.

This is something that was a great area of concern when I first became director of San Francisco Neighborhood Legal Assistance in October of last year. One of my first areas of concern for fund raising was to deal with the problems of aging and one of the outgrowths of that was my involvement with this coalition to provide legal services for the elderly that I have mentioned previously.

In summary, I would, if the general funds were available to the extent that it would allow us to add a component for providing legal services to the elderly, we would most certainly do it. We'd consider it a matter of great priority in the context of the city. The problem is, as Mr. Celaya mentioned, when you take care of those who come through the door you've pretty much used yourself up.

VICE CHAIRMAN HORN. Any questions?

MS. BRADLEY. There is a San Francisco Commission on Aging covering San Francisco City and County. Are you working with them on this issue of outreach because, as I understand your testimony, you could provide the legal services to older persons, but the problem is access; that is, older persons aren't the ones that come through the door, one has to go out to home visiting or outreach or something of this nature and outreach is expensive. And if funds from other sources could pay for the outreach and some adjustments were made in your budget, you could provide the legal services. Are you working with the commission on aging?

MR. SMITH. San Francisco Commission on Aging is, other than the—as a triple A—now, I understand in its fourth program year, I don't have the actual figures on the total amount of money that they have received in those four program years.

Legal services for the elderly is one of the four priority areas, as you probably know. In years one, two, and three not a single penny was provided for legal services programs by the local triple A. For the 197—for the year four, budget year, \$20,000 was budgeted for the provision of legal services to the elderly in this area. That was one of the reasons that this coalition, one of the other reasons that this coalition was formed because we were outraged by the lack of sensitivity to the problem of providing legal services for the elderly.

I am not certain whether I and persons, other persons who are concerned about the provision of legal services to the elderly are working with or working against the local triple A. My perception is that there is a complete lack of sensitivity in the local triple A for the legal problems of the elderly.

VICE CHAIRMAN HORN. Thank you very much, it's been a very impressive panel. It's heartening to see the leadership and the quality of legal services that are rendered at the grassroots. I thank you all for coming, on behalf of my colleagues.

The Commission will stand in recess until 1:30 this afternoon.

Afternoon Session, June 28, 1977

VICE CHAIRMAN HORN. The afternoon session of the age discrimination hearing of the United States Commission on Civil Rights will come to order. The counsel will call the next panel.

Ms. TAYLOR. Mr. Chairman, I call Robert Gillan and Michael Gilfix. [Mr. Michael Gilfix and Mr. Robert Gillan were sworn.]

TESTIMONY OF MICHAEL GILFIX, DIRECTOR, SENIOR ADULT LEGAL ASSISTANCE, PALO ALTO, AND ROBERT GILLAN, DIRECTOR OF LITIGATION, NATIONAL SENIOR CITIZENS LAW CENTER, LOS ANGELES

VICE CHAIRMAN HORN. Counsel, proceed.

Ms. TAYLOR. Thank you very much.

MR. GILLAN. I understand that Mr. Gilfix has to catch an airplane at 2:30; is that correct?

MR. GILFIX. 3.

MR. GILLAN. So, in deference to his wishes I will allow him to precede me.

VICE CHAIRMAN HORN. Sure. We hope to be done with this panel by 2:05. So, you will be—

MR. GILLAN. By 2:05?

VICE CHAIRMAN HORN. Yes.

MR. GILLAN. Oh.

Ms. TAYLOR. Please, would both of you please state your full name and address and organizational affiliation, please?

MR. GILLAN. My name is Robert B. Gillan, G-i-l-l-a-n. My title is director of litigation. My program is the National Senior Citizens Law Center at Los Angeles, 1709 West 8th Street, 90017, 483-3990.

Ms. TAYLOR. Thank you.

MR. GILFIX. My name is Michael Gilfix, director of Senior Adult Legal Assistance, 624 University Avenue, Palo Alto, California.

Ms. TAYLOR. Thank you. I have a number of, a few questions that I would like for both of you to address yourself to and Mr. Gilfix, since you do have to leave, if you can respond first. I suppose—I think both of you have read the Age Discrimination Act of '75. Leaving aside compliance mechanisms for a moment, do you think that the act provides for an effective ban on age discrimination; that is, the unreasonable discrimination? Is this a workable concept?

MR. GILFIX. The concept of eliminating age discrimination is a feasible one so I think it can be done. My concern really is with the contents of the act. I think it is much too loose, too general to leave the

term unreasonable discrimination in the act and not precisely define it in some way. I had a great deal of experience in Title VII law and in age discrimination in employment law just dealing with employment discrimination, and I, perhaps all too well, am aware of what a creative defense attorney can do with a general term. I really think that there is plenty of room in the act to amend it, eliminate the word unreasonable, and stick something in that is much more limiting, something to the effect that only discrimination where authorized or maybe mandated by legislation, something to that effect. The word unreasonable can simply go in too many directions and can be interpreted in too many ways. That's my primary criticism of the major term that we are looking at. Would you like me to go on with suggested revision?

MS. TAYLOR. Certainly, plus I want you to address yourself to the form of regulations that you feel we should suggest pursuant to the act.

MR. GILFIX. Well, okay. With regard to the regulations—well, there are some things I think that should be included, whether they be in the statute—there's a preference that they be in the statute rather than the regulations because there is more force in this in that sense. But in trying to define what reasonable and unreasonable discrimination is or what discrimination is, there is some terminology that is tested, in effect, and that although it has problems it does seem to me to be workable. But there aren't that many and one of them is the bona fide occupational qualification. That might be one of the very few types of discrimination that perhaps should be allowed and that just means that if, the classic example is, if the person to be employed in some position is to be in the role of a child model, modeling child's clothes, most certainly you can exclude somebody who is over 70 years of age from that type of thing. That's only reasonable. And without getting into that terminology, but the BFOQ is one that is well-defined in other areas of the law and I think that is reasonable. Reasonable factors other than age is included already in the regulation.

MS. TAYLOR. Yes.

MR. GILFIX. Again, I don't see any real problem with that because we've had some definition of that kind of thing. One of the concerns that I have from the regulations, I believe it is 304—

MS. TAYLOR. Excuse me, you are saying from the regulations, you mean the act?

MR. GILFIX. Well, section 304(b)(1)(a) I believe it is, yes, which talks about allowing agencies to take into account age when it is necessary for the achievement of some—I'm summarizing—of any statutory objective. This kind of a thing, I feel, needs clarification in regulations and I am speaking of what I should best term remedies and accepted myths in certain fields, and I am reminded of the CETA program where it is not specifically designed to benefit or exclude any age bracket whatsoever. But the effect of it has been to do so, and I say that because the workers, the people who are in charge of enforcing, of granting the positions, have not been doing an adequate job of

referring out elderly people. That's been an enormous problem in our county where we have two CETA positions in our office. We've had in the course of 2 years gotten maybe 30 or 40 referrals to those positions since they have opened up at different times. We have had one person referred over the age of 60 and I know from personal experience that a great many people who qualified certainly were not being referred. Now—

MS. TAYLOR. One person in the 2 years?

MR. GILFIX. Yes. And my point now is that it isn't enough to just leave general language in like this. In regulations you can be very explicit in saying that the terminology, age-related terminology must be included. I'm getting back to my mandatory—the language I suggested before in place of unreasonable, saying that it has to be mandated, the age relationship has to be mandated to allow for any kind of age discrimination.

Should I go to enforcement or would you like to talk to Mr. Gillan?

MS. TAYLOR. No, we are going to let you address all of the questions since you have to leave.

MR. GILFIX. Okay. Thank you very much.

MS. TAYLOR. And my next question was simply I just said—so, you might proceed with that—in fact the question goes this way. The Age Discrimination Act in its current form lodges responsibility for enforcement in individual departments and agencies which administer programs of Federal financial assistance and the enforcement scheme parallels that of Title VI, I think, with one exception, of the 1964 Civil Rights Act, and what I want your opinion on is, do you think this enforcement mechanism will be effective?

MR. GILFIX. In my opinion it will not be effective.

MS. TAYLOR. All right. Could you tell us why and give us your suggestions for something that will be effective?

MR. GILFIX. Certainly. Again, I can look at the experience that I've had in litigating many Title VII cases which is race, sex, national origin discrimination and cases under the Age Discrimination in Employment Act, well, mostly under Title VII, where there is also the involvement of the entity—you might be familiar with—call it offices of Federal contract compliance, OFCCs. These are governmental. Well, they are units within, departments within HEW, within Transportation, for example, that have responsibility for seeing to it that programs they give money to—the minimum is usually \$50,000—seeing to it that they do not discriminate on the basis of race or sex.

In a word, they have been particularly ineffective. In fact, in this area the Alameda County Legal Aid Society took it upon itself, a number of years ago, took it upon itself to sue one of the offices of Federal contract compliance because it was not doing its job. The evidence of discrimination was everywhere and that office was doing little more than collecting paper. There is also a problem here of people being the accusers and the judge and that's from the accused per-

son's perspective. You might want to have somebody a little more neutral making the final decision about whether there is or is not discrimination.

But my main point—I know Mr. Gillan will address this as well and I'm sure we share this view—is that I really feel there is a need, for these reasons, the right of private action, that private individuals and private attorneys have the right and ability to move forward in these cases. The kind of problems which you find in age discrimination are most dramatic, are most obvious in individual cases. You can't come up with statistical analyses and then maybe a department, a Federal program can act. But they come up in the first instance as individual cases. Those individuals will in turn go to a private attorney. Now, a private attorney should have every available remedy, should be able to take advantage of this act, and that private attorney really doesn't have that opportunity here. Together with the right of private action has to come to the right to attorney fees, the private attorney general concept if you will. Unless there is some reasonable level of compensation for private attorneys to take these kinds of cases on they won't do it, and experience has shown us that governmental entities in that kind of a context do not do the job and I see nothing here that would change that.

VICE CHAIRMAN HORN. Mr. Gilfix, what statute of limitations would you place on the right of a grievant and private attorney to bring a case on age discrimination?

MR. GILFIX. I would put a minimum of a 2-year statute of limitations. Now, there are 2 years—

VICE CHAIRMAN HORN. What do you mean a minimum? You mean maximum?

MR. GILFIX. I'm sorry, I should explain that. There are some circumstances such as under the Age Discrimination in Employment Act where you get a longer statute of limitations if the violation is willful. So, I haven't given enough thought to really tell you exactly how that should be worked out in the context, but 2 years is reasonable. Right now under the, under Title VII and in the Age Discrimination in Employment Act there are some overly restrictive filing requirements. In some States you have to file a complaint within 180 days with a certain agency or you're forever barred from going to court. In some States it's more. That is totally unreasonable. That simply shouldn't be there.

VICE CHAIRMAN HORN. Why is it? Why isn't 1 year sufficient to bring a discrimination case? At least begin the action?

MR. GILFIX. One reason is that many individuals might not be aware of the fact that they were discriminated against. For example, an individual might have been terminated and told that they were terminated because of a reduction in force. If they are part of a large organization, they simply can't see the whole picture. They don't know what's going on in personnel. They might never know it, at least at

that time. Later on it's entirely conceivable that age, that a person might be let go perhaps in a personnel office and perhaps they might receive some documents that they might find. There's a real problem in knowing when you're the victim of age discrimination. Age discrimination isn't as clear as it can be with race and sex discrimination.

VICE CHAIRMAN HORN. Well, then you should then have it from the point of discovery of those relevant documents and then prove that point.

MR. GILFIX. That would be a very good solution. That is the case in instances of fraud in common law where you have a year, within a year of the discovery of the fraud, for several reasons also.

MR. GILLAN. May I make a comment?

VICE CHAIRMAN HORN. Sure.

MR. GILLAN. Okay. I don't believe that a law is effective if there are too many administrative conditions precedent which have to be complied with before bringing a private suit. Under the Federal Age Discrimination in Employment Act an individual does have to take action within a very relatively short period of time, within either 6 months or 9 months. Under Title VII of the Civil Rights Act some action has to be taken at least within the year. My personal recommendation would be to establish enforcement mechanisms through the medium of Federal administrative agencies, and also State enforcement agencies; but at the same time eliminate any requirement that the aggrieved individual need first go to the enforcement mechanisms established administratively, and under the circumstances I personally feel a 1-year statute of limitations would be appropriate because it won't be imposing any requirements in terms of taking action which are greater than really that are imposed right now with respect to other forms of discrimination. And I also believe that, given the fact that the programs and activities we are talking about are funded on an annual basis or on a relatively current basis, that perhaps in view of the nature of the type of activity we are seeking to prevent it wouldn't be inappropriate to require the individual to take relatively speedy action.

VICE CHAIRMAN HORN. Well, you make a very interesting suggestion. It certainly appeals to me. As an administrator I find one of the problems is what the analogy might be in venue shopping. A case is pursued in one form, say in State FEPC; you defeat it there—it's shown really to be specious—and it pops up years later in another form, and I guess the question is, when does it end? When does the citizen get due process? And then I'm reminded of some recent comment by a rather distinguished jurist about the overproduction of lawyers in society. Do we have sort of roving raiding parties waiting for old grievances? Now, that's the cynical view. Obviously, the Commission is interested in having people assert their rights and get legal recourse. But there are also other organizations and individuals with rights in society and I guess on some occasions we have gotten down to either harassment or cold evidence. Nobody can prove anything

after 4 years. You might have been able to decide it one way or another after 1 year. So, what I am fishing for are some rules that protect due process of the individual grievant and also have some orderly process so you forever are not in litigation or administrative proceedings about an incident that occurred at one point in time. Counsel, go ahead.

MS. TAYLOR. Mr. Chairman, I have no further questions for Mr. Gilfix. I'm going to direct the same questions to Mr. Gillan. But you may have some more.

VICE CHAIRMAN HORN. Commissioner Saltzman, do you have questions of Mr. Gilfix before he leaves?

COMMISSIONER SALTZMAN. I think your suggestion sounds good in relationship to unreasonable discrimination and I just wanted to further elicit whether within the act there ought to be some definition, as you indicated, of what is reasonable discrimination and how would you provide a definition so generalized that it could be, and yet particularized, that it could be meaningful?

MR. GILFIX. Well, it doesn't help much to say that that's the problem. One thing that I did suggest is I think a first step which is to at least be explicit. I think the reason that the word unreasonable was used there was not to try to get to the kind of exceptions that might apply when you might not have a very good reason for discriminating against somebody. I think that was put there because there are—we are talking about Federal legislation, federally-funded programs. There are some programs that discriminate on the basis of age and probably none of us are going to argue about those. The SSI is only for people, well, except for people with individual disabilities, is only for people over 65. There are certain programs that are only for juveniles, so forth. So, I think that was the intent of seeking that. I think it raises many many problems that were not foreseen and thus, it's—I would like to see a very explicit, very clear statement to the effect that age discrimination in Federal programs and all of the, in employment and so forth, so on, is prohibited, period. The following exceptions are—with the exception of the following. And then we list two or three very, very narrowly on limited kinds of things—one of which I suggest, which is this bona fide occupational qualification. Certainly that's fair. There are some kinds of jobs that are only designed for younger or older people, very, very, very few, so that isn't that much of a restriction. If there is an interest I would be glad to draft something that might set forth some suggested definition or exceptions. I would be happy to submit those.

VICE CHAIRMAN HORN. Please do.

MR. GILFIX. I would be glad to do that.

VICE CHAIRMAN HORN. Any further questions?

COMMISSIONER SALTZMAN. No.

VICE CHAIRMAN HORN. Mr. Nunez, any further questions? Ms. Bradley, any further questions? Thank you very much. Ms. Taylor, proceed.

COMMISSIONER SALTZMAN. Have a good trip.

MR. GILFIX. Thank you.

MS. TAYLOR. Thank you, Mr. Gilfix. Mr. Gillan, would you direct your attention to the questions that I have asked Mr. Gilfix? I guess I should repeat.

VICE CHAIRMAN HORN. Why don't you repeat them, counsel, so that we can systematically look at them.

MR. GILLAN. I would like to take a crack at this question of reasonable and unreasonable age discrimination. In my opinion, as a matter of definition, age discrimination is, per se, unreasonable under all circumstances. I believe there is a distinction between arbitrary age discrimination and unreasonable age discrimination and the two definitions have tended to become confused. In point of fact if a program is committed specifically for the purpose of providing employment opportunities to disadvantaged teenagers, there, by definition, is no age discrimination because the purpose of the program is unrelated to the types of things which really constitute discrimination. The purpose of the program, the classification of that program, is not to discriminate based on age but rather to provide employment opportunities to a specified category of people.

By the same token, and drawing an analogy to the Federal Age Discrimination in Employment Act, if age is a bona fide occupational qualification and if an individual is denied an employment opportunity because of his inability to do the work, there is no discrimination based upon age. There is in effect a recognition of the fact that the individual in question cannot perform the job. But it's not because of his age. It's because of certain other characteristics which are incidental to his age, and I might also add that the existence or nonexistence of those characteristics vary from individual to individual, so that if you had a job, a public service job under CETA, and the job involved some kind of beautification activity which in turn involved the lifting of heavy weights or the use of dangerous machinery, some 67-year-old men or women could do the job very adequately while on the other hand some people in their fifties could not. The latter category of individual would be deprived of the opportunity to participate in the program but not because of age, but because of physical ability or inability which ability is in one incident to that particular individual aging process.

So, I would substitute the word reasonable—I would eliminate it entirely and substitute the concept of arbitrary. And by arbitrary I would mean the situation where you automatically state that a given age represents the point at which he is going to be unable to do a physical or a mental task so that the law as it's presently written, the word unreasonable could be eliminated from the general recitation of the purpose of the Older Americans Amendment of 1975. The language to the effect that it shall not be unlawful to take any action otherwise prohibited by this section if age is a bona fide qualification reasonably

necessary to the normal achievement of some congressional program, that language is inherently wrong because if physical ability is a characteristic necessary to the achievement of the statutory objective, then you are not taking action otherwise prohibited because you are not engaging in age discrimination. You are not using age as an arbitrary factor alone.

COMMISSIONER SALTZMAN. May I pursue that for a moment, Mr. Gillan? In the allocation and the use of Federal funding, as we've heard from various people who have been witnesses, the amount of funds available sometimes leads to necessarily prioritizing who is going to be served and decisions have to be made on that basis and it would seem that in that area then that there is preferential treatment for one group over another. And the preferential treatment has been justified on the basis of prior discrimination that weighed heavily on one group more than another group.

MR. GILLAN. Yes. In my opinion that doesn't represent in and of itself discrimination. It represents allocation of resources among various competing groups. It becomes discrimination when the allocation is made with certain preconceptions concerning the ability of the elderly as a class to do things. You know, for example, an educational institution receiving Federal financial assistance, to the extent that the funds are allocated for providing graduate training for people based strictly upon an age criterion where people below a certain age are eligible, people above a certain age are ineligible, then you have discrimination because the allocation under those circumstances is based upon preconceptions and stereotyped notions concerning the elderly.

COMMISSIONER SALTZMAN. How about the issue of cost, so-called issue of cost effectiveness, that an aging person 65, even though fully competent to pursue an academic program, it isn't worth training them because they are not going to be in that career that long, or 55. Is cost effectiveness in that relationship discriminatory?

MR. GILLAN. Yes, I think that's very definitely discriminatory and it's discriminatory because, well, the question of the cost benefit justification, for openers, I don't believe is a sufficient basis for taking a substantial segment of the population and subjecting them to less favorable treatment.

But secondly, again, I believe you're talking about stereotyped notions. The classic example is the medical school and I sometimes facetiously say that if it's true that doctors make as much as people claim they do that if a person begins the active practice at 35 he is probably going to retire at the age of 65. Somebody who enters medical school at the age of 50 and assuming they obtain their education and begin practicing medicine at their early sixties, who is to say that they are not going to have a working life expectancy which is just as long as somebody who would have entered medical school 20 years earlier in terms of age? The statistic laws would say, no. But I believe that is not a sufficient basis to tell him, this particular individual, that he is

going to be subjected to disparate treatment because of statistical odds, which gets back to my initial philosophical thing. I think that age discrimination is arbitrary discrimination, arbitrary discrimination based on assuming that, given an age, certain consequences should follow.

MS. TAYLOR. The second question, Mr. Gillan, has to do with the enforcement mechanism as it is included in the act. And as I said earlier, it parallels Title VI enforcement mechanism. Do you think that is effective? If not, what are your suggestions? And, you know, the act—but I might want to point out that it calls for fund termination.

MR. GILLAN. I know the act real well. As a matter of fact I think the act as written would be more restrictive than Title VI.

MS. TAYLOR. It is, yes, it is.

MR. GILLAN. The course of implied remedy on behalf of private individuals in Title VI and the language of the age discrimination provisions in the 1975 Older Americans Amendments seem to be more restrictive. Well, if I was writing the act I have a lot of remedies.

Number one, I would give concurrent jurisdiction to State and Federal courts and I would give concurrent enforcement responsibility to State agencies and Federal agencies. The reason for that is that age discrimination legislation varies from State to State and some States are remarkably advanced in their legislation. Even a sparsely populated State like the State of Montana has a law banning employment discrimination with no upper age limit and has a law banning discrimination in educational institutions, age discrimination in the writing of private liability insurance. Given a State with a fairly positive attitude towards combatting age discrimination, I believe that vesting concurrent jurisdictions in the State and Federal court and, given the current enforcement responsibility, would create a situation where in a State which is dedicated as a matter of legislative policy to combatting age discrimination, perhaps you're going to have a better result than if the enforcement mechanism were through the Federal administrative machinery or Federal courts. On the other hand if you take States which don't have the same degree of commitment as would be written into the Federal act, then the void could be filled in with the, you know, through the Federal administrative machinery and the Federal court jurisdiction. The Federal courts are obviously overburdened and I think that giving greater jurisdictional responsibility to a State court would be one of the solutions.

MS. TAYLOR. Prior to getting into that, where the administrative procedure is, is there anything that you could suggest like maybe partial termination or a preaward grant or whatever?

MR. GILLAN. Well, the language in the act right now, which discusses termination of Federal financial assistance, also goes on to state that provided the termination would be limited to the specific activity, you know, found to be engaged in discrimination, and I don't know what the motivation was for writing language that restrictive, but

it could be construed to cut off the salary of a single individual who happened to be guilty of discrimination. It could be that there would be a greater incentive on the part of a recipient of Federal funds to police itself if the penalty was going to be a loss of a, a greater financial sacrifice than just cutting off the specific limited activity. So, I would say that at least that language would be open to abuse and with respect to cutting off funds, I think that that could be broadened a little bit.

With respect to the private right of action, as I said earlier, well, the Federal Age Discrimination in Employment Act, by way of example, covers virtually all private industry and all State and local governments. The annual authorized appropriation is \$5,000,000. The actual appropriation during the past 5 years has averaged about \$3,000,000. So, obviously—

VICE CHAIRMAN HORN. Wait a minute, excuse me, you are talking about under Title VII?

MR. GILLAN. The Federal Age Discrimination in Employment Act.

VICE CHAIRMAN HORN. Under the age discrimination—

MR. GILLAN. Right. So that act without a private right of action, an aggrieved individual in a one-to-one situation has no remedy because the Labor Department, which is a supporter of the Age Discrimination in Employment Act, which has to pick and choose and bring either a law-form type of a suit or a suit where a lot of people are affected. So, I believe a private right of action, and the same is true with Title VII in the Civil Rights Act, in the absence of a private right of action, many people would not derive the benefits of the legislation. And along with the private right of action, as Mr. Gilfix said, allowing attorneys' fees I believe would be very important. And also possibly even penalties in the form of double the monetary loss. But if, you know, to the extent that the monetary loss could be measured would be appropriate to encourage the private right of action.

VICE CHAIRMAN HORN. On your concurrent jurisdiction with State and Federal enforcement agencies, would this be a choice of the individual as to where to file the case and once the individual made the choice they could not use the other agencies should they be defeated, let's say, at the State level? How do you see that working?

MR. GILLAN. I would say the individual should have three choices. To begin with, he could either take appropriate action under the administrative procedures established by the Federal enforcement authority. Number two, he could go to the State authorities first, if the experience in his State or his locality proved that that was the most effective way. Number three, he could bring his own suit immediately without exhausting any administrative remedies. I would eliminate an exhaustion requirement and I'd eliminate a requirement that first you go to one place and then you go to another and get into the tennis game where you bounce back and forth between agencies. In other words, I give the person a choice and of course after having elected

to go to one agency then I would give the individual, you know, the right to file his own suit if he didn't achieve satisfaction through the administrative enforcement agency that he chose.

VICE CHAIRMAN HORN. Well, of course, I again raise the question of where does it end? Granted you shouldn't have a person be precluded from asserting his or her rights. But I guess I look at it being also an administrator, and not just a civil rights commissioner, where I see frivolous filings where there's absolutely no basis on the part of a few and you wonder how these can tie up the machinery forever and tie up people by the hundreds of hours answering these things. And I guess I just look at it from another perspective of not just the individual as I do here, but the effects when people yell discrimination of one sort or another, whether it be reverse discrimination, sex discrimination, or racial discrimination, and, now, age discrimination. And they can yell it, but it doesn't mean it's so. Now, where do you get a forum that can determine what is the truth of the grievance, the answer, so forth? But how many times does one have to do that, is what I am asking.

MR. GILLAN. You know, there is no question about that. That's really—the word discrimination is one of the most bandied-about words going right now. They are even talking about discrimination because of an individual's sexual preference, you know, which is the next category. I think that the fact that you're going to have a number of frivolous filings before administrative agencies on the State or local levels is just another reason why it's important to preserve a private right of action.

In terms of frivolous lawsuits, I think that probably by and large it would be very difficult for a person to find a person to bring a frivolous lawsuit if the attorney is not going to have some kind of a pot of gold from which he is getting his attorney fees. A frivolous lawsuit, by and large, would be awfully difficult to bring through an attorney if he's not going to get anything out of it.

VICE CHAIRMAN HORN. I agree on that point. That's why I wonder, what are the intended or unintended consequences when one argues for reimbursement for legal fees? Is it strictly reimbursement if he wins? Is it reimbursement in general?

MR. GILLAN. Reimbursement if he wins.

VICE CHAIRMAN HORN. Reimbursement if he wins?

MR. GILLAN. Yes, oh, sure, sure.

VICE CHAIRMAN HORN. Presumably there is some restraint there with the attorney, not just willy-nilly filing fees. So, because we have an awfully lot of attorneys in society.

MR. GILLAN. We certainly may say, well, reimbursement regardless of the outcome, but as a practical matter I think that reimbursement as you win is from the standpoint of the taxpayers who have to pay the attorneys' fees and from the standpoint of eliminating frivolous lawsuits. I think, yes, the attorneys should get something before he is going to get attorney's fees.

VICE CHAIRMAN HORN. Counsel, what else have you got?

MS. TAYLOR. I think that was the last question that I have for Mr. Gillan.

VICE CHAIRMAN HORN. Commissioner Saltzman?

COMMISSIONER SALTZMAN. No questions.

VICE CHAIRMAN HORN. Mr. Nunez?

MR. NUNEZ. No, thank you very much.

VICE CHAIRMAN HORN. Ms. Bradley?

MS. BRADLEY. Nothing.

VICE CHAIRMAN HORN. Well, thank you very much. We deeply appreciate the opportunity to engage in a dialogue with you on the subject. Thank you very much for coming up.

MR. GILLAN. Thank you for the opportunity.

VICE CHAIRMAN HORN. The next panel is the panel of aging advocates—Edwin Gipson, Dorothy Pitts, June Quan. Please come forward.

MS. TAYLOR. Mr. Chairman, Ms. Pitts will not be here. So, she notified us yesterday and she was not under subpoena.

VICE CHAIRMAN HORN. Ms. Quan, your sign is over there. Just move it if you would. Thank you. Would you raise your right hand, please, stand and raise your right hands if you would?

[Mr. Edwin Gipson and Ms. June Quan were sworn.]

**TESTIMONY OF EDWIN GIPSON, CHIEF ADMINISTRATIVE OFFICER,
CALIFORNIA DEPARTMENT OF AGING, SACRAMENTO, AND JUNE QUAN,
SOCIAL WORK SUPERVISOR, SELF-HELP FOR THE ELDERLY, SAN FRANCISCO**

VICE CHAIRMAN HORN. Please be seated.

MS. TAYLOR. Would you please state your name, your address, and your organizational affiliation, starting with Ms. Quan?

MS. QUAN. My name is June Quan, Q-u-a-n, 427 20th Avenue, San Francisco, 94121. I am the social work supervisor at the Self-Help for the Elderly located at No. 3, Old Chinatown Lane in San Francisco, 94108.

MS. TAYLOR. Thank you. Mr. Gipson.

MR. GIPSON. Edwin Gipson, G-i-p-s-o-n, Chief Administrative Officer, California Department of Aging, 918 Jay Street, Sacramento, California.

MS. TAYLOR. Thank you. Mr. Gipson, what action is the department of aging taking to assure that the elderly are served by general population programs?

MR. GIPSON. Population programs? The department of aging has a responsibility in the State of California for serving elderly in the State through programs of the Older Americans Act. These funds come to the department from the Federal Government and we have the responsibility for allocating these funds to services to the elderly. I can go into the whole scheme of it if you like.

MS. TAYLOR. No—maybe you should for the Commission.

MR. GIPSON. There are two main acts to the Older Americans Act under which the department has responsibility. First is Title III, which is social services or support services to the elderly. And the other one is Title VII, which are nutritional services.

There are also three other areas in which the department has responsibility. Title IV, which is the support or training and development, or training and research. That's the proper term. Also, starting July 1 we are hopeful of receiving funds for hiring the elderly employment program, which is Title IX. And soon thereafter we hope to receive funds through Title V, which will be the acquisition and renovation of multipurpose senior centers.

MS. TAYLOR. Very good. Could you tell me about the interdepartmental coordinating committee or do I have that name correctly?

MR. GIPSON. You have it correctly. It's the California Interdepartmental Committee on Aging [CICA].

MS. TAYLOR. All right.

MR. GIPSON. This committee was formed by Governor Brown in 1976—just about a year it's been in operation—for the purpose of trying to coordinate services to the elderly. Since the department of aging has the sole responsibility designated by the Governor for this purpose in California, in this CICA committee there are 30 members, 30 active members, with 5 ex-officio members, and they are actually representing State agencies, departments, and offices in the hopes of identifying and eliminating overlaps in service and gaps in service to the elderly, and also to emphasize the role and responsibility perhaps of the senior citizen in taking their active place and to improve the quality of life for themselves.

MS. TAYLOR. All right. What in the short period of time that the committee has been in effect can be found that the elderly is being underserved in any of the programs?

MR. GIPSON. I think there is no question that the elderly, especially here in the State of California, are being underserved. There are currently close to 3,000,000 senior citizens or, as we call them, elderly 60-plus, in the State of California. We probably are serving perhaps a third of those elderly.

MS. TAYLOR. Do you have some statistics there? I was informed that you might have some showing—

MR. GIPSON. I think that the attorney that I worked with has an annual report that has all of those statistics in it. If not I will be happy to furnish you with one.

MS. TAYLOR. The annual report of services under all Federal programs to the elderly?

MR. GIPSON. That the department has responsibility for.

MS. TAYLOR. That the department has responsibility for. Mr. Chairman, I would like that to be marked as Exhibit—

VICE CHAIRMAN HORN. It's Exhibit 29.

MS. TAYLOR. —29 and entered into the record.

VICE CHAIRMAN HORN. The report of the California department—read this.

Ms. TAYLOR. Mr. Gipson, will you please read the exact title for me? Annual report of the California Department—

MR. GIPSON. Of Aging. I think that this is really called our annual report. Hopefully we will have one of these each year that gives the status report of what we've been working on and what we have accomplished during the last year.

VICE CHAIRMAN HORN. And this gives the data on the Federal programs administered by your agency, not other State agencies?

MR. GIPSON. That's right.

VICE CHAIRMAN HORN. And this is for the last fiscal year?

MR. GIPSON. The last fiscal year. The period at this time is July 1975 through September 1976.

VICE CHAIRMAN HORN. All right. Without objection it's entered into the record at this point.

MR. GIPSON. Also, I think you also have a copy of our State plan which we have to draw up each year and also has to be approved because this is the basis of our funding, and this also gives a breakdown of all the programs that we are involved in and actions, steps of how we anticipate solving many of the problems that we have and what we have accomplished in the past year.

Ms. TAYLOR. Yes.

VICE CHAIRMAN HORN. Well, do you wish the State plan in the record?

Ms. TAYLOR. Yes.

VICE CHAIRMAN HORN. That will be entered as Exhibit 30 without objection.

Ms. BRADLEY. Pardon me, I would like to clarify the fiscal year over which that plan is in operation. Is that the fiscal year 1977 plan or the fiscal year 1976 plan?

MR. GIPSON. The State plan that we have is—the plan that's in effect now, which is '76 to '77. We will have another plan that will become operational October 1, 1977.

VICE CHAIRMAN HORN. Does this plan purport to outline what you hope to accomplish in a given year?

MR. GIPSON. It certainly does.

VICE CHAIRMAN HORN. Why don't we, so we can match Exhibit 29, also have you submit the plan for '75-76 since we've got the data for '75-76.

MR. GIPSON. I can supply that.

VICE CHAIRMAN HORN. So, we will have both plans and this is part of Exhibit 30.

Ms. TAYLOR. Exhibit 30. All right. Mr. Gipson, does the existence of an Older Americans Act program similar in general purpose to a general population program cause elderly persons to be channeled to the older persons' program?

MR. GIPSON. I would like to say that it does, but I think in reality it does not.

MS. TAYLOR. Fine. Next question.

VICE CHAIRMAN HORN. Excuse me a minute, just to get order in the transcript. I'm going to reverse the order of those exhibits. The State plan will come first as Exhibit 29; the annual report for '75-76 will come as Exhibit 30 so we have a sequence here.

MR. GIPSON. You would like both State plans?

VICE CHAIRMAN HORN. Both State plans plus the annual report '75-76. But this is just for the record that I want the exhibits reversed.

MS. TAYLOR. Would you comment please, Mr. Gipson, on the difference you feel the Age Discrimination Act will make in service to the elderly in the State of California and why?

MR. GIPSON. And why? If I were to express my own feelings I would say that I don't think the Age Discrimination Act is going to really have a profound impact on age discrimination in the State of California. The reason I say this is I feel very strongly that age discrimination has been one of those myths and one of those stereotypes that affects all of us and unless we are able to encompass elderly in those programs there will continually be that same stereotype and that same myth that persists throughout the programs. And at this point I just can't really see the tremendous impact that it will have on the elderly.

MS. TAYLOR. Were you at one time, Mr. Gipson, employed with the State of California Personnel Board?

MR. GIPSON. I was employed with the California State Personnel Board for approximately 5 years.

MS. TAYLOR. Could you comment, please, for us on whether you feel that there are aspects of the State personnel policies, regulations, which operate to limit the participation of older persons as staff workers in federally-assisted programs operated by the State?

MR. GIPSON. Well, of course, the merit system whereby the State of California operates, I think, from the very inception or concept of the merit system and of the practices as it is displayed, the merit system simply is brought about to either eliminate or—which means include or exclude—those people that they did not want on board. And I think this very system itself is discriminatory. I find that in so administering a program that we know that when you reach the age of 64 that it would be hard to get hired by the State of California. But I think in reality when one passes the age of 40 it becomes increasingly harder to become employed. And the programs that are designed and the methods by which people become employed by the State are somewhat archaic, and we certainly need to particularly take an in-depth look at the merit system and think perhaps of some changes that may come about to make this a more viable system for employing all segments of society.

MS. TAYLOR. I thank you. Have these State restrictions regarding mandatory retirement impacted on your own staff hiring and retention policies within the department of aging?

MR. GIPSON. They definitely do. I think you will find throughout most States, most of the departments in California, that when one is able to get the expertise that is required over a number of years and so, that we have elderly in our department, and especially in our department since we are the department of aging it would be very nice if we could hold on to those elderly who have a tremendous amount of expertise. However, unfortunately, because there is mandatory retirement at the age of 67 we lose that expertise. We have some means whereby we can continue to use that expertise after retirement by means of 90 days a year, which is not very much. However, the big problem comes in having someone around a number of years, and the point when they are at that point where they can do a tremendous amount for the department, then they reach that mandatory retirement age and they are gone and then it takes several years before we can get anyone else up to that point.

MS. TAYLOR. Then my next question is, is there in your opinion a need to have older staff workers to serve older persons in assistance programs?

MR. GIPSON. There is no question in my mind that if we would like to have someone that we can relate to—it's a little easier to relate to someone your own age and I find that if we have programs for elderly and we don't have elderly, even just as a front that's what you want, then we certainly are depriving ourselves of the expertise and certainly the utilization of elderly in those programs.

MS. TAYLOR. Thank you, sir.

VICE CHAIRMAN HORN. Mr. Gipson, has the California State Department of Aging recommended to the Governor or the appropriate cabinet secretary that a study, investigation be made of the State personnel board practices with regard to age discrimination?

MR. GIPSON. I can't honestly say that we have gone on record, you know, written record in saying this. But I know that the suggestion has been made. I'm now certainly in a position to formally suggest that we go that route, realizing that if we can take the initiative and the positive step in this direction, we may help in changing the merit system by which we operate at this point.

VICE CHAIRMAN HORN. Well, I agree with you. I just think your department has a responsibility in the area to point out to the Governor and State personnel board that they ought to seriously scrutinize all restrictions in the program that affect the hiring of elderly workers. I think you are precisely correct in your analysis, since I had a State agency suffer under many of these rules and regulations which make no sense.

MR. GIPSON. I think I might add that we've actually discussed these things. To say that we've written out a long formal report outlining all of these things, I'm not so certain that we've done that. But I will make that recommendation back to the director and certainly we will get involved in this. I would like also like to say that since I've gotten

involved and begun to take a more indepth look at the problems, oftentimes we get engrossed in all we are doing administratively and we tend to overlook the real basis of our existence and the programs that are right in front of our eyes that seemingly are not getting the attention that they should. This has certainly been an eye opening for me and I certainly will channel my energies into those areas where we can provide a very forward and positive step in providing more services toward the elderly and certainly assuring that they have an opportunity for employment and that we can keep them on just as long as possible.

Ms. TAYLOR. Ms. Quan, will you please describe for us the Self-Help for the Elderly, including its purpose, funding, number of persons served, age of persons served, and the program you operate?

Ms. QUAN. We basically consider ourselves a multiservice agency serving the Chinese-speaking elderly in San Francisco. We implement some of the programs that Mr. Gipson described such as Title III, a social and educational service program attached to a Title VII congregate meals program. We also have social funding from CETA Title I for senior employment and training programs. We are also at this point funded through United Way and we have also had a small funding from the National Institute of Drug Abuse for a counseling program for elderly drug abusers. I probably have forgotten a couple.

Ms. TAYLOR. In other words, you have a dual role, I believe. Do you serve also as an advocate group in addition to service provider; am I correct?

Ms. QUAN. That's right. I think in the community-base agency like ours you can't help but do both. In order to provide service for your clientele you must both act and also organize your clientele, I think, to be advocates for the programs that you need.

Ms. TAYLOR. Thank you. In the vocational rehabilitation program, what problems do the Chinese elderly face? Could you describe for us?

Ms. QUAN. In some discussion I had with staff at the State vocational rehab program, I learned that over the last 3 or 4 years there have been approximately 350 Chinese enrolled and out of that only 12 people have been 60 or over. That's a very small percentage and practically all, I believe 10 out of 12, were blind and they were mostly female. When I looked at the notes, the categories of rehabilitation was in evaluation. In other words, these people were not considered rehabilitated. Actually they were served, but they were not rehabilitated and placed in gainful employment. I gather that these people were thought to have gained some skills for independent living. I think this shows a problem both in terms of people who are referring clients to the program and to the program itself, that there is some assumption that this is the only kind of rehabilitation that's possible for elderly Chinese clients.

Ms. TAYLOR. Self-Help for the Elderly operated, that you mentioned earlier, a program for the older workers under Title I of CETA. I believe that's unique, is it not? Will you describe it for us for one and

tell us what outreach efforts were necessary to get older workers involved in this program?

Ms. QUAN. I am glad for the opportunity to describe something that I think is positive and may be a way of achieving affirmative action for elderly who are discriminated upon. Five years ago there was a Chinatown Caucus for Concentrated Employment. This was an effort to get more slots for the Concentrated Employment Program, CEP program, for people in Chinatown. Our agency submitted a proposal which was rejected because it was the elderly was not considered priority. At that point it was youth and heads of household and they meant, you know, young heads of households were priorities. Two years later older workers were considered a priority, but they were still way down on the list. So, again we lost out.

I guess our agency then gave up trying this route and we decided to try another way. What we did was to work with the community college district and I noticed that you will be having witnesses from that system in a short while. We worked with the community college district and developed a program called Ding Ho Housekeeping. That means topnotch housekeepers. They provided instructors and we provided the enrollment, the support services, and the placement service and so on. This became very popular and very successful. At this point again our staff submitted CETA proposals and got nowhere. We were told that we had no precommitted jobs and, therefore, it would be very difficult to fund this. But we were trying to show them, you know, our Ding Ho track record.

Finally, about 3 years ago there was \$300,000 left over in the CETA fund that was going to be used for experimental projects and we got \$50,000 out of that. We set up the SET programs, then the senior employment and training program—and we started a house, a bookkeeping, a housekeeping, a home health aide, and a home repairs program. The latter became a problem because of union opposition to older workers in anything that was related to building trades when there was unemployment among their own members. But otherwise our housekeeping and home help programs were immediate successes. Our bookkeeping program was a little slower to start but today is also flourishing. We have a placement rate of 80 percent. And again—

VICE CHAIRMAN HORN. I am sorry, I missed the rate.

Ms. QUAN. Of 80 percent.

VICE CHAIRMAN HORN. 80 percent out of how many?

Ms. QUAN. I'm sorry, but I don't have the figures of the total people trained. But currently we have about 100 people in training. Again, this speaks to support services, a special recognition of needs among a population who are, I think, most discriminated upon and I would describe it as non-English-speaking, elderly poor. The most important aspect of this program, I think, was advocacy with employers to hire people that we trained. We also needed to do counseling with workers in terms of contemporary work expectations and morale buildup. We

also needed to do followup work with both clients—both our students and employers—in terms of smoothing out worker-employee relationships, so on.

But I think what our program demonstrates is that there should be options. One of the witnesses before talked about before, you know, various capabilities on older people. That certainly was borne out by our program. I was thinking as I was listening, for example, that I supervised a man, a social worker on our staff who was 85 years old. He has been practicing social work for 20 years after a very colorful career elsewhere and how can you say that you know that? How can you know about your expectation in terms of people and their capacities? You really can't tell and I think people should have, you know, those basic opportunities.

We talk about our program as being very salable because we can describe that people come with a huge amount of work experience. They come with a lot because of many years of working experience elsewhere perhaps. They are reliable workers and they are stable, and at the moment we are developing a licensed vocational nursing program and a banking program.

And I think that that talks to, I think, the affirmative action aspect to what we are talking about in terms of age discrimination that in groups that have suffered the most in terms of discrimination, and I will put older workers and older people in that category then, there must be provisions for redress, and I think that allocations of funds then ought to reflect the numbers in our population and that they have been underserved.

Ms. TAYLOR. Thank you, Ms. Quan.

VICE CHAIRMAN HORN. You favor, I take it by that comment, a categorical approach to funding elderly programs or do you just think that is the basis for the first review to see if there seems to be gross patterns of discrimination in the administration of the program?

Ms. QUAN. I think with discrimination in other areas in our life here in the United States I would say that, you know, that we do need categorical programs.

COMMISSIONER SALTZMAN. But, Ms. Quan, I may sound repetitive to my colleagues, but from the scope of the testimony that has been submitted to us it seems to suggest that in some instances categorical granting of funds leads to a certain inflexibility, a certain bureaucracy misdirection and, therefore, it seemed that what was coming forth was a suggestion that funds be distributed on the basis of need without any categorical specifications to a particular age group. However, on occasion there do seem to be, there does seem to be need for categorical grants. So, would it be that kind of mixture which you are suggesting rather than funds categorically distributed that allow for a little flexibility?

Ms. QUAN. I'm afraid I'm not very clear on your statement.

COMMISSIONER SALTZMAN. Well, in providing for the allocation of Federal funds when the allocation is made with categorical grants that limit the application of those funds in accordance with the needs of a particular community, that each community differs in its needs, has a different requirement, the flexibility for the use of those funds then is limited by the categorical nature of the funds and in itself sometimes turns out to be counterproductive and discriminatory. So, the suggestion we have had seems to be in the direction that, while some categorical funding is required in some specified area to overcome past discriminatory impact, the major funding ought to be a noncategorical nature.

MS. QUAN. I guess I would agree with that latter statement because in a community like ours it can't be helped. And I don't know whether special effort is not needed in terms of working with, say, non-English-speaking, say, elderly. For example, I was thinking that we have people apply for social security or SSI every day and a worker in another office, not in the Chinatown office, mentioned to me the other day that when they see a Chinese applicant come to the door they cringe because they know that this is going to be a lengthy, what they call a development. When you have a client population whose cultural background, where people never thought about their birthdays until maybe they are 60 years old and then their family celebrates their 60th birthday, or when you come from a place where you live and you didn't have to think about, you know, the number and the street or the room number or you never had a telephone, sometimes just getting that kind of vital statistic in terms of applying for a program can be very lengthy and demanding. These things can be overcome but it takes some special effort and usually takes, for example, in an agency like Social Security would take extra staff and, therefore, extra time and extra money.

VICE CHAIRMAN HORN. Any further questions? Mr. Nunez, any further questions?

MR. NUNEZ. Just one question. I assume your organization is primarily staffed by Chinese Americans; is that correct?

MS. QUAN. I guess that calls for a definition. Most all of us, I guess, are permanent residents and some of us are citizens and some of us are not yet. But we have an age range very broad and I was thinking that in our particular culture that seems to work out very well. The elderly seem to like the idea that there are young people who are interested in helping and concerned about helping them.

MR. NUNEZ. That was the point that I was getting at, whether you felt in your experience as an administrator of agencies serving a very distinct ethnic minority whether you felt the key was to have people who were the same age or to have people who basically understood their cultural heritage? Which one or do you make that kind of differentiation?

MS. QUAN. As I mentioned earlier, I think the mixture of age has worked out very well in our agency. I think it's a very—in fact it's a very positive thing. Language and cultural understanding is very important. In fact, in our own particular community we have dialectal differences and that sometimes becomes a problem when we have elderly who have not been exposed to, say, Cantonese and they speak only their own village dialect. And if you can't communicate and tell people about your problems so that they can understand you, it's very frustrating.

VICE CHAIRMAN HORN. Ms. Bradley?

MS. BRADLEY. Mr. Gipson, you indicated at the outset of your testimony that the department on aging had social services development and resource allocation responsibilities. Does your department on aging have any other responsibilities, for example, program coordination, things of this nature which go beyond development of social services in making grants?

MR. GIPSON. Yes, the department does have this responsibility. It is part of our allocation of funds to the area agencies on aging of which we fund and the State, part of their responsibility is coordination of resources, and we as a department have the responsibility for monitoring and assessing and seeing that these things take place, realizing that this doesn't always happen. And I suppose I should go a little further because perhaps we have an advocacy role of even in coordinating the efforts of all State departments as far as we are concerned here in California. We really don't have enough staff to go as far as we would like to go, so I think in the overall view of what the department can and cannot do we have to set some priorities as to just how far we can go and what we can do with what we have.

MS. BRADLEY. That's an interesting point. But let me just pursue it. What you are saying is—or let me kind of paraphrase back to see if I understand—is that there are limited resources and when you have to make choices between, let's say, an advocacy role or working with the other departments and agencies within the health and welfare agency, and administering the programs under Title III, V, VI, and IX of the Older Americans Act because of just the administrative pressures or whatever, you are forced to allocate priorities to the administrative apparatus of that program at the loss or expense of other things.

MR. GIPSON. All right. I won't accept that 100 percent. I would like to categorize that by saying that since the day when we were receiving \$13 million as our allocation of funds we have not had an increase in staff. Now, we are coming up to allocating close, well, this year we may go up to \$40 million in funding and with that—

MS. BRADLEY. These are Federal funds strictly or does that include matching from the State?

MR. GIPSON. Well, mostly Federal funds because most all of our programs are of course through Federal funds. You have to understand

that administratively we receive about 50 percent of our administrative funds from the State. Our department is somewhat different from most departments where there's a 75 percent Federal to 25 percent State administrative support. Ours is more than 50-50. In fact, we get a shade more State administrative funds than we do Federal. Consequently, part of our problem has been in those Federal programs where there are not administrative funds it can't help our cause at all, and this is one of the areas that we certainly need to put forth a big step. On the other hand, on those programs that we can do an effective job we are limited because of our staff and other resources that we have to do it with.

MS. BRADLEY. The Administration on Aging established some mandatory requirements relative to the issue of program coordination. At various points in time the Administration on Aging changed its mind relative to the mandatory nature of certain things. But what they were requiring States to do was to develop interagency agreements with the agency administering Title XX, the agency administering CETA, the agency administering Medicaid. Has the department on aging—and in fact some of these agreements were conditions for approval of State plans—or has the department on aging been successful in negotiating such agreements, one? Two, either way, do you feel that that's an effective mechanism for advocating or seeing to it that a greater share of resources go to older persons—

MR. GIPSON. I honestly believe that if we had the resources to fully implement such a plan that certainly more of the funds for the elderly would go in that direction. We have established some interagency agreements, not with all departments, but we are hopefully establishing interagency agreements with those departments that are allocating funds for the elderly. We even today, for instance, are attempting to get Title XX funds for training purposes through the department of health. You must realize that when a department has a responsibility for funds then obviously they are going to pay more attention to their particular needs than anyone else's needs, and we as an advocacy can certainly share our input, but it is hard for us to demand how, exactly how they can use those funds.

MS. BRADLEY. Are the funds that you administer strictly under the Older Americans Act? Some State agencies on aging, for example, receive or have earmarked funds for Title XX that they administer. Is this not the case in California? Or is this the case? Let me put it simply stated, are the funds you administer strictly coming from the Older Americans Act and the State match or extra State appropriations?

MR. GIPSON. That's right; the funds that the department of aging administers are under the Older Americans Act except for the office of Title IV and Title IX and Title V.

MS. BRADLEY. What role did the department on aging play and in association with the area agencies on aging in the State in the Title XX planning process that occurred in the State of California, particu-

larly in the light of the public participation requirements under that program?

MR. GIPSON. That's a good question. Obviously—

MS. BRADLEY. Did you, for example, set up forums or organize older persons at the local level or establish position papers or policies or whatever that were sent over to the department administering Title XX? That's just a list of examples; I'm not meaning to put words in your mouth.

MR. GIPSON. No, you can't put those words in my mouth.

MS. BRADLEY. Okay.

MR. GIPSON. I, you know, some of those things that should be done certainly are not done and as far as Title XX funds the department of aging has very little input to the implementation of Title XX funds, since they are administered by the department of health. Now, in the area agencies on aging—

MS. BRADLEY. They all are in the health and welfare agency; is that not correct?

MR. GIPSON. We are all in the health and welfare agency, yes, but we all administer different funds in some respects. The department of aging does not administer Title XX funds.

VICE CHAIRMAN HORN. This is the point, if I might interject, that concerns me as I listen to the various State witnesses. Ms. Bradley is pursuing in more specificity a question I opened up this morning. These agencies are all under one secretary of health and welfare for the State of California. The impression I get from the testimony laid down is that the right hand does not let the left hand know what the left hand is doing or the person on the right doesn't talk to the person on the left. Now, is that an unfair reading I have from listening to State witnesses or is there a great deal of coordination that is going on that just doesn't seem obvious to the public?

MR. GIPSON. Well, I would like to say that there is a great deal of coordination that's going on that does not seem obvious to the public. However—

VICE CHAIRMAN HORN. Is that the coordination or merely meetings to try and attain coordination and you know what I mean?

MR. GIPSON. I know exactly what you mean. I think perhaps I would like to clarify my statement by saying that obviously in the health and welfare agency there is a good deal of dialogue that takes place, and there are often meetings of the directors of all the departments in determining where they are going in objectives and the type of programs that they are working in. I have had an opportunity to sit in with the director and as a representative of the director of the department of aging.

I would like to say that, because all of us have objectives that we have designated in our State plans in relations to the funds that we have received from the Federal Government, it sometimes takes more than a notion to coordinate these efforts and these programs that other

departments have even though we are in the health and welfare agency in coordinating those same efforts in the use of funds. Also, I think that it is probably fair to state that oftentimes the funds themselves are not as easy to get and to utilize and specific directions because of the funding match that you have to have. So, I think there needs to be—we need to take a look at all the different aspects and facets of the use of those funds.

Ms. BRADLEY. How large is the staff of the department on aging, Mr. Gipson?

Mr. GIPSON. We have 89 funded positions. We currently have about 84 members. We also, as you will find listed in our annual report and probably in our State plan, that the commission is listed as part of our staff even though they are separate. There are six members.

Ms. BRADLEY. Would you indicate or designate for the record the distinction about the commission and the department on aging so there is a clear understanding?

Mr. GIPSON. Yes. The commission on aging now as established by law constitutes 25 members that are appointed by the Governor and then the legislature. They have an advocacy role in serving the elderly. They are separate from the department of aging, but they advise us as we try to keep them informed as to what we are doing and the help that they can give us. And we in turn out of our allocated positions, they receive six staff positions for that purpose.

Ms. BRADLEY. Okay. Thank you. I appreciate that. How many of the staff of the department on aging are over 60 years of age?

Mr. GIPSON. Well, I purposely brought a little slip of paper here because I thought that question might come up. We just recently lost a few of our staff over 60 I'm sorry to say, but in our department currently I think we have four members who are over 60. We have, I recall, 20 members between, what is it, 50 and 60. We have 17 between 40 and 50. The average age of our department is approximately 47. And this has been a tremendous increase. We still have some disagreements on to what extent our department has increased where age is concerned. But when I came onboard approximately a year ago I was told that the average age of the department just before then was somewhere in the neighborhood of 27. So, I can see a tremendous increase there in the average age of employees in the department.

Ms. BRADLEY. From my knowledge of employees in California that seems to be higher than it used to be. One final question, Mr. Gipson, and it's more or less a kind of philosophical inquiry. Can a public sector agency such as the department on aging or area agency on aging that receives a good deal of service money and must administer grants at all be fairly expected to be successful in influencing other agencies administering grants to increase their outlays for older persons; that is, is the advocacy expectation, and the outcomes associated with that, an unrealistic expectation in the Federal statute and regulations under which you operate?

MR. GIPSON. I don't believe that that is an unrealistic expectation. I honestly believe that as the department of aging this is part of our responsibility and, you know, perhaps we need to set some priorities on areas so that we can carry this out. I think that in working with the area agency on aging and perhaps I should explain when we talk about the area agencies on aging so you can understand that they in turn are working with the department in carrying out programs for the elderly. Here in the State of California we have currently 15 area agencies on aging that cover 33 of the counties in California. As of July 1 hopefully we will have 17 area agencies on aging. Now, they have a responsibility for carrying out those services to the elderly in those counties.

MS. BRADLEY. They are providing services directly to older persons in those counties?

MR. GIPSON. That's exactly right.

VICE CHAIRMAN HORN. You allocate the funds given you under the Older Americans Act to these agencies for field implementation; is that it?

MR. GIPSON. That's exactly right.

VICE CHAIRMAN HORN. Let me ask you, from the metropolitan area such as San Francisco, which would involve San Francisco, San Mateo, Alameda County, Marin, and in Los Angeles which would involve, let's say, Orange County, possibly Ventura, depending on how you look on it, Riverside, San Bernardino as well as Los Angeles, is there one agency representing your department or are there several?

MR. GIPSON. Oh, there are several.

VICE CHAIRMAN HORN. What are the problems of coordination on the delivery of services within a metropolitan area where you can't tell where the county line stops and begins if you are up in an airplane?

MR. GIPSON. All right. Let me go back and explain this just a little differently. What happens as was designated across the State, the State was divided up into these public service agencies across the State and in the LA area, which has the large portion of our elderly, there are several area agencies on aging, one in LA itself in the city, one in the county, one in San Bernardino, one in Riverside, one in Orange County. There are several area agencies on aging in the southern region of the State and all of these have the responsibility of developing an area plan that coincides with the area plan from the California Department of Aging. We have the responsibility for reviewing this plan to determine what are the services that they are going to provide in these particular areas. So, part of our responsibility and part of our oath is working with the area agencies on aging in assuring that direct services are provided to the elderly in those counties where the triple As are.

VICE CHAIRMAN HORN. Go ahead.

MR. GIPSON. And then we have DSA, direct service agencies, that we attempt to provide services in those areas where we do not have triple As or area agencies on aging. And I think just for the record

I would like to say that currently the department does not have the responsibility of giving direct services to the elderly. We have responsibility for ensuring that direct services are given through those grants or contracts that we give to the area agencies on aging, the direct service agencies, and other entities that provide direct services.

VICE CHAIRMAN HORN. Do you find the area agencies on aging cooperate with each other in terms of a common approach to some of these problems that might be one block inside of the county line, one block the other side of the county line, but are still people?

MR. GIPSON. I find there is a good deal of differences and just because they are people I think is what creates the difference. I think that philosophically we all have the same goal in mind and that is providing services to the elderly. But being very realistic about it, the approach oftentimes comes from different directions and because of that there are a lot of things that get involved and get in the way of everyone doing their job, including the political arena that we all have to work through. I think we have to understand that in all of the areas everyone has what you might consider their turf that they're working on; their power base, or political arena, however they want to do it. And obviously they are trying to get as much as possible for the people, hopefully, the elderly in their areas. And, so, we are trying our level best to ensure that we do have good cooperation and that we do have working relationships so we can provide the best of services to the elderly.

VICE CHAIRMAN HORN. What's your basis for the allocation of funds to the area agencies on aging; is this a formula approach based on percent of aged however defined in an area?

MR. GIPSON. Yes, unfortunately that is an area that still creates a good deal of criticism and complaint and disagreement. The Federal Government allocates the funds to the States on a formula that they come up with, mostly over-60 population. However, there have to be block grants in some areas because of the very few numbers of elderly in rural areas, and in those areas where there aren't a lot of elderly there has to be some plan where they can also get service.

Well, unfortunately we in California in attempting to allocate these funds have the same problem. There is not the same even distribution of elderly across the State, and consequently in allocation of funds we can only go by what information we have. And if we take the 1970 census, obviously it is outdated, and from input that we have gotten from colleges and universities and those entities that have currently done census taking, we try to use this information in coming up with an equitable plan that will do justice to everyone. It's just impossible because everyone sees things a little different in their area and this is an area of disagreement that hopefully we can resolve one day soon.

VICE CHAIRMAN HORN. Thank you, Mr. Gipson. Ms. Bradley?

MS. BRADLEY. Just one point. Since the department on aging can approve and allocate funds on the basis of an area plan, I was wondering,

Mr. Chairman, if we couldn't request Mr. Gipson to submit for the record the area plan approved for the San Francisco Commission on Aging which has jurisdiction over the city and county, since we don't have any representatives specifically from that agency testifying.

VICE CHAIRMAN HORN. Very well, it will be entered in the record as Exhibit 31.

MR. GIPSON. San Francisco City and County. May I also make one other statement if time will permit because we in listening to a discussion on the CETA program, which is one that is close to our hearts here in California and one that we would like very much to have an opportunity to work through especially if it will provide us elderly people that we can use in our department and that we can also offer employment to, I would like to say we've had one heck of a time trying to get services through the CETA program and not only that, but we have a hard time trying to get people, period, to us through the CETA program. But as I looked at statistics and figures that are supplied I find that there are very few elderly in the CETA program and that even when they are in there we can't even get them in our department. And when looking at the situation as a whole I find that this is one of the ways whereby we can bring an elderly person into the department, train them in the area that they could be most beneficial and most helpful, and then even help them in the area of taking examinations so that they can get hired. But probably the biggest concern and biggest problem of hiring elderly in the State of California, especially when we have to go through the merit system whereby you have to be on an eligibility list before you can be picked up this presents a problem for the elderly. But the CETA program could help us in that area if we can get some cooperation and assistance or if someone can play an advocacy role in assuring that we can work that program and have trainees.

VICE CHAIRMAN HORN. Very good. Thank you very much, the both of you. We appreciate the time you've taken to share your experience with us.

MR. GIPSON. I would like to thank you for having a hearing here in California where we have an opportunity to have our input.

VICE CHAIRMAN HORN. Well, we know the fine job your director, Mrs. Levy, and others do. So, we appreciate it.

The next panel is a panel of college educators. Will Mr. Washington, Ms. Ness, Mr. Kirk, Mr. Lee, Mr. Law, please come forward. While they are coming forward, I would like to make this announcement. The Commission will be holding its open session for persons who wish to address the Commission with regard to age discrimination in federally-assisted programs. In holding such a session the Commission is required to observe statutory requirements concerning testimony which may defame, degrade, or incriminate any individual. In addition, in order to maximize the effectiveness of this hearing the Commission is interested in hearing only those who may have testimony to offer

on the question of age discrimination in federally-assisted programs. All persons who wish to testify, those who have signed the open witness list, should report to Room 450 for a brief interview. We hope to begin the open session at approximately 4 o'clock this afternoon.

Now, if you will raise your right hands I will swear you in.

[Mr. Howard W. Law, Ms. Rachel Ness, and Mr. Kenneth Washington were sworn.]

TESTIMONY OF HOWARD W. LAW, ACADEMIC DEAN, SIMPSON COLLEGE, SAN FRANCISCO; RACHEL NESS, ASSISTANT DEAN, FINANCIAL AID, CITY COLLEGE OF SAN FRANCISCO; AND KENNETH S. WASHINGTON, PRESIDENT, CITY COLLEGE OF SAN FRANCISCO

VICE CHAIRMAN HORN. Please be seated. Counsel will identify the witnesses.

MS. TAYLOR. Will you please all state your names, your positions, and your institutional affiliation?

DR. WASHINGTON. I am Kenneth S. Washington, president, City College of San Francisco.

MS. NESS. Rachel Ness, assistant dean, financial aid, City College of San Francisco.

DR. LAW. I am Howard W. Law, academic dean, Simpson College, San Francisco.

MS. TAYLOR. All right. Thank you. Would you all address yourself to this next question which is: is age taken into account in your admissions policies in San Francisco?

DR. WASHINGTON. Yes. You have to be over 18. The education code says that students who have either graduated from high school or have reached the age of 18 and can benefit from instruction are eligible for admission to any of the community colleges in the State of California.

MS. TAYLOR. Thank you. Dr. Washington and Dr. Kirk, have any special programs been adopted by the Community College of San Francisco that are aimed at the enrollment of particular age groups and, if so, please describe any?

DR. WASHINGTON. Of a particular age group or are we just restricted to aged?

MS. TAYLOR. Of any particular age group.

DR. WASHINGTON. Yes. We have several. One of them is sort of an advanced placement program that we are engaged in with the high school students of the City and County of San Francisco where we provide some classes for students prior to their graduation from high school. We have a program called the Woman's Re-Entry Program, which is designed to serve women who have had an interruption in their educational career for any reason. We started, although it's very recently, a committee at the college to deal with admission, recruitment, and special services for senior citizens that we have dubbed a "Matinee College." We hope to have that in operation in September.

MS. TAYLOR. Going to the other two programs, have you had—could you tell us or do you know at this point has the academic performance of these special students, how does it compare to the rest of the student body?

DR. WASHINGTON. I can only address the younger students in the advanced placement program. They are a select group that we follow very closely. They are handpicked students from high schools who can benefit from advanced placement programs and they perform as expected as well or above our general student population. We have not previously sorted out the students that we have who are over a particular age and we cannot address their academic performance. The women, in the Woman's Re-Entry Program, are not separated out on any program in terms of recordkeeping. It is a support program for them with counseling, financial aid advice, group—I almost called it therapy, but it approaches group counseling in environments to give one another support to stay in school.

MS. TAYLOR. Thank you. Ms. Ness, could you please describe to us how age is taken into account in financial aid decisions, especially with regard to the direct student loan program?

MS. NESS. In general our programs which are federally funded, and we do have a smaller State program, has no age discrimination. It is strictly based on financial need analysis and progress, normal progress in academics is our contract, the contract between us and the student for continued financial assistance, and of course continued financial need.

The only area where I could say that age comes into account at all is in the loan program. The mandate by the Federal Government is that each institution who signs an agreement to participate in a loan program has to practice due diligence. Now, they don't spell it out to the letter what due diligence is, but it has to do with a person's ability to repay. And that's a judgmental decision. If an older person comes to school—and he or she has every right to come to school; there is no maximum age limit in attending college—and applies for financial assistance and has financial need as we determine through the need analysis, then that person is entitled to financial assistance. When we have to evaluate what types of programs to award that person, we have a variety. We have grants, we have work-study programs, and we have a loan program. Now, depending on the age of the person and assuming this person's ability to repay just really—very briefly, the loan is repayable 9 months after a person completely finishes his or her education or ceases to be at least a half-time student at any institution. So, a person could go to a 4-year degree, etc. Then—

MS. TAYLOR. Nine months after?

MS. NESS. After the person completely finishes his or her education, there is a 9-months grace period before any repayment is due. And the assumption on the part of the Federal Government is a person goes through education, gets a salable skill, goes out and becomes em-

ployed, and then is given almost a year because, before the first payment is due, it's actually the 12th month. Oh, the actual date there is a 9-month grace period. Then there is a bill and the bill is due on the 12th month that the person is now ready and in a position to start repaying.

Ms. TAYLOR. Fine.

Ms. NESS. Therefore, there has to be due diligence in who gets the loan and who doesn't. Our main purpose is to support the student financially, the eligible student financially.

Therefore, if an older person comes in and is eligible, we look for the best type of package, as we call it, to award that student. That student again, depending on age, would have low priority for loans and hopefully we would be able to award them grants and/or the work-study program. And the loan would be last in the category.

If there is a, you know, we have to weigh it on an individual basis. We don't set down in our policy that anyone over a certain age cannot get a loan. That is not written anywhere and we do not practice that. On a case-by-case basis, depending on a situation. If we must look at a loan as the last viable choice, then we have to weigh all of the points with due diligence that the government sets down for us.

VICE CHAIRMAN HORN. I don't understand where age would come in in weighing your responsibilities under due diligence; could you elaborate on that for me?

Ms. NESS. Ability to repay. If a person comes in and is 80 years old and the assumption of the loan is that the person would go through the education and due diligence does not end in just awarding the student, it ends in collecting the money back. This is the responsibility that the government has placed upon the institution. Therefore, if a person is—has no income and has come to school to not necessarily get a degree but to try his or her hand at something or discover a new career for himself or a new interest, we don't measure that. We measure financial need. Now, if the student is awarded a loan and goes through his or her education and comes out in 9 months, 12 months after is unable to repay that loan, we must send, after a certain point the loan goes to a collection agency.

This is our responsibility in our due diligence in collecting the money back. It's a revolving fund so as a student borrows he takes his education, he repays the money because he has received his education and goes out into the working world. This is the assumption. And then turns the dollar back so a new student can receive the loan dollar.

VICE CHAIRMAN HORN. What's your default rate?

Ms. NESS. Very high. It is changing.

DR. WASHINGTON. High as it's been—

Ms. NESS. It is one of the highest in the State.

VICE CHAIRMAN HORN. Well, 50 percent?

Ms. NESS. No, higher than that.

VICE CHAIRMAN HORN. Seventy percent?

Ms. NESS. Yes.

VICE CHAIRMAN HORN. What, approximately?

Ms. NESS. About 72 percent.

VICE CHAIRMAN HORN. Seventy-two percent, now that's based, that default rate is based on applying due diligence and presumably giving loans primarily to younger students?

Ms. NESS. Well, there are many factors involved in due diligence. I was just answering a portion about age. I could go into our whole loan—

COMMISSIONER SALTZMAN. What age is your breakoff?

Ms. NESS. There is no age breakoff.

COMMISSIONER SALTZMAN. Well, you were saying a person 80—

Ms. NESS. Well, on an individual basis. The person 80, I—I haven't experienced it yet. I did have an experience at one time with an older person and we were able to package that person and not put that burden on the person through work-study and grant program.

COMMISSIONER SALTZMAN. I'm sorry, it might be helpful for us, Dr. Washington, could you tell us what the student population is by age over, let's say, 5-year period? Are those—

DR. WASHINGTON. The age population?

COMMISSIONER SALTZMAN. The student population by age?

DR. WASHINGTON. It is, the day student's average age is 21.5; the evening school, 10,000 students, the average age is 27.5.

COMMISSIONER SALTZMAN. Well, what I mean is categorization, how many students do you have, how many from one age bracket to another age bracket, do you have that?

DR. WASHINGTON. I don't have that broken out. I know that we have 947 students currently enrolled over 50.

COMMISSIONER SALTZMAN. Could you submit those figures?

DR. WASHINGTON. Yes, certainly.

COMMISSIONER SALTZMAN. And in relationship to that, Ms. Ness, would it be possible for us to find out in the last 5 years how many students over 55 have applied for loans? Could you have those figures?

Ms. NESS. We—because we don't—

COMMISSIONER SALTZMAN. Do you keep a record of loans, grants, work-study?

Ms. NESS. Yes, not by age, though.

COMMISSIONER SALTZMAN. Not by age?

Ms. NESS. No. That's one of the statistics which we don't keep because there is no age requirement. We keep an ethnic breakdown, an income, family income breakdown, but—and a male-female breakdown.

COMMISSIONER SALTZMAN. How long have you been in this position, may I ask?

Ms. NESS. At City College for a year, in financial aid for 6 years.

COMMISSIONER SALTZMAN. In the 6 years—

Ms. NESS. I have seen very few—

COMMISSIONER SALTZMAN. Very few over 50, though?

Ms. NESS. Over 55. There are more coming back because—because it's open door and they're discovering new ways, a lot of older people I have seen in the last 6 years are coming to community college ranging from late twenties, thirties, forties, fifties, sixties, seventies, very few.

And usually in financial aid, our ability to be able to assist the person is in, as a supplement to some other source of income. As opposed to a young student who comes in and has absolutely nothing, usually there's a retirement, social security, so that we are able to fund that person with other than a loan program and we prefer to do so for the person's sake. Secondly, for our sake, as far as due diligence.

VICE CHAIRMAN HORN. All right, without objection Exhibit 32 will be age distribution data, relevant financial aid data as available for the San Francisco City College. Let me ask you—

Ms. TAYLOR. Is that for the last 5 years, Mr. Chairman?

VICE CHAIRMAN HORN. I'm sorry, I can't hear you.

Ms. BRADLEY. Is that for the last 5 years?

VICE CHAIRMAN HORN. For the last 5 years if available. Staff can work out what is reasonable; we don't want to add to your burdens.

Let me ask you, Ms. Ness, there are two types of loan programs, am I correct, that are administered by the office of financial aid?

Ms. NESS. Generally, yes.

VICE CHAIRMAN HORN. Would you describe those, please, for us?

Ms. NESS. Yes. One is institutionally based, which is called the National Direct Student Loan. That simply means that the funds come directly from the Federal Government to the institution. The institution performs the need analysis, awards the dollars, and follows up on the student.

The second loan is called a federally-insured student loan or guaranteed student loan; the two names are used synonymously. That is also insured by the government; however, the dollars are loaned from local banks and lending institutions. Unfortunately, particularly in California, most of the banking institutions in California have pulled out of loans to community college students.

Well, the ones who are continuing are those who perhaps the student has had a prolonged banking relationship with the bank. I don't know if I used some credit unions, I don't even know if they're participating, but the major participants in the federally-insured loan have completely pulled out of community colleges.

VICE CHAIRMAN HORN. During your experience over the last 6 years in financial aid, have you seen evidence of age discrimination in the administration of this program by local banks and lending institutions?

Ms. NESS. Yes. On a very minor level because generally the federally-insured loan has not been a major program. I've worked only in community colleges in southern California and here. And people who have come into our office, we screen the student initially and then we send them on to the bank for final credit approval. There are many

reasons why a bank might reject a person; if the person has a standing account, I have seen no discrimination as far as that's concerned. The bank makes the final choice and really doesn't tell us why. So it's really between the bank and the student.

The only place where the Federal Government comes in is insuring the loan, insuring the repayment of the loan, and what we do is certify that the student is properly enrolled or intends to enroll and is in good standing. That's what he's saying, federally-insured loans, he just—

VICE CHAIRMAN HORN. The reason I asked that is, when I returned to California in 1970, I know some banks were limiting loans to students under 26 years of age.

Ms. NESS. Oh, right, I—right, I've been away from it, you know, it's so out of our minds now. There was an age limit except for returning veterans; usually they left that in. And their reasoning was that if a person didn't take advantage of his education right when he got out of school, that he missed his chance, that they would not come in and loan the money. That was some of the reasoning for the age limit.

VICE CHAIRMAN HORN. Has this changed, to your knowledge, at this point?

Ms. NESS. To tell you the truth, I don't know, because we—the community college has completely been eliminated from that particular scene and I don't know what the latest requirements are. You would have to check with the banks or—

VICE CHAIRMAN HORN. Well, Exhibit 33 will be a staff exchange with the leading California banks in this area as to what, if any, are their age discrimination requirements in the administration of the federally-insured or guaranteed student loan, and just pick the 10 major banks and lending institutions in the State and without objection, that's Exhibit 33.

Ms. NESS. It might be good to check with the 4-year college or institution.

COMMISSIONER SALTZMAN. May I ask, Dr. Washington, what's your evaluation of the older students and their success as students?

DR. WASHINGTON. They certainly differ in character; I think that they're much more serious about what they're doing. Depending upon your definition of a bottom cutoff of older student, I would say that they are not degree or credential oriented. They generally have other purposes which is to—which are—might be to, personal development, to take some courses that they didn't have an opportunity to take the first time around. Needless to say they are no problem as far as campus activities of the late sixties, early seventies is concerned; they are enthusiastic, generally good attendees.

We at City College have a particular problem with the geography of the campus. We're on a hill, and it is physically formidable to have to walk back and forth over that hill. And I think that may limit the number of students that we have, but I think that those who can make it find it a rewarding experience and we're glad to have them.

MR. NUNEZ. You're talking about people over 60, 65, how would you categorize it, this population?

DR. WASHINGTON. I would say people over 50 would have a problem. I fall into the category; I have a problem navigating.

COMMISSIONER SALTZMAN. How about the handicapped—

MS. NESS. I have a problem too.

COMMISSIONER SALTZMAN. The handicapped, then, apparently—

DR. WASHINGTON. Well, we have a handicapped program and we have a van that provides a shuttle service and we're building ramps and so forth, but it is a problem; they have to go long distances to cover very small height.

VICE CHAIRMAN HORN. I'm glad to hear you mention that students return to school to seek certain things other than degrees or credentials and you mentioned personal worth, reentry education, updating on the state of a particular art, gaining new competence, it could be a wide range; and in that sense there's a real difference in policy as to financial aid as you have described it in terms of the regulations and assumptions which are geared more to the traditional student who comes directly out of high school, goes on, is a full-time resident, completes a baccalaureate degree, perhaps goes to professional school, than thousands of students really are practicing who stop in, stop out, go to work, want to gain new competencies. And I guess I'm wondering how realistic are our financial aid policies in terms of the real needs of the population for further education, if the assumption is that one must go full time, must go to work, and you only can succeed there if you have a degree, and that was sort of the implication of your earlier statement.

MS. NESS. Well, let me explain that that—

VICE CHAIRMAN HORN. It doesn't make sense in terms of why many students are going to school and they might have just a legitimate, I mean they might be just as able to pursue a job with their one or two courses, one could argue, and repay the loan.

MS. NESS. Right, therefore, several years ago, I can't recall the exact year, perhaps '73, or '74, the Federal Government changed its policy on the number of units a student had to be enrolled in. Therefore, financial aid, all of the programs, all of the Federal programs are now open to part-time students, with a minimum of six units. And that has been in effect for, as I said, now going on 4 years probably.

VICE CHAIRMAN HORN. And that's essentially two semester courses instead of the more traditional four or five?

MS. NESS. Right. Right.

VICE CHAIRMAN HORN. Okay. Counsel?

MS. TAYLOR. Dr. Law? Would you please address yourself to this question, what matters or issues should be explicitly covered in the age discrimination regulation?

DR. LAW. In reference to a 4-year college we're talking about admissions, and the matters that would be covered there would deal with

discrimination against a particular group being able to come to the college because of admissions policies which would preclude that.

I think we're also dealing with the kinds of requirements that the institution is required to make, fulfill in its reporting back to the agency. The Federal Government would require certain things to show that the institution was not discriminating. This may or may not put quite a burden on the particular institution, depending on the kind of regulation, so this would be a concern.

There's also the matter of the State and Federal interaction at this point. We would be concerned, for example, that the regulations from the Federal Government would not duplicate the State regulations, but rather that hopefully the Federal Government would take advantage of existing reporting mechanisms from the State government and only require a supplement, if at all necessary.

These are things that immediately come to my mind.

MS. TAYLOR. Dr. Washington, would you like to comment on that?

DR. WASHINGTON. Ask the question again, please?

MS. TAYLOR. All right, I asked what matters or issues should be explicitly covered in the age discrimination regulations?

DR. WASHINGTON. I think that the community college is in a much better position in this regard than 4-year institutions are. I think that our mission is somewhat different as stipulated in law, and certainly as we find it in practice.

I would hope, as Dr. Law stated, that we would not be burdened with, and as I explained to Mr. Kretz, that we would not be burdened with voluminous reports to make, but that we would be in some manner encouraged to engage in services that we may be just beginning. It just came to my attention today, California higher education study for the aging, though it is dated October 10, '75, it is still quite current, and I find that we, in the community college system, are somewhat late, I guess, in addressing specific attention to the aging.

And I'm hoping that we would find some support from the Federal Government than reams of reporting to ferret out what we are not doing.

The question was asked of one of the previous presenters, should the Federal Government provide categorical aid, and I recognize that it has been the past experience of the Federal Government that when money is not categorical that schools and school districts have done all kinds of things with money like buying airconditioners and so forth when they were free to do so. On the other hand, if you look at categorical aid from the recipient's point of view, a person becomes a teenager or disadvantaged student and he's in one category, I guess he can start off with Head Start, and you go through life you are able to survive because there are categorical funds which label the recipient, and as one goes through life and suddenly he crosses one birthdate and he falls into another category where another set of categorical funds are provided for his sustenance and for his survival.

And I would hope that there would be some way of providing support not categorical but certainly rap the knuckles of those who are not spending the money in a way that addresses all of the constituents in our society.

MS. TAYLOR. Dr. Washington, what did you say was the date of the report that you have?

DR. WASHINGTON. 10/10/75.

VICE CHAIRMAN HORN. What agency is the author of the report?

DR. WASHINGTON. It's the California Office on Aging.

VICE CHAIRMAN HORN. Do you wish to receive a copy for the record, or do you wish it inserted as evidence in the record?

MS. TAYLOR. I would like it inserted as evidence in the record and marked as Exhibit 34.

VICE CHAIRMAN HORN. Exhibit 34, without objection, will be the report of October 1975, California Department on Aging.

MS. TAYLOR. Right.

MR. NUNEZ. Dr. Washington, you have a rather large institution, in fact very large institution, with a great disparity of—in ages for your student body as you described it. Do you offer any specific services, for example, I'm thinking about most colleges have a department of veterans counseling to help veterans make adjustment or something of that sort. Would you have that kind of program for the older students in your school?

DR. WASHINGTON. No, we don't. And as I mentioned a little a bit earlier, we're starting our first effort in the college to adress the aging. Now, this is not the district—and maybe I should explain that the San Francisco community college district is made up of two separate delivery systems: one gives credit, that's City College; and one is not credit, adult education.

Now, the adult education has had programs for the aged and the aging for some years. The college has not. And we are just beginning, what we're calling the matinee college, and our first effort will be to decide those courses and classes that would best suit the aging population, and then, as we develop greater expertise in this, we will be developing new courses and new classes and probably at new times and different locations within the city to serve the aged. This is our moving goal.

MR. NUNEZ. Do you see the need for special counseling or guidance in this area?

DR. WASHINGTON. Yes, certainly. The problems of aging are unique to, compared to other segments of our population and they should have special services. Here again we don't have special funding, but that's an ongoing complaint.

MR. NUNEZ. I wasn't clear, did we get any kind of percentage as to the number of students over 55?

VICE CHAIRMAN HORN. We had a number given to us and we will be receiving a 5-year age distribution; 947 students over age 50.

MR. NUNEZ. All right, so there are about 26,000 that you have?

DR. WASHINGTON. Yes. But I think in this, in this area we cannot be content as we have in the past, come one, come all over 18. I think it's our obligation to do some recruiting.

VICE CHAIRMAN HORN. Any further questions?

MS. TAYLOR. No further questions.

VICE CHAIRMAN HORN. Ms. Bradley, any questions?

MS. BRADLEY. No, sir.

VICE CHAIRMAN HORN. Thank you very much, appreciate having you here, grateful for your testimony.

The last panel before the open witness session is a panel of educators in universities. Counsel will please call the next panel.

MS. TAYLOR. Mr. Chairman, there have been some changes and substitutions made. Dr. Cornachon, Dr. Steward, Dr. Juarez, I believe instead of Travers, and Dr. Leake, would you come forward?

VICE CHAIRMAN HORN. Please raise your right hand.

[Dr. Bliss Cornachon, Dr. Armando Juarez, Dr. Chauncey Leake, Ms. Gale Mondry, and Dr. John Steward were sworn.]

TESTIMONY OF BLISS CORNACHON, DEAN OF GRADUATE STUDIES, STANFORD UNIVERSITY; ARMANDO JUAREZ, SENIOR COUNSELOR, FINANCIAL AID, UNIVERSITY OF CALIFORNIA AT BERKELEY; CHAUNCEY LEAKE, SENIOR LECTURER, UNIVERSITY OF CALIFORNIA AT SAN FRANCISCO; GALE MONDRY, ASSOCIATE COUNSEL FOR MEDICAL AFFAIRS, STANFORD UNIVERSITY; AND JOHN STEWARD, ASSOCIATE DEAN AND CHAIRMAN OF ADMISSIONS, SCHOOL OF MEDICINE, STANFORD UNIVERSITY

VICE CHAIRMAN HORN. Please be seated. Counsel?

MS. TAYLOR. Would each of you please identify yourselves by giving your name, your position, and the university affiliation, including the young lady at the end, starting with Dr. Leake?

DR. LEAKE. I'm Chauncey Leake, and I'm senior lecturer at the University of California in San Francisco. That is a general health, professionally oriented institution.

DR. CORNACHON. I'm Bliss Cornachon, dean of graduate studies at Stanford.

DR. JUAREZ. Armando Juarez, senior counselor, financial aid, UC-Berkeley.

DR. STEWARD. John Steward, associate dean, chairman of the admissions at Stanford University School of Medicine.

MS. MONDRY. I'm Gale Mondry. I'm associate counselor for medical affairs at Stanford.

VICE CHAIRMAN HORN. I couldn't hear the spelling of the last name.

MS. MONDRY. M-o-n-d-r-y.

MS. TAYLOR. And what is your title?

MS. MONDRY. Associate counselor for medical affairs. I'm an attorney.

MS. TAYLOR. Thank you very much.

Dr. Steward—

VICE CHAIRMAN HORN. Let me ask you, are you going to testify at all?

MS. MONDRY. No, I don't plan to.

MS. TAYLOR. Dr. Steward and Dr. Leake, I'd like to address this question to you. Medical education is perhaps the most frequently cited example of age discrimination in our education. Have either of your institutions adopted age restrictions as part of your admissions procedures?

DR. LEAKE. No—

MS. TAYLOR. Dr. Leake, please?

DR. LEAKE. No, not at the University of California. We base our admissions on merit without any discrimination of any sort as far as we can tell.

MS. TAYLOR. Dr. Steward?

DR. STEWARD. At Stanford University School of Medicine we will seriously consider any qualified applicant irrespective of age.

MS. TAYLOR. Thank you very much.

I'd like for both of you to please react to the next question. Though the age of an applicant may not immediately disqualify him or her, is the age of an applicant taken into account in any way, in any way in the admissions process?

DR. LEAKE. Yes, in general we try to get individuals who are stable; we don't want them too young or we don't want them too old. But actually, we have now in school some six or eight individuals that are over 40; we take into account their physical condition, their general mental capacity, and their ability to become useful and helpful members of the health professions.

MR. NUNEZ. Are we talking about medical students, Doctor?

DR. LEAKE. Well, I'm talking at the University of California in San Francisco, we deal with medical students, dental students, pharmacy, nursing, and graduate students and with the health auxiliaries, so we have a very broadly based school.

COMMISSIONER SALTZMAN. Dr. Leake, you say stable student, neither too young nor too old. Is there an age at which a person—

DR. LEAKE. No. No age, there's no arbitrary age. The judgment is made by interview, by all the records that are available of the individual's ability and capacity.

COMMISSIONER SALTZMAN. So you don't mean they're too old in terms of an age—

DR. LEAKE. No, not chronologically, it depends on what we judge their ability to be, what their acting age can be.

COMMISSIONER SALTZMAN. And do you have a profile of your student population broken down by age?

DR. LEAKE. Well, I just said we have six or more people in the school that are over 40; we have no breakdown otherwise. Now—

VICE CHAIRMAN HORN. Excuse me, that is six in the school of medicine, are those six in the school of medicine?

DR. LEAKE. Those are in the school of medicine.

VICE CHAIRMAN HORN. In the school of medicine—

DR. LEAKE. Yes.

MR. NUNEZ. You have no record of the age of an entering student?

DR. LEAKE. Yes, we have full age of the entering students.

VICE CHAIRMAN HORN. Would it be possible to secure for our records some indication of the age of entering students into your medical and dental schools?

DR. LEAKE. Yes, it runs, I can tell you in general how it runs. Usually you see in the professional schools, the individuals have already gone through the ordinary university or collegiate career, so they come into school usually at an average of around 25, 26, and 27, this may go on up through into the forties.

The point is that in addition to the teaching of 4 years, then there's the internship or the residency; they don't get out and do active service for about 6 years after they enter or maybe 8 or 10 years, depending on their specialty, so they have a very short time relatively in which to practice their profession. So, in general, it's not wise to come in too late. They understand—

COMMISSIONER SALTZMAN. What age is too late?

DR. LEAKE. It would depend on the individual. Look at me, I'm 80.

COMMISSIONER SALTZMAN. That's what I'm saying and I'm sure at 80—

DR. LEAKE. Well, we judge that same way as far as we can.

COMMISSIONER SALTZMAN. Well, are those records available to you—

DR. LEAKE. Yes.

COMMISSIONER SALTZMAN. —to submit to us?

DR. LEAKE. Would you like them?

COMMISSIONER SALTZMAN. Yes, I would.

VICE CHAIRMAN HORN. All right, Exhibit 35 will be age distribution of the student body by 5-year groupings, University of California, San Francisco, primarily the medical school. We'll leave it to the staff to work out with the University of California staff. If possible—and dental school. If possible, it will be distribution based on applicants and admissions, not simply who's there now.

DR. LEAKE. There's a good point there. Let me point out that we have some 5,000 applicants in the school of medicine for 146 positions. It takes a lot of screening. And the screenings go in stages.

COMMISSIONER SALTZMAN. And you're indicating that the screening never or—not never—but does not weight itself in relationship to age?

DR. LEAKE. No, it does not.

VICE CHAIRMAN HORN. Well, isn't the reality, though, in terms of the criteria used for admission to a medical school, various types of tests requiring certain high level of competency in abstract knowledge, the college transcript that is weighed in terms of science courses taken, etc., etc., isn't the reality that somebody that had been 5, 10 years out of their undergraduate education would have an extremely difficult time even qualifying to be considered by the admissions committee in medical school?

DR. LEAKE. Yes, sir, that is true and the screening there usually comes from the Medical College Admissions Test, which is nationwide. And only those individuals who are at the top level of that are—are appropriate to be considered.

VICE CHAIRMAN HORN. So that's the reality of it. It isn't a question of conscious age discrimination, but I would guess it would be—my assumption would be that it would be, with rare exception, hard to pass the, what's it—

COMMISSIONER SALTZMAN. Well, I know of a specific instance, Mr. Vice Chairman, where a man went and, who was a Ph.D. in pharmacology, went back to school—he was in his late forties—to bone up on the science courses that he had had, applied to a medical school and was—got, after having taken the examinations that would qualify him, was turned down on the basis of age, and that he didn't have enough years to make it worthwhile for the medical school to educate him. And I think that's probably a very common occurrence and ends up discouraging older people from applying, even from applying, even though academically, scholastically they would qualify.

DR. LEAKE. Well, I might beg to differ with you, sir; in our own instance we have a number of such individuals who have a Ph.D. degree or so and then want to get an M.D., and we have admitted them. If they're qualified there's been no age discrimination.

Now, on the other hand, we also have some M.D.s who come back and want to take special courses or take the whole course over again. One in the department of pediatrics, for example, she had become emeritus but she wanted to take the course over again. Well, that was a little bit difficult, I mean the whole 4 years, but we arranged it and she did so.

COMMISSIONER SALTZMAN. How many, do you have any idea of how many have graduated from medical school who have been in their fifties at the point of graduation?

DR. LEAKE. No, but I would say it's less than 5 percent. Now, I'm basing my experience there not only here, but I was in charge of the University of Texas medical branch for 15 years, and with regard to all the admissions and graduation and all that, so I have a general idea there, too.

COMMISSIONER SALTZMAN. And you really think that there is no age discrimination practised by medical schools or—

DR. LEAKE. I think there is no—let me put it another way. No, sir, there is no arbitrary age discrimination. There is, however, on the part of the health professionals generally, peer review, which operates very strongly. The school itself or the school authorities need not step in; frequently it is peer review that takes care of the matter. And again it's—

COMMISSIONER SALTZMAN. What do you mean peer review? I'm sorry?

DR. LEAKE. I mean—I mean the age group of the individuals themselves or the students themselves. In our own school we have students on our admissions committee and on all our committees. But by peer review I mean those who are in the same general category. They judge each other.

COMMISSIONER SALTZMAN. In terms of—general category in terms of age and they—I'm not sure I understand?

DR. LEAKE. No, in class. In the classes. In the class to which they belong. I mean they may be in the class, say of 1956. Well, those people in that class know each other pretty well, and they know those who should begin to think about taking it easy. Or on the other hand, they may encourage others to do a little better. There's a great deal of peer review that goes on in the health professions.

But that may be a new concept to you but—

COMMISSIONER SALTZMAN. No, I didn't understand what you were—I thought you meant peer review in reference to admissions—

DR. LEAKE. No, no.

COMMISSIONER SALTZMAN. I understand what you're saying.

VICE CHAIRMAN HORN. It's not a new concept, but I hope your optimism is justified, since I know so many cases among the medical profession, the legal profession, and within universities where the peers fail to act on their colleagues who are violating some of the basic canons of the profession that I get depressed when I think about it.

DR. LEAKE. I understand.

VICE CHAIRMAN HORN. Counsel?

MS. TAYLOR. Yes, Dr. Cornachon, would you please describe for me how—if and how age is taken into account in Stanford University admissions practices in the graduate division?

DR. CORNACHON. Well, once again, there are no statements or policies relating to age at all. If—the admissions process that we're talking about involves, obviously, a myriad of different departments and a myriad of subjective judgments. I'm not prepared to say that no individual ever responds reading an application to the fact of a person's age, but I do believe that, even on that subjective level, age discrimination is not a major problem. It is certainly not a matter of policy.

I do have here a breakdown of the age of graduate women and graduate men who are enrolled at Stanford. It's a breakdown of those who are 30-35, 35-50, 50 and over. It is helpful, I think, but far from conclusive, because it does not deal with the applications and admissions. That is hard information to get, but I would be glad to try to put something together for you.

VICE CHAIRMAN HORN. It will be entered in the record as Exhibit 36 without objection.

COMMISSIONER SALTZMAN. Including the, as you indicated prior, the applications?

VICE CHAIRMAN HORN. I don't believe you have it. You told me, I believe I heard you say, you do not have the age distribution of the applicants, do you?

DR. CORNACHON. We do not have that, that would be hard to get; it would be hard to get it for anything except the immediate past or perhaps the immediate future.

VICE CHAIRMAN HORN. Well, I wonder if we could have the immediate past. I'll compromise with you and forget the distant past and the immediate future, but just—

DR. CORNACHON. We have some 10,000 applications; to pull those figures from each application is a fairly massive job. It would have to be done, as they say, by hand.

VICE CHAIRMAN HORN. Let's have the staff work it out with Stanford. I think you and I both know from our own experiences in various universities over the years, we've all heard those tales of horror, where a departmental admissions committee says to a student, sometimes a woman, but even a man, at age 30, "You're too old to come to our university to take the Ph.D. because you'll only have 30 years left to teach in a university."

And since few faculty in the fifties or sixties stayed anywhere 5 or 10 years, I always found that somewhat ironic. But I hope some of those practices are changing.

DR. CORNACHON. I don't know if you want, I can quite briefly give you the figures. Of the total number of women who were enrolled last fall, 24 percent were 30 or older and some, I think, 12 percent were 35 or over. And for the men, it was some 13 percent were 30 and older, and I remind you some of those who were 30 and older may have come when they were 22—

VICE CHAIRMAN HORN. That's right—

DR. CORNACHON. —and still be dragging their heels.

VICE CHAIRMAN HORN. They're in for a 15-year Ph.D. program. Do your figures include the professional schools of Stanford?

DR. CORNACHON. Yes.

VICE CHAIRMAN HORN. So this is the total—

DR. CORNACHON. Yes.

VICE CHAIRMAN HORN. Very fine.

COMMISSIONER SALTZMAN. Dr. Cornachon, do you have any percentage relative to students who are 50 and over?

DR. CORNACHON. We have, as of last fall, 6 women out of 1,456 total, and 18 men out of a total of 4,587.

VICE CHAIRMAN HORN. Counsel?

Ms. TAYLOR. Dr. Cornachon, please would you describe for us or tell us if age is taken into account in making your financial aid and support decisions for graduate students?

DR. CORNACHON. No, absolutely not.

Ms. TAYLOR. What has been your experience with regard to the academic performance of graduate students who were over the age of 35 when they entered graduate school?

DR. CORNACHON. This will be a subjective answer based on my own knowledge of individual people, not on any elaborate or even small scale survey.

Ms. TAYLOR. That's fine, we'll appreciate that.

DR. CORNACHON. They do very well indeed. They are, as someone said before, tend to be extremely serious, have their goals well in view, if anything—I think it would be interesting to test this; I would be interested to test it myself I have a feeling that they may well, perhaps because the pressure of time is more upon them, come closer to meeting the ideal that we propose for Ph.D. program, namely, going for 4 years.

Ms. TAYLOR. Dr. Juarez?

DR. JUAREZ. Yes.

Ms. TAYLOR. Could you please describe the procedures your office follows in dealing with applicants for financial aid who claim to be independent of parental support?

DR. JUAREZ. Well, this coming year anybody that's 25 or under has to submit his income tax, his 1040 and his parents'. The limit of 25, there's a few meager surveys around, but they don't really indicate very much, and it's something that was arrived at, we figured that most students would be independent at that age.

We're—next year with the coming of the common application form, we'll probably go into 1040s for everyone. Certainly for the undergraduates—the graduates right now are a little iffy. It's created considerable trouble for our office, I mean the additional work anyway. But it's been reasonably successful.

We really won't know the extent of what an uproar it's going to be until September. It will all come in about one week.

Ms. TAYLOR. You just recently instituted this?

DR. JUAREZ. Yes, for the coming fall.

Ms. TAYLOR. But what led you to institute this procedure?

DR. JUAREZ. Well, strange as it seems, it was the student lobby that started this. They felt that there were students who were claiming to be independent who were not. And this was an effort to control our grant money. If they passed the Federal test of dependency versus independency, then they—the loans or work-study money are—there's no change, but the university money, the regents' money, the grant-in-aid money, that is curtailed. There's a reduction depending on the family income of the parental contribution.

Ms. TAYLOR. Dr. Steward, one more question, I had asked you before and then I moved on without letting you give the answer. And that was the question was, though the age of an applicant may not immediately disqualify him, is the age of an applicant taken into account in any way in your admissions policies?

DR. STEWARD. I can say very clearly that the committee has no policy on this. What is impossible to say is what goes on in the head of the members of the admissions committee at the time an applicant is discussed and the final vote taken as to action on that applicant.

I dare say that some of the members may have some bias, either for or against younger applicants or older applicants. This is something

that one does not, or our committee has not overtly discussed age of an applicant at the time we seriously have our final deliberation. But there may be some biases present, in both directions. I think we have people on the committee who feel that, since medicine is a field that requires long years of preparation, they're anxious to get people started early so that they can contribute more, and I think we have some people on the committee who appreciate the maturity and some other aspects and qualities that the older applicants bring, so that's about the best I can answer.

MS. TAYLOR. Thank you.

COMMISSIONER SALTZMAN. May I ask Dr. Steward whether we could have the same statistical survey that we asked of Dr. Cornachon and Dr. Leake?

DR. STEWARD. Yes, that is possible.

VICE CHAIRMAN HORN. Well, is this part of your package?

DR. CORNACHON. What I have here is very unsophisticated compared to what Dr. Steward has available from the medical school.

VICE CHAIRMAN HORN. I think as Exhibit 37, we will have a comparable exhibit that we've secured or will secure from the medical school, for the medical school, dental school of the University of California, San Francisco, which will go into applicants versus admissions by age. It might not be possible for the rest of the graduates division, but in terms of the medical school I expect it's possible.

MR. NUNEZ. Dr. Steward, if I may, to be a little bit more specific, what is the average age of the entering medical student at your school?

DR. STEWARD. Somewhere probably between 21 and 22.

MR. NUNEZ. What is the—would you know off-hand who was the oldest entry level—entering student?

DR. STEWARD. We have one student in our current first year class or the first year class of 1976-77 who was either 39 or 40 at the time of admission. That is unusual.

COMMISSIONER SALTZMAN. Unusual in that you don't usually have—

DR. STEWARD. Have entering student that elderly.

COMMISSIONER SALTZMAN. —that elderly. Excuse me, I'm sort of old by that standard, I guess.

What is your own instinctive perception, Dr. Steward, to explain the fact that it's so unusual? Is it that the people of that age in their late thirties feel that it's too late for them or that the school, in effect, some way and the medical profession conveys to the 30, 40-year-old person, 50-year-old person, that it really is too late to enter at that age the medical profession by just beginning school?

DR. STEWARD. I think both may play a role.

COMMISSIONER SALTZMAN. So in effect, there is a discriminatory environment that discourages the older student from going to medical school?

DR. STEWARD. I think it is probably fair to say that that environment has existed, in fact been rather impressive in its appearance, or in its existence.

However, things are changing. I think that the demands physically on medical students in the past have been extraordinary; they have been in hours per week almost unreasonable. And I think a reasonable person, who has a family, in the past has stopped and thought twice about whether to apply to medical school, given what demands would be placed on them.

I think things are improving somewhat; particularly during residency training, expectations are becoming more reasonable. The process is slow and it will be come years yet before I think people will agree that demands are reasonable, but they're improving over what they were.

COMMISSIONER SALTZMAN. We had some earlier testimony, Dr. Steward, that within the education of a doctor itself, there is an atmosphere which tends to produce in the doctor a bias against aiming his career at the aging and aged, that doctors do not like to treat the aging, those over 55, and one doctor indicated that part of the responsibility for that attitude in the medical profession is due to the education they're receiving at the medical schools.

DR. STEWARD. I guess I can only comment on that from my personal experience, and I'm surprised at that, and in my personal experience nothing would have encouraged me or led me to have any contempt for treating the more aged patient, and in fact in recent years I think the elderly patients are getting more and more attention and in fact there's a whole specialty of geriatrics that is emerging now and getting increasing attention, so I think if that were true, that too is being reversed.

VICE CHAIRMAN HORN. All right. Counsel?

MS. TAYLOR. Thank you. I'd like for each of you to address yourselves to this next question, please. Under the—under what conditions would you consider distinctions on the basis of age in your institution's educational activities to be necessary or even desirable?

VICE CHAIRMAN HORN. Starting with Dr. Steward, please?

DR. STEWARD. I think it's very important for admissions committees of medical schools to have free rein in considering applicants as individuals, and selecting those they see as best qualified, both to study medicine and as far as the ultimate productivity and contribution of those individuals, and I think any restrictions as to age would be contrary to the best interests of the country.

MS. TAYLOR. Thank you. Dr. Juarez?

DR. JUAREZ. Like what Dr. Washington said before, if they can benefit from the education and make reasonable progress, I don't see where age should be a factor.

MS. TAYLOR. Dr. Cornachon?

DR. CORNACHON. At the graduate level where you are training people for careers, professional lives, whether in business or law or medicine or scholarship, I do think that productivity, potential productivity is crucial. You cannot, in making admissions decisions, I think, altogether, you cannot ignore the question of future productivity. It

would be damaging, I think, to the ideals of the system to do that. There is a point at which, far be it from me to tell you where that point is, I assume that's the difficulty that you're wrestling with, but there is a point at which age and productivity are related.

COMMISSIONER SALTZMAN. Are you sitting next to Dr. Leake who's 80 years old?

DR. CORNACHON. I'm saying—

COMMISSIONER SALTZMAN. And he should live to be 120—

DR. CORNACHON. Indeed he should.

COMMISSIONER SALTZMAN. And in a disinflation period an additional 5 years.

VICE CHAIRMAN HORN. Where's the point?

DR. CORNACHON. I would not know how to—how to answer that except to speak in terms always of individual judgment.

VICE CHAIRMAN HORN. Well, okay, so you're saying in reality there's no point that you can do on a group basis?

DR. CORNACHON. On a group basis, no.

VICE CHAIRMAN HORN. That age as an arbitrary line crossing an imaginary productivity line is sort of unrealistic, so the question is, how do we bet on people 30 years before they have to produce to see if we bet right and we're no longer around anyhow? And I wonder if that's really the way we make our decisions on admissions committees.

DR. CORNACHON. The decisions—

VICE CHAIRMAN HORN. Because, you know, we turn out, let's say, we turn out losers in America as well as well as winners—

DR. CORNACHON. Yes, we turn out losers all the time, absolutely. I don't think the fact that we turn out losers, unproductive people or at least people who are unproductive in terms of what the "desiderata" were, that that means we can simply neglect the criterion no matter how theoretical it may be.

VICE CHAIRMAN HORN. I guess one could argue, pursuing this, especially when you look at medicine and you hear the constant claim, which I'm sure all of you connected with medical schools are probably tired of hearing, about why is it we have the maldistribution of doctors? Why can't we get general practitioners? Why can't we get doctors in the rural areas of Kansas or California? Etc., etc.

Well, we have a stream of witnesses here and elsewhere that say, why is it we—is it not that we cannot get doctors to meet the geriatric needs of patients even in the urban areas of America, much less the rural areas of America?

I guess one could argue that if you're on a medical school admissions committee and somebody at age 40, who has completed pretty much of a career in business or science or something, says, "I want to be a doctor to dedicate my life to doing something to meet geriatric needs of patients," applies to your medical school admissions committee, how would that person be treated? With favor or saying, "Sorry, buddy, you missed your chance, you didn't apply," or lady, "at age 21,

which is our average age at entry," and do we see any willingness of the medical profession to take a risk on somebody like that, who would still have 15 to 20 years at least of practice, since you and I both know doctors in their seventies and eighties who are practicing.

DR. LEAKE. Well, I'm an eternal optimist and I believe that the admissions committee by and large does a pretty good job on the individual, and the individual's potential. The members of the admissions committee are pretty well-trained men. They've got great experience and they're competent in judging, and I have faith in their ability on the basis of the way they have performed. Things are changing in connection with the practice of medicine; more and more young people are anxious now to get into the country. The key is their wives. Those are the ones that did not want to go into the country; now they're willing to do so. It's better practice in many ways than in the city.

VICE CHAIRMAN HORN. Well, Dr. Leake, I wish I could be—I'm an eternal optimist about many things but—and I don't mean to put down the admissions committees of medical schools—but the history of admissions committees in medical schools in relationship to their treatment of minorities and women in the past has not been exemplary, and I don't know that I can believe that it is exemplary in the treatment of the aging or even the middle aged. I think there has been a tendency to judge productivity in an arbitrary manner with respect to age.

And I—you know, I think, as we've heard the testimony over the last 2 days, I must say my own attitudes towards the aging, some of the myths I had have been dashed into pieces, and I'm very grateful to have had this experience. Aging people in their seventies and eighties and sixties, whatever category, have to be treated individually and not as a group, and I think the academic world has, as other areas of our society, treated the aging as a group and tended to judge them according to myths and I do hope that's changing.

Isn't it reality, though, that we don't know what makes for a successful medical doctor?

DR. LEAKE. We do not, no. We can only hope.

VICE CHAIRMAN HORN. So aren't we sort of creating facades of equity when we act in admissions committees based on undergraduate grade point average, MCAT scores? Do we really have any proof that in the long run practice of medicine as opposed to medical research that those matter?

DR. LEAKE. Yes, there have been many studies that have been reported in the *Journal of Medical Education* that statistically have examined this and there is a positive correlation and that runs right through—

VICE CHAIRMAN HORN. Positive correlation to what?

DR. LEAKE. Between the intelligence level and ability of an individual as judged by various tests and their subsequent capacity or their subsequent performance.

VICE CHAIRMAN HORN. Well, their performance in medical school or their performance beyond it?

DR. LEAKE. Outside, afterwards. Both. Both in medical school and outside, there have been studies both ways, the performance in medical schools, then against the way in which they performed in practice. They've been done too and there is a positive correlation.

VICE CHAIRMAN HORN. That's interesting. I wonder if you wouldn't mind having the UC-SF librarian perhaps send us a little bibliography on that; would that be too much trouble? I'd be interested in pursuing that.

DR. LEAKE. Certainly, you get it almost every issue of the *Journal of Medical Education*.

VICE CHAIRMAN HORN. Because the topic of the standard of success is doctors that do not remove kidneys that do not have to be removed or patient satisfaction, or just what are we talking about? I guess that's one of my concerns.

DR. LEAKE. One very important point, the standard and ideals that have been set up by the profession itself, with which the medical schools in general are in complete agreement, and the general attitude of the applicant to the medical school is judged in part against those standards and against those ideals. That turns out to be a pretty fair way of judging.

VICE CHAIRMAN HORN. Well, I hope you're right.

In terms of professional schools—I must confess I do not know that much about medical school admissions—I've had the pleasure of reading the *DeFunis* case in the State of Washington on law school admissions, and I must say the minority opinion of the Chief Justice of the Supreme Court of the State of Washington to me was one of the great wonders of admissions committee revelations that I've found, and therefore I get somewhat dubious about many admissions committees if the criteria used in the State of Washington is very widespread, at least for law schools, because it certainly didn't make much sense.

DR. LEAKE. Well, generally, in law schools, as I understand it, almost anyone who's had a collegiate education wants to enter law can enter the law school.

VICE CHAIRMAN HORN. At least some law schools.

DR. LEAKE. And then they're flunked out. That's very uneconomical.

VICE CHAIRMAN HORN. The lawyers will get equal time at our next hearing.

All right. Any further questions?

COMMISSIONER SALTZMAN. No.

MR. NUNEZ. Yes.

VICE CHAIRMAN HORN. Mr. Nunez.

MR. NUNEZ. Dr. Steward, let's pursue the age requirement. You say that the individual or the individual candidate is judged on his individual merits, but obviously you must have a cutoff. Are we saying that you will assess someone who's 60 years old who's perfectly qualified and allow him to enter the medical school?

DR. STEWARD. The age you stated was 60?

MR. NUNEZ. Sixty.

DR. STEWARD. I cannot answer that because I cannot remember any one of that age applying.

MR. NUNEZ. Let's say 50?

DR. STEWARD. Yes. I think our committee would consider, seriously consider an applicant of age 50.

MR. NUNEZ. You would give them serious consideration?

DR. STEWARD. Yes.

MR. NUNEZ. Assuming that that person would take 6 to 7 years to complete a—

DR. STEWARD. Yes.

MR. NUNEZ. —formal education—

DR. STEWARD. Particularly, particularly if that individual were going to utilize his past educational experience in relation to what work he would do in the field of medicine.

MR. NUNEZ. Have you ever had a case of medical student at the age of 50 at your school, or do you know of any other medical school that has students at the age of 50?

DR. LEAKE. Yes, we have one along with a class right now, age 50. We had one admitted at 51 years of age, but that student did not do well and was dismissed at the end of the first year.

VICE CHAIRMAN HORN. All right. Counsel, any further questions?

MS. TAYLOR. No questions.

VICE CHAIRMAN HORN. Ms. Bradley?

Well, thank you very much. We appreciate you coming here. We'll look forward to seeing the exhibits.

Now, counsel, will you inform us of your procedure on the open witness portion of this hearing?

MR. SCHWARTZ. Mr. Chairman—

VICE CHAIRMAN HORN. Do you have a list of witnesses?

MR. SCHWARTZ. Yes, I have a beginning list and I want to get the final list, if I may have just 1 minute to get that at the door?

VICE CHAIRMAN HORN. Please do.

MR. SCHWARTZ. Ms. Taylor's going to get that and while she's doing that I will state the ground rules for the open session.

Each witness who is going to testify has signed our list, has been previously and briefly interviewed by staff to be sure that the testimony to be given is going to be in some way relevant to the issues under consideration at this hearing, which are age discrimination in federally-assisted programs and activities.

Each witness will be given 5 minutes in which to state anything that pertains to the subject of age discrimination in federally-assisted programs. Witnesses who may have prepared statements with them will also be given the opportunity to submit those prepared statements for the record; we'll take those at the conclusion of the testimony.

With that in mind, and also with the caution that any witness, although the witnesses have been cautioned in advance about this point, any witness who may give testimony which tends to defame,

degrade, or incriminate any particular individual will be asked to stop testifying with regard to that information, and state it more generally if possible and if not possible, that witness will be excused because the Commission's statutory procedures require that we not accept testimony that tends to defame, degrade, or incriminate individuals, and I believe it is not necessary for the purpose of this hearing that we hear such testimony, so that will be the ground rule with regard to that kind of testimony.

VICE CHAIRMAN HORN. Counsel, in accord with previous practice, Commissioner Saltzman has suggested that we call five witnesses at a time to be sworn in, and then we'll go down the line at 5-minute intervals to save some of the time on swearing in.

MR. SCHWARTZ. All right, I think that's a fine idea, and I would call the first five witnesses that we have on the schedule. When you hear your name, would you please come forward and take the first available seat at the witness table. Mr. Guy Jones, Hatfield Chandress, I believe it is, M.A., or Emmet R. Carr, Ruth Fleshman, and Tom Jordan.

VICE CHAIRMAN HORN. Mr. Jones and Mr. Chandress, is it?

MR. HATFIELD. Hatfield, sir.

VICE CHAIRMAN HORN. Hatfield. Mr. Hatfield is it?

MR. HATFIELD. Yes.

VICE CHAIRMAN HORN. I see.

MR. HATFIELD. Yes.

VICE CHAIRMAN HORN. And then Mr. Carr?

Ms. Fleshman?

Ms. FLESHMAN. That's right.

VICE CHAIRMAN HORN. And then Mr. Jordan?

MR. JORDAN. Yes.

VICE CHAIRMAN HORN. If you would raise your right hands please, we will swear you in as witnesses.

[Ms. Ruth Fleshman, Mr. Chandress Hatfield, Mr. Guy Jones, and Mr. Thomas Jordan were sworn.]

TESTIMONY OF GUY JONES, CONSULTANT, NAACP, SAN FRANCISCO

VICE CHAIRMAN HORN. All right, counsel will examine the first witness for 5 minutes.

MR. SCHWARTZ. Mr. Jones, will you please state your full name, address, and organizational affiliation?

MR. JONES. My name is Guy Jones. I'm a consultant with the NAACP. Our address is 870 Market Street, Suite 374.

MR. SCHWARTZ. And will you please begin your testimony?

MR. JONES. Okay. Well, first of all I'd like to—Verna Canson, the regional director for the NAACP, regrets she's not able to attend this hearing. She's at a national conference in St. Louis.

I'd like to start by saying that the NAACP believes that the Age Discrimination Act is necessary. However, the operative phrase of the act,

“unreasonable discrimination,” will make its enforcement difficult. More specific language is needed. To ensure that the elderly receive the services and employment opportunities they deserve, the act should require that larger employment programs specify the type of jobs that are available, and attempt to match them with jobs applied by age groups. Through greater specification many jobs the elderly can handle would be identified. The means and ends of job programs will be brought in closer correspondence only by making each partially dependent upon the other.

Middle age and older people are all but denied access to training programs and the nature of many contractual arrangements with private employers is a continual obstacle for elderly workers. And as far as limitations exist they should relate to actual job characteristics. Jobs that are less physically demanding are needed by all age groups.

Employers receiving Federal assistance should be required to hire older persons where job type allows.

With regard to vocational rehabilitation programs, evaluation standards need revamping. Because of the particular problems that older citizens experience, specific efforts to provide them with information, jobs, services, transportation, assistance in filling out forms, and/or simpler forms are necessary.

Without apparatus to guarantee access to the information and services to which they are entitled, elderly citizens are in effect denied many benefits. With many service organizations constrained by limited budgets and overcrowded caseloads, the elderly are especially disadvantaged.

There must be greater coordination between Federal programs because often the operations of one program conflict with another. Effective delivery of services for the aged requires a specific or smaller programs understanding clearly how other community agencies operate. Linkage must be maintained to make sure the primary clients are successful in obtaining their rightful services from other agencies where they are having difficulties. Access services help remove some of the confusion surrounding services by assisting people to understand and receive benefits available to them.

It is crucial in this matter that programs be completely specified as to operations and procedures in order to avoid changes in objectives.

Access services help people learn about their rights. The act has a supplement to large programs that leave access to happenstance. For poor old black people, access services are obviously vital. These services include providing information, clarifying eligibility for public assistance, assisting people in locating appropriate offices, followup, and advocacy.

Integration arrangements includes all provisions for assuring the effective meshing of services offered by different units, bureaus, department, agencies, programs, and service systems. Forms must be made simpler and inconvenience has to be minimized.

Service personnel should be more receptive to the needs of the aged. Not enough people are being trained to help the elderly, and Federal programs and educational institutions are not addressing the issue. Many of the beneficial interests viewed as implicit in social welfare agencies and organizations are overshadowed by staff priorities and other requirements. Older citizens should be given an opportunity to be social workers, assisting in areas where they have experience, assisting in areas where they already have experience as employees or volunteers.

Older citizens deserve the same considerations as other age groups and this involves special efforts. In the area of legal services, efforts must be made to ensure that once an elderly person is referred to an attorney, he or she receives the assistance that was being sought.

MR. SCHWARTZ. Mr. Jones, you have 1 more minute yet.

MR. JONES. Okay. Followup services are necessary. Legal services or legal aid should be more readily available and should encourage the participation and help of retired attorneys and others involved in advocacy. In this regard, advocates for the aged can have a serious impact on critical community issues through locating in critical area and aggressively influencing bureaucratic institutions.

MR. SCHWARTZ. Thank you, Mr. Jones. Do you have anything else to submit for the record?

MR. JONES. Yes, I have this to submit to the record. I've a written statement to submit to the record.

VICE CHAIRMAN HORN. Fine, without objection the written statement, is that from yourself or Verna Canson?

MR. JONES. Well, I formulated the statement, but it's on behalf of Verna Canson; we spoke about it at length.

VICE CHAIRMAN HORN. Very well, it will be Exhibit 38. Thank you very much.

TESTIMONY OF CHANDRESS HATFIELD, SAN FRANCISCO

MR. SCHWARTZ. Mr. Chandress, I believe it is?

MR. HATFIELD. Yes.

VICE CHAIRMAN HORN. I'm not clear on the name now, was—what is the first name?

MR. HATFIELD. Chandress Hatfield. Chandress.

VICE CHAIRMAN HORN. C-h-a-n-d-r-e-s-s?

MR. HATFIELD. Yes, sir.

VICE CHAIRMAN HORN. Hatfield is the last name?

MR. HATFIELD. Yes.

VICE CHAIRMAN HORN. Very good, thank you.

MR. HATFIELD. And I live at 133 Shipley [phonetic]. And I am on, you know, SSI and my question is this. Every time that we get a raise on the checks, they raise the, you know, rent, and like I've been, you know, certified once, once in this year, and now, and now—and now

we get another raise and they—and want to raise the—you know, again. Like the—like the Federal, you know, Government is, you know, giving it and, you know, taking it, all—you know—

VICE CHAIRMAN HORN. They increase the amount of the SSI and the rent goes up?

MR. HATFIELD. Yes.

VICE CHAIRMAN HORN. Is this rent levied by a private party?

MR. HATFIELD. I don't know. It's—

VICE CHAIRMAN HORN. Well, it's, is it apartments you live in?

MR. HATFIELD. Yes. It's by the Salvation Army and the Briggs, Andrew and Pope—should I say that?

VICE CHAIRMAN HORN. So it's a private group, though? You're, as I listen to your testimony, you're saying when certain types of payments go up—

MR. HATFIELD. Yes.

VICE CHAIRMAN HORN. And the hotel rooms seem to go up when Federal salaries go up, so I'm very sympathetic and know what you're talking about.

MR. HATFIELD. I mean, you know, we just only get just a—just a one, you know, check, and now when they, you know, do that, I mean, you know, we shouldn't have it. I mean, you know, keep it. I mean—

VICE CHAIRMAN HORN. Do you think if they didn't give you an increase the rents might stay stable for a while?

MR. HATFIELD. I don't know. I mean the—you know, every time that we get, you know, raise, these rents go, you know, go up, so you know, there's something wrong going, you know, going on. But there's all that I wanted to say.

VICE CHAIRMAN HORN. Well, we appreciate it. I think most of us sympathize with you on this one, except I don't know if the reverse of the proposition is true, that if they did not give an increase the rents would not go up. I suspect the rents might still go up and maybe you wouldn't have an increase to cover them, as frustrating as that is.

MR. HATFIELD. Really it is—it is really, you know, crazy. I mean—I mean, you know, like they, you know, government is, you know, giving it to you on the one hand, and you know, taking it back with the other hand. I mean you know.

VICE CHAIRMAN HORN. It could be the mark of success of a successful government to be able to do that.

MS. FLESHMAN. Why don't they just keep it and be more efficient—

MR. HATFIELD. Really, they could, you know, keep it and be—you know, more—

VICE CHAIRMAN HORN. Save the administrative costs of dispensing it and collecting it.

Well, I'm sympathetic with you and I do appreciate you sharing your thoughts with us.

Thank you very much, Mr. Hatfield.

MR. HATFIELD. Thank you.

TESTIMONY OF RUTH FLESHMAN, PRESIDENT, NURSING DYNAMICS CORPORATION, MILL VALLEY

MR. SCHWARTZ. The next witness will state her name, please, and spell it for the record?

MS. FLESHMAN. My name is Ruth Fleshman, F-l-e-s-h-m-a-n.

MR. SCHWARTZ. And your address and organizational affiliation, if you'd care to state?

MS. FLESHMAN. I'm the president of the Nursing Dynamics Corporation, a nonprofit corporation. My address is 412 Rose Avenue, Mill Valley.

For the past 4 years I've been engaged in health counseling services with the aged in Marin County and I've become terribly concerned about attempts to find services that are geared to the problems that most community aged have. And the opportunity to come and tell you some of the troubles that we have in trying to get mental health services which are geared to the problems of the folks rather than to the problems of the providers is what I'd like to address today.

I've gone for the past 3 years to the community mental health people and said, "Can you explain to me what it is you can do for the mental health, not the mental illness, of the aged?" And number one, they don't understand my question, and once we try to explain that, then we get into all kinds of hassles about, "Well, we have all these services and they can come here."

I look around and I see paisley pillows and psychedelic posters on the wall and nothing but young people who are immersed in their, their various cultural problems. And I raise some questions about my doubts as to the hospitality of this environment for the aged, many of whom are very straight, who are frightened by this sort of thing as well as about, are frightened by the current culture of drug abuse, which seems to be the major concern of the community mental health folks in our county. I've tried to invite them to come out in the world where the community people are and identify what the problems are that they present.

I've given up trying to make referrals, because I find that not only do the aged, are the aged unwilling to follow through with the referrals, because if you tell them that the things that they're struggling with are beyond me, they consider that if I say that some of the mental health agencies might help that's an, obviously, I'm calling them crazy. Nobody wants to be called that.

So, I've tried to get the mental health people to talk in terms of preventive services rather than therapy. Older people really aren't ready for therapy; Freud didn't think so either.

A common problem among the aged is the death of a spouse. We have been unable to get them to form widows' groups. Obesity is a health problem quite well dealt with in groups by mental health. The development of support systems for the isolated aged, it seems to me are legitimate kinds of things, but the community mental health people never come out.

It's a common fact of information in our county that there are no drug detoxification programs available for anybody who's 65 or over. Something magically happens when you stop being 64—you don't need to detoxify from alcohol; and I tried to find out yesterday why, what was this regulation, we may not admit anybody 65 or older.

And so I called up yesterday and I began going around to the detoxification program, "Oh, no, that's policy. We don't admit anybody except between 18 and 64."

"Why?"

"It's a State regulation."

"Would you tell me what the State regulation is? I feel a fool to go and say it's a State regulation."

Well, she went and read the State regulations and it wasn't, they may be over 18—that's—must be over 18. That's all.

"Well, it must be a county regulation."

"Well, who in the county?"

"Well, why don't you call the drug abuse people?" So so I called a given person at drug abuse and after we got done being hostile about why I was asking these questions, we all agree it's a crying shame, but the aged have more medical problems.

Yesterday when I—

VICE CHAIRMAN HORN. Excuse me, did you find that the county had imposed this rule?

Ms. FLESHMAN. Everybody says it's them. I have not yet found it.

VICE CHAIRMAN HORN. Well, I've gone through the same thing in a university where they've practiced these things for years and I say, "Bring me the regulation," and just like you, they can't.

Ms. FLESHMAN. Right, I've been passed along and it's been called county regulation, State regulation, and unfortunately the man who's in charge of the community care facility licensing was not in his office yesterday. That's the last one who got blamed.

VICE CHAIRMAN HORN. Well, let's use this as an example and as Exhibit 39 have the staff pursue with you and lay that record out here as to local agency, county regulation if any, State regulation and/or law, if any, Federal, so forth, and let's just see what it is and let's put that in without objection as Exhibit 39.

Ms. FLESHMAN. And I've tried to carry on arguments with them that health criteria are probably more important; they have nothing to do with the 65th birthday. We all know many 40-year-old alcoholics who are very much at risk—

VICE CHAIRMAN HORN. Well, that's right, at 60, a 65-year-old drunk driving a car is just as dangerous as an 18- to 40-year-old drunk driving a car.

Ms. FLESHMAN. Indeed, indeed.

I think those are the two major areas that I would like to—

MR. SCHWARTZ. Thank you very much.

VICE CHAIRMAN HORN. Very good, we appreciate you sharing those views with us; it's very helpful.

TESTIMONY OF THOMAS JORDAN, DIRECTOR, SAN MATEO COUNTY AREA
AGENCY ON AGING

MR. SCHWARTZ. Mr. Jordan, would you please state your full name, address, and your organizational affiliation?

MR. JORDAN. My name is Thomas Jordan. I am the director of the area agency on aging for San Mateo County. I live at 1212 Whipple Avenue, W-h-i-p-p-l-e, Redwood City, California.

First of all, I'd like to start out by simply saying that I commend the staff for the excellent work they've done so far. I think the general issues that they have outlined in the briefs that they have provided me cover very well the types of institutional and attitudinal factors that contribute to age discrimination.

I would like to concentrate on the institutional factors. I would like to bring out instances in my county of three areas where I think the institutions have faced some sort of age discrimination. These are the employment, housing, and demographic data.

In the area of employment, I would like to read a statement that one individual, 55-year-old woman, who applied for a CETA position, experienced.

Fifty-five-year-old woman applied for a CETA position, took tests and training, and younger ones were always hired. "Too old" was never used, applied in several places. You never seem to see old people in offices. Placement agencies seem to be of no use whatsoever. Had 6 months of regional occupational program training and typed 55 words per minute as well as being bilingual in Spanish and English. Told to return to regional occupational program after 2-week job search. But how long can this go on? I need money for full-time family and related expenses. I can't go to school forever with only \$30 left in my pocket for lunch and transportation.

Now, this individual only earns \$400 a month as a warehouse clerk, in a temporary job. And expects to be out of a job when the work is done. That's the type of problem I think is an example area of the type of problem that we face, certainly in some types of CETA employment.

I have talked personally with the CETA staff, the manpower planning administration staff in our county. They have indicated to us that the priority for finding employment for senior workers—and as you know DOL describes that as 45 and older—is number four on their list of priorities. I think, however, if you think about that, if you were to classify priorities of client population for employment, you might not be able to come up with more than four classifications and, therefore, I've suggested the fourth priority might be the last priority.

It has also been in our discussions we have identified that the employment and training units which deal with employment in the area really are not capable of handling seniors, that they are not sensitive to the special needs that seniors have.

Oftentimes the average who is out of work for 4 years. With the result of this our agency has gone in to develop a comprehensive employment network in—for seniors in this regard. We are going to integrate the ETUs in this network and we are going to come across with training which will sensitize the job recruiters, the consultants, and the developers to these special issues and needs that seniors have.

In the area of housing, when I came on this job, early this year, I was encountered by a statement that the March release of figures out of Housing and Urban Development, HUD, allocated for the County of San Mateo, approximately 403 units which would be considered under section 202. However, of those 403 units, none designated for senior housing. When pursuing this issue, and inquiring why that was, I received the information that, "We have no data that would support that seniors are in need of housing in this area."

I think anyone who knows the San Mateo County area would indicate that all areas or all age groups are in need of housing, especially when you consider that the basic house now starts at \$60,000.

As a result of this statement, as a result of pursuing with the county administration that they also had not done anything to develop the senior housing plan and that is mandated by the State of California, the area agency on aging undertook to employ a housing consultant to develop a comprehensive plan of senior housing, not only in needs assessment of the present but a projection of future needs, design of housing, both for dependent and independent housing. This individual is also prepared to and will be expected to be an advocate to HUD and present our case to them and indicate that situation or the lack of senior housing is not a valid situation.

Finally, the last area I'd like to talk about is demographic data. I think Mr. Ed Gipson already—of the State of California Department of Aging—indicated the need for sound demographic data, which is needed by the California Department of Aging as well as the area agencies on aging if we are to carry out our mandate by the Older Americans Act and that is to undertake rational planning.

We all are using 1970 data census; it really isn't relevant. We are expecting, as you know, a tremendous increase in the population of seniors; we are planning based on '70 data. If we cannot readjust this on a steady income or steady incremental increase or decrease, the problem we are going to have is a staggering mismanagement of programs and services when the 1980 census comes around and certain areas are not meeting the need or are overmeeting the need. That is in the area of the California Department of Aging, and I think Mr. Gipson referred to the allocation formulas we have and how it is very difficult to create any type of equity within the State.

Finally, this also applies to Title XX funding and Title XX programs. When we pursue that at the county level, what type of programs, how much service, for example, is going into information and referral for seniors, we cannot get that type of information. They simply do not

prepare data for the classification of 60 or 65 and older and, therefore, we are at a blockage or an impasse to pursue getting them to regear to thinking of senior citizens.

Thank you.

VICE CHAIRMAN HORN. Thank you very much. Appreciate it.

MR. SCHWARTZ. The next panel of witnesses, Mr. Bruce Lee, Pat Boyle, Alexis Sanders, Mark Forester, Dr. Doris Fields, will you all please remain standing and be sworn now?

[Mr. Patrick Boyle, Dr. Doris Field, Mr. Mark Forrester, Mr. Bruce Lee, and Ms. Alexis Sanders were sworn.]

VICE CHAIRMAN HORN. Please be seated.

TESTIMONY OF BRUCE LEE, ASSISTANT REGIONAL DIRECTOR, OFFICE OF HUMAN DEVELOPMENT, U.S. DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, SAN FRANCISCO

MR. SCHWARTZ. Mr. Lee, would you please state your name and address and organizational affiliation?

MR. LEE. My name is Bruce Lee, Assistant Regional Director, Office of Human Development, HEW, 50 United Nations Plaza, San Francisco.

MR. SCHWARTZ. Mr. Lee, go ahead and give your statement.

MR. LEE. I had no formal statement. The staff asked me if I would just come over and make a few comments. I am honored to be here. I followed—can you hear me?

COMMISSIONER SALTZMAN. No.

MR. LEE. I speak basically as a bureaucrat of 28 years' experience who is contemplating retirement next year, and as a person who is contemplating retirement, you start looking around to see what is available, and I'm getting a little bit frightened because I find that at 56 years old I am considered on the threshold of old age and people get kind of, well, they act strange if you are trying to look for employment.

I am dealing with—basically I direct 15 programs of which there are 7 major ones. And I was looking at a list of the programs and suddenly found that out of seven, there are four of them that have people directing them who are over 50. Unfortunately, the aging program is directed by an individual at present who is not 50. But I think that if a person is going to be concerned about discrimination and aging that you actively have to look at a problem and make sure that the appointments, the selection of personnel, the allocation of grants and contracts, the elements which make programs, and consider the fact that you must deal with this large segment of population which are elderly because, you know, babies develop into children and children into youths, youths to adults, and so on. We look for continuity in life between our populations. There is a tendency in the area of the government programs to look at populations as categorical, and this very often destroys the ability to bring services.

This afternoon I am wearing this lei which was presented to me by one of the Polynesian people coming into the office, and it brings up one thing which I think I'll close with, and I think that's the fact that we deal with special populations and we have to respect the culture of populations. We have to respect the molds of life and the various needs, to modify the delivery systems in order to make sure that we are getting through, in particular with older people. Region IX is the most unique of Federal regions. We have 10 Federal regions in which we have to be concerned, continually aware of ageism, sexism, elitism, cultism, and racism. These five things I raise my hands at as I deal with my population, remember looking at those five things—you remember them in the delivery of your program.

Also we have to realize that under the present-day world we are living and bureaucracies, we have decreases made in our staff. We are having decreases in our resources and increasing needs. I heard some comment made on the state of needs. Of course, it's being worn out in many instances, but with a bureaucrat who is conscientious you cannot stay in an office. I must be continually out in the field also to make my office alert. I have to do a tremendous amount of casework on my own from the office, being aware of the same time I am becoming sensitized to the problems of age that my staff must likewise become sensitized.

We are in San Francisco, located in the midst of the Tenderloin, and all I can do is to walk people around. I can take people out to see what happens and see how we treat older people, by contrast with Ponape or the Trust Territory where older people are looked upon as a resource, a viable asset. Whereas if you look at all these places over here, many just walk around the buildings. Go next door. You will see people who are valuable resources who are being ignored and waiting for their own deaths. And I think it's a commentary which, if I had anything to do in the direction of programs, I would like to work to remove. Thank you.

VICE CHAIRMAN HORN. Well, we deeply appreciate your testimony and the commitment which you obviously bring to your position.

MR. LEE. Yes.

VICE CHAIRMAN HORN. Thank you for coming.

MR. LEE. Yes.

VICE CHAIRMAN HORN. Mr. Boyle.

**TESTIMONY OF PATRICK BOYLE, PROGRAM EVALUATOR, CONTRA COSTA
AREA AGENCY ON AGING**

MR. SCHWARTZ. Mr. Boyle, please state your name, address, organizational affiliation if you care to.

MR. BOYLE. My name is Patrick Boyle. I am the program evaluator for the Contra Costa Area Agency on Aging, 2450 Stanwell Drive, Concord.

MR. SCHWARTZ. Please tell us your testimony.

MR. BOYLE. My testimony. I would like to speak briefly on my experience at the Contra Costa Area Agency Aging in advocating for redirecting the problems of underserving in community mental health centers. And I was interested to hear the testimony given this morning to the Commission by the panel of experts, administrators, and staff on community mental health. They said, I believe, and there was some agreement, I was sorry to hear, from the Commission against needs assessments, against the statistical argument, against what was called fair share formula, and against the easy argument of underserving of the aged. At one point the example was given of 6 percent served versus 10 percent in the community. And there was some discussion of a body count and a simple body count is considered not adequate. And the point was made that statistics of that fashion are rigid, and what we really need in older programs is more flexibility for local problems.

I agree to that last point. But I think possibly the Commission should understand that it's not that difficult a statistical problem in the analogy with some of the other body count mechanisms. I do not leave holes. For example, I don't think the examples given this morning adequately represent some of the problems we have in local area agencies on aging. When I had to review our community mental health center utilization for older persons, I found that we had 12 percent elderly and we had less than 2 percent utilization. Now, this is very large and dramatic underserving. I don't believe that the analogy with affirmative action utilization analysis holds particularly well. If we compared the kind of analysis that I would propose versus affirmative action utilization analysis, I think you'd see that it's much, much simpler. Under the affirmative action utilization analysis, we have at least five ethnic categories. Sometimes it's six categories. You have 12 different categories, to begin with, and the definitions of those categories are subject to varying interpretations, questions about what constitutes a Spanish person, percent of Indian background, in Indian persons, whether Japanese, Filipinos are included or not. To determine whether a person is over 60 years of age is a straightforward definition. It's not difficult to analyze at all.

Secondly, in dealing with the area on the affirmative action analysis, you have the recruitment area which can be the county, the city, the SMSA. It can be the Nation. Whereas the kind of underserving analysis that I would like to see advocated by the Commission is really very straightforward. It's always the area of the county, the county program, and the State if it's a State program. It's straightforward.

Thirdly, I should say affirmative action utilization analysis provides complicated parity. There is some parity and, and there's complex parity by which various ethnic groups are compared, either to the total proportion of the population or the highest of the 10 or 12 different ethnic categories. Under this criteria it's 80 percent.

And the fifth complication of affirmative action utilization, which is not a place in the kind of analysis that I would advocate, is there is

a problem of sample size when there are 12 different categories on the ethnic and sex differences. It's very difficult to figure out for a small organization with 10 to 20 people how many people, in other words, have the various organizations. But this is not the problem with mental health centers.

MR. SCHWARTZ. Excuse me, you've got 1 more minute.

MR. BOYLE. One more minute.

They have a much, much larger number of people that apply in that. Therefore, I would argue very strongly that in the absence of specific reasons that I don't think the Commission should throw out the notion that we can demand equal representation for older persons in mental health centers.

MR. SCHWARTZ. Thank you, Mr. Boyle.

VICE CHAIRMAN HORN. Thank you. We appreciate your testimony.

TESTIMONY OF ALEXIS SANDERS, SOCIAL SERVICES BUREAU OF THE EAST BAY, OAKLAND

MR. SCHWARTZ. Ms. Sanders, would you please state your name and address and organizational affiliation, if you would care to, for the record?

MS. SANDERS. My name is Alexis Sanders.

MR. SCHWARTZ. Would you move the microphone a little closer to you?

MS. SANDERS. My name is Alexis Sanders. Can you hear me now?

MR. SCHWARTZ. Yes.

MS. SANDERS. All right. I live at 663 Woodmont Avenue, Berkeley. I work for the Social Services Bureau of the East Bay at 540 21st Street, Oakland. I believe Reverend Linzie testified yesterday about the Social Services Bureau of the East Bay.

I am here to tell you that employment for a 59-year-old woman searching for work is difficult to find. It is hard to define how the discrimination is practiced. But I know from a personal search for 2 years for work that it is very difficult to do. And that's why I am working at the Social Services Bureau now at a salary of \$3 an hour, \$240 a month. That is the best I can do in a search taking over 2 years. I have gone to the Oakland Employment Office and I did know that they had special services available for the senior citizens. I am a college-educated woman. I speak three languages. I have taught English as a Foreign Language. I have taught in a private school. But I wasn't able to find work, and when I went to the employment office, without telling me about any possibilities at all, I was simply advised that the best thing to do at the moment was to go to the Social Services Bureau and to that I qualified for it because I had no other means of support. And, so, I had the job. That's my story. But CETA was never mentioned and after hearing all about CETA and the possibility of getting employment through CETA, I'm amazed that that wasn't mentioned to me at any time.

VICE CHAIRMAN HORN. This was now going to a branch office of the United States State Employment Services?

Ms. SANDERS. Oakland Employment Office on Jackson Street.

VICE CHAIRMAN HORN. On Jackson Street. And in working with the job counselor there?

Ms. SANDERS. Yes.

VICE CHAIRMAN HORN. The advice was simply to go to the Social Service Bureau?

Ms. SANDERS. Yes.

VICE CHAIRMAN HORN. Was any sort of an inventory taken of your competencies and talents?

Ms. SANDERS. Indeed, but there was nothing that they could—

VICE CHAIRMAN HORN. And no mention of other Federal programs such as CETA, which is your point?

Ms. SANDERS. No, that is my reason for wanting to testify here.

VICE CHAIRMAN HORN. Well, it's a very good point.

COMMISSIONER SALTZMAN. We were told, as I recall, that in every instance, by the director of EDD, that there is information provided relative to CETA, and you are testifying that that just isn't so?

Ms. SANDERS. In my case.

COMMISSIONER SALTZMAN. In your particular case.

Ms. SANDERS. In my case it was not so.

COMMISSIONER SALTZMAN. Thank you.

VICE CHAIRMAN HORN. Thank you very much. Appreciate you coming over here to tell us.

Mr. SCHWARTZ. Thank you, Ms. Sanders.

TESTIMONY OF MARK FORRESTER, GRAY PANTHERS OF SAN FRANCISCO

Mr. SCHWARTZ. Mr. Forrester, would you please state your name and address, organizational affiliation if you care to?

Mr. FORRESTER. My name is Mark Forrester and I live at 947 Church, Apartment 3. And I am speaking for the Gray Panthers of San Francisco who have very strong feelings about the issue of age discrimination and its relationship to Federal funds. There are several local examples of what I consider evidences of such ageism.

The staff of the local commission on aging is run by an executive director who is 33 years old, and they are unable to find anybody older to fill that position. Sixty percent or 70 percent of his staff are people who are under 35. Apparently they could not find a significant number of senior citizens to fill the majority of positions. The deputy director is an older person. This is, I think, probably true of the State offices on aging, too. One of the major problems, I think, is that the titles that are concerned with the administration of programs and planning for senior citizens do not have a very strong commitment to the hiring of senior citizens in the delivery of services in the executive positions, and I for one do not believe that when a person gets to be

65 they suddenly lose the capacity to be an executive or a planner or service deliverer.

Indeed, I am convinced that most young people in these executive positions have little or no sensitivity to the actual conditions of being old. It's one thing to talk theoretically about loss of employment, about retirement, about the ending of productivity, and quite another thing to be at my age or older and facing that very, very shortly.

It's one thing to be connected with the public service agencies and on the public payroll involving careers that can continue for substantial time and not have a sense, as many of them do not have, of the very unfortunate age discrimination that occurs in employment in the private sector of our economy. And this is a very serious matter indeed.

If you want to talk about the impact of forced retirement on mental health and the supposition that when people are forced to retire early they ought to indeed have a variety of emotional problems as they do, and yet when you look at the caseloads of mental health services funded by the Federal Government, in checking into the number of senior citizens that are seen in these centers, you will discover that they are very few, you would propose that there is no mental health problem. Well, the fact is that all of the services are geared to young people, to families, and to young adults.

I will go into that a little more substantially. It is my belief that San Francisco, in fact I know 24.8 percent of the entire population is 65 and older. And if you want to see the extent of ageism in foreclosing to senior citizens services that they ought to have, you should examine the caseload of various mental health centers in the city and county of San Francisco. Of course, my personal view is that the mental health system is a disaster anyway, and I just left a hearing at the board of supervisors indicating that reorganization was necessary. Regardless, in terms of services to senior citizens, this is a double disaster. This is true of physical health, also, by the way.

I think there are several reasons. The nature of the administration, nature of the clients to which most attention is given and, third, the ambience which someone else talked about here. If you have a clinic which is designed to serve young people, I think in many cases that's going to be different from a clinic that's designed to serve old people.

A classic example of ageism in the operation of the department of public health is, I think, the operation of General Hospital where in the emergency system, senior citizens go in and have to wait in line just like everybody else for what may be excellent emergency services. It's one thing to sit around waiting for medical services at age 25 and quite another as a disabled senior citizen to have to sit 3 and 4 hours to have the emergency treatment and then to be told you can go home at 10 or 11 in the evening, which is prime time for a great deal of crime going on, with a bus system that has erratic schedule. The people who run the hospital and the people who run the emergency ser-

vices are young physicians. I could wish upon them some of the disabilities and pains of senior citizens so they can directly understand how absolutely intolerable and inhuman these conditions are.

MR. SCHWARTZ. Mr. Forrester, you have 1 more minute.

MR. FORRESTER. Yes. The final point I would raise is that I have spoken, we have spoken before a number of Senate and other committees and private commissions and so on, and the most interesting thing that we have observed is lack of senior citizens on the staffs of the group. Your own staff have very attractive young people. I do not see a single senior citizen. The Senate committee which was here a year ago, the one on health insurance, all of the staff physicians were people 35 and younger. There was not a single senior citizen. The purpose of the hearing was to discuss very serious issues affecting senior citizens. I think a great deal is due to failure of fighting ageism in the Federal bureaucracy itself, particularly in the staff of legislative committees.

VICE CHAIRMAN HORN. Thank you for your comments. They are very pertinent and perceptive. Some of us have said the same thing. Thank you for coming.

MR. SCHWARTZ. Thank you, Mr. Forrester.

**TESTIMONY OF DOROTHY FIELD, INSTITUTE OF HUMAN DEVELOPMENT,
BERKELEY**

MR. SCHWARTZ. Dr. Fields, would you state your name, address, and your organizational affiliation, if there is one, for the record?

MS. FIELD. My name is Dorothy Field. There is no "s" on the end of it. I am a developmental psychologist, which means that I am interested in change over time with people. And I am affiliated with the Institute of Human Development in Berkeley, and I just came back from a 2-week summer institute at the Gerontology Center at the University of Southern California. And I am here today because I read an article in Sunday's paper which made several interesting pertinent comments, but the one that got to me was the quotation of the man in the Social Security unit who refused to hire people over 45 for certain jobs because he wanted them to be nimble between the ears. Well, I would like to do today what I can to demolish that myth.

There certainly has been a strong and lusty myth of intellectual decline. I myself when I had an opportunity to become a re-entry woman at age 43 felt that I had to go back to college and take undergraduate year again to be sure that there was still something up here because I, too, had bought this myth. But I know better now.

Since that time I've earned a Ph.D. and I am now studying age changes over the life span of people. I know now that I will continue to get wiser and smarter until well past my 70th birthday, barring accidents of health. And it gives me great satisfaction to know that this is so. And I suspect that all of you will be happy to have me be able

to make this prediction for you, too, in your future years, or possibly for some in the audience it will be a reinforcement of what they have observed in fact about themselves.

Now, I have 5 minutes and I will stick with my 5 minutes and I would like to talk about the myth of intellectual decline, and I cite my theory from the work of Warner Scheyer [phonetic]. There are other people who are working in this field, but 5 minutes is time for one idea only. His work began when he tested well over 300 ordinary people, residents of Seattle aged 25 to 61. He did this all in one general time period, which is the way studies are ordinarily conducted. When he did it, he found that the scores were like this. These were the younger people and the higher scores, and sure enough it looks as if intelligence goes down with age, doesn't it? And this is what we had all been told.

I am sorry I don't have something more professional. I did this in a hurry.

But Scheyer was conducting a longitudinal study; this means that he went back again to the same people 7 years later and he retested them the second time. He then retested them 7 years after that so that the same people in different age groups were tested three times at 7-year periods. And I was going to be dramatic and draw my pictures to show what happens. Those who were 24 did not change. By the time they were 39, their intellectual capacities were just where they were before. Those—I did it wrong. I'm sorry. Those who were 32, by the time they were 46 had done this, the next group, the next group, the next group. Now, these are 53 and they are showing a decline, but it is not significant, and more recent studies have shown less decline. It was not significant at all until you got to those who were 67 years old, and by the time they are 81 in fact there is a decrease in their intellectual functioning. But before that time there was no significant decrease over 14 years in any of those groups.

MR. SCHWARTZ. Doctor, you've got 1 more minute.

MS. FIELD. One more minute.

MR. SCHWARTZ. You can submit a statement later if you would like.

MS. FIELD. All right. Fine. Surely.

Now, this is a composite. In fact, older people do not do as well on some things like psychomotor speed. But they do so much better on some other things like word fluency that these balance out over the younger and older groups. But—and even in some of the areas where the stereotype is strongest, such as dimensions of perceptible rigidity or cognitive rigidity, in fact the same pattern was apparent. There was no change over time. There were differences between the groups. But these were not differences with the same people over time. There are individual differences, too, of course, just as we find people, some people are more healthy than others. Some people die sooner than others. In fact, there is some indication that these three are very closely allied. But some people increase their intellectual capacity throughout

adulthood into old age and possibly they are more healthy and live longer as well. It is just as silly to say that all people over 45 are no longer nimble in the brain as it is to say all people over 45 or all old people over any age are crippled from arthritis.

MR. SCHWARTZ. Doctor, I'm afraid the time's run out.

MS. FIELD. All right.

VICE CHAIRMAN HORN. We will be delighted to have your statement and any charge you might want to prepare, and we could include it at this point in substitution or addition to your remarks.

MS. FIELD. Fine.

VICE CHAIRMAN HORN. If that will be okay, please work it out with the staff. Thank you very much for coming.

MR. SCHWARTZ. Mr. Chairman, by the clock I believe we have time for three more witnesses.

VICE CHAIRMAN HORN. Well, how many have got signed up? I mean, you should have had it limited to roughly 13 witnesses; is that correct? If we had started at 3:55—

MR. SCHWARTZ. I'm not quite sure. I kind of lost count and the list has been changed around several times while we've been sitting here. But I do believe we have six more left.

VICE CHAIRMAN HORN. Well, I would like them to really cut it short if possible because the Commissioners have other commitments and, so, if we could cut them to 4 minutes or have them submit something, I would be glad to hear all six.

MR. SCHWARTZ. All right. We can cut it to 4 minutes, then.

VICE CHAIRMAN HORN. Let's see if we can get some to put it on for 1 minute and others 3 to get the essence of the testimony. I hate to disappoint anybody, but the most we could accommodate were 13 witnesses.

MR. SCHWARTZ. Let me see if I have all my—I have as the next panel Don Hesse—would you please come forward as I call your name?—Marie Linden, Paul Hardman, Lois Enos, Winona Rubin, Larry Little John. We've got six.

VICE CHAIRMAN HORN. Now, is this the final panel?

MR. SCHWARTZ. That's the group. Would you all please remain standing so that the chairman can swear you?

[Ms. Lois Enos, Mr. Paul D. Hardman, Mr. Don Hesse, Ms. Marie Linden, Mr. Larry Little John, and Ms. Winona Rubin were sworn.]

VICE CHAIRMAN HORN. Please be seated.

MR. SCHWARTZ. With the chairman's suggestion, each of you will be allocated 4 minutes to present your statements.

VICE CHAIRMAN HORN. Certainly feel free to elaborate or furnish other documents later. We are sorry we are in a situation. It came from extending questioning to other panelists earlier in the formal part of the hearing. We appreciate you coming.

TESTIMONY OF DON HESSE, HOUSING REPRESENTATIVE, SAN FRANCISCO
HUMAN RIGHTS COMMISSION

MR. SCHWARTZ. I believe the first witness is Mr. Hesse. Is that correct? Would you state your name, address, and organizational affiliation if there is one?

MR. HESSE. My name is Don Hesse. I am the housing representative for the San Francisco Human Rights Commission at 1095 Market Street in the city. I asked to speak only this morning in response to Ms. Taylor's earlier comment to the speaker from the Youth Law Center as to discrimination against children in housing.

As he indicated, we have passed a law in the City of San Francisco attacking just that problem when it reached astonishing proportions in the city. After passage of that law, we received a great deal of concern from the cities throughout the State and throughout the Nation asking us what kind of law we drafted, how effective it was, how we were able to deal with this problem. Clearly, it is a problem all over the country and in fact it was such a large problem in the State of California that we have initiated State legislation which failed this past month and which we intend to reintroduce in January, and I believe successfully.

The issue is, what can the Federal Government do to deal with this problem, aside of course from directly prohibiting discrimination against children in housing? It can prohibit discrimination against children in any federally-funded housing, in any housing that receives Federal assistance, whether it be through insurance or loan guarantees such as FHA, or it can assure that Federal programs do not have the effect of discrimination against children in several ways. One is that the Federal programs which require that housing for the low income be built, that local communities not be permitted to take these allotments and funnel them solely into senior and elderly housing, which is done frequently in suburban areas; that they must include part of these housing allocations towards family housing.

There is two kinds of housing assistance. There is the kind of assistance that goes towards constructing houses and there is the kind of housing assistance that goes toward preserving housing. Presently in San Francisco housing rehabilitation is becoming a very big program. But, for example, not to seem ungrateful to our hosts here, this law school is in the process of expanding to the block immediately to the west, and as a result of their expansion, it will have removed 272 units of low-cost housing which is occupied almost entirely by senior citizens, essentially over 90 percent. Part of these funds for this project would have been Federal funds through the Federal manpower program. In fact, through a great deal of pressure this may or may not happen. It may or it may not have the effect of displacing senior citizens. But, nonetheless, those are Federal funds which would have disrupted these people and taken them out of their homes and removed their houses, which is essentially because it's low-income, inner-city housing, and the Tenderloin area is senior citizen housing.

MR. SCHWARTZ. Mr. Hesse, you have 1 more minute.

MR. HESSE. That's okay. I am finished.

VICE CHAIRMAN HORN. We appreciate your testimony, Mr. Hesse. Ms. Linden?

TESTIMONY OF MARIE LINDEN, JOBS FOR OLDER WOMEN, BERKELEY

MR. SCHWARTZ. Ms. Linden, would you state your name, address, and organizational affiliation if you care to?

MS. LINDEN. My name is Marie Linden. I work for Jobs for Older Women in Berkeley at 3102 Telegraph Avenue.

MR. SCHWARTZ. Thank you. Proceed with your testimony.

MS. LINDEN. My field is vocational counseling. We are a nonprofit, self-help program for older women. We provide individual vocational education counseling, group support, advocacy in matters which pertain to older women, particularly in matters of employment. Seventy percent of the women who use our services are 50 years or more. Seventy-three percent of the women live on incomes below what is considered adequate for the area. The educational level of 11.5 percent of them is below high school; 34.5 are high school graduates and the rest are trained beyond high school. Notice this is skewed because of the area we are in in terms of education, but the poverty is skewed the other way.

I want to address my remarks to just one problem which concerns older women, and that is the poverty requirements for CETA training. Many women, older women, do have one-time allocation of funds such as insurance or death benefits, alimony, or some other kind of settlement, and I want to give you an example of how this works in a discriminatory way. A 57-year-old divorced woman who married immediately out of high school, raised her family, and after 32 years of marriage she is allowed \$7,500 community property. She could not receive training until she depleted her money below \$3,000. So, she had to use her money to live on, to pay the psychiatrist, to pay the doctors, to pay whatever it was, and when she got down to the poverty level, then she would be eligible provided she didn't land in a mental health institute. That's all I want to say.

VICE CHAIRMAN HORN. Thank you very much. We appreciate your coming across here to share those experiences with us.

MR. SCHWARTZ. Thank you.

TESTIMONY OF PAUL D. HARDMAN, BOARD CHAIRMAN, PRIDE FOUNDATION

MR. SCHWARTZ. Mr. Hardman, please state your name, address, and organizational affiliation if you care to.

MR. HARDMAN. My name is Paul D. Hardman. I am chairman of the board of the Pride Foundation. It's a tax-exempt, nonprofit organiza-

tion which handles many types of needs in the community, both educational and legal. We have a very large senior citizens program, which is why I'm here. It's just one part of our overall services to the community. The Pride Foundation, which is tax exempt under 501(c)(3), concerns itself particularly with individuals who are discriminated against and defamed because of sexual preference. We are concerned principally with the rights of senior gay men and women. This is a problem which is not often discussed. It's an extremely important problem in a city like San Francisco which has a very large and very real senior gay population. It's very easy perhaps to want to ignore the problem.

To make the thing come into focus for you, when we recently applied for CETA positions at the behest of the San Francisco health department wanting to go into this program with us after doing over a year of research into the needs, we applied to the mayor's commission that sets up the rules on CETA, and three of the members actually got up and walked out when they thought it was so funny that there would be such discrimination with senior citizens, and especially that the health department actually recommended that we do this. So, somewhere between the actual need for the services that have been granted to gay men and women who are senior citizens and the desire of the health department, it has chosen to do it through a local foundation which we applied to the federally-assisted programs. They are not even given serious consideration which is the same thing all the way down the line. I think it's a most noteworthy disregard for senior citizens, and I think the people have suffered all of their lives; they have to worry about being thrown out of a job because in their older age if they do happen to be lucky enough to get a job and someone suggested that they are a homosexual, they lose it. Those of us who live and work in San Francisco have the privilege of having county ordinances that protect gay people.

We have no funding, State, Federal, or city or county, and although the laws are set up to help all people, the hardship on the senior citizen who is gay should not be ignored.

VICE CHAIRMAN HORN. I take it San Francisco does not fund the CETA position requested?

MR. HARDMAN. No, they did not.

VICE CHAIRMAN HORN. Thank you very much for sharing those views with us.

MR. SCHWARTZ. Thank you very much, Mr. Hardman.

TESTIMONY OF LOIS ENOS, SCHOOL TEACHER, SAN FRANCISCO

MR. SCHWARTZ. Ms. Enos, would you please state your full name and address, and organizational affiliation if you care to, for the record?

MS. ENOS. My name is Lois Enos. My address is 2011 15th Avenue, San Francisco. I teach in the Western Addition.

My reason for being here is that I read the article in the newspaper and I thought this would be an opportunity to express some of my feelings about title programs, Title I, II, III, IV, VI, VII. Plus there is a little thought I have about the opportunities for people in Western Addition to find jobs. I have wondered often who it was that invented the word jobs for or the phrase job slots? I would really like to meet that person. It seems to me we should have job openings, job opportunities. I think slots are for when you are dead.

Now, sometimes when I look at the overall programs that come out after everyone writes their little proposal and everyone gets everyone else's signature in the proper place, we might as well say something is dead.

I will get down to my experience as a teacher in an area where I feel there is little job opportunity. I know a person who is not a senior citizen but is maybe 40, 45, who quite recently worked a tremendous amount of time for nothing, practically, and is an artist who does murals with the children, has started a school garden and is in a situation now this year whereby he is able to have three students funded for the summer garden program, but he himself is not being funded. There is a limit to how much creativity you can put forth without being funded, and I think when we are deciding when one of the people should be funded for these jobs, you should at least put in there someone who is creative or who has something to offer to the community as a whole. So, when we get finished we will have something and be able to say, "There, that's what was done with the CETA money." Thank you.

VICE CHAIRMAN HORN. Thank you very much for coming.

MR. SCHWARTZ. Thank you very much, Ms. Enos.

TESTIMONY OF WINONA RUBIN, EXECUTIVE DIRECTOR, ALUKEI, HONOLULU

MR. SCHWARTZ. Ms. Rubin, would you please state your name, your address, and your affiliation if you care to, for the record?

MS. RUBIN. I am Winona Rubin.

VICE CHAIRMAN HORN. I'm sorry, I missed the first name.

MS. RUBIN. Winona.

VICE CHAIRMAN HORN. W-i-n-o-n-a?

MS. RUBIN. That's correct. Winona Rubin, R-u-b-i-n.

VICE CHAIRMAN HORN. R-u-b-i-n?

MS. RUBIN. That's correct. 1501 Aolani Street, Honolulu, Hawaii. I am executive director for the Alukei, Hawaiian Native Americans Program, Office of Human Development, Department of Health, Education, and Welfare. And thank you for giving me the opportunity to discuss some of the problems being confronted by elderly native Hawaiians today, and that has applicability to those native Hawaiians in California and elsewhere in the Nation.

The Hawaii of the tourists is different than that of residents. By population, native Hawaiians number 150,000 in Hawaii and 15,000

here in California, and many others scattered throughout the country. As Western values have impacted on the Hawaiian, the native Hawaiian has often retreated, rejecting the insensitivity and the competitive approach. The older Hawaiians' problems cannot be dealt with by the usual public approaches. Problems are not made public and solutions are not sought in rectangular sterile offices often manned by insensitive governmental personnel.

Language, too, offers difficulty in delivery of services. Many older Hawaiians are bilingual, some of whom have learned English as their second language.

Health problems have already begun to be explored. Hawaiians as a population generally have not fared well. The native Hawaiian can expect to live 10 years less than his white brother. Is this a response to today's frustrations and anxieties rather than to debilitating physical diseases? We are not sure. We are attempting to find out.

Difficulties in cultural practice and values, language barriers, isolation from services, insensitivity of approach to service delivery, impact of dominant culture on the native American culture reflect a problem in that the older native Hawaiian cannot take advantage of current programs in delivery system offered by public agencies. Outreach activities must be continued to meet the native Hawaiian on his own ground and in his own environment. We are endeavoring to pursue some of these activities to serve as a link between public agencies and native Hawaiians. We are in our first operational year of following a year of research.

MR. SCHWARTZ. Ms. Rubin, you have 1 minute.

MS. RUBIN. They have impacted on older native Hawaiians and outreach activities have continued to expand.

Other emerging organizations here in California may hopefully be supported in their efforts to address the needs of Hawaiians, including the elderly.

In closing, let me again emphasize the need for continued activities to reach elderly native Hawaiians, and in their environment and on their own terms. Do not dehumanize them. They are mainstays of our Hawaiian culture. Let us not indirectly discriminate against their being productive members of our community. Aloha.

VICE CHAIRMAN HORN. Thank you. Let me understand, this project is funded by HEW or is it part of HEW?

MS. RUBIN. Yes.

VICE CHAIRMAN HORN. Part of HEW?

MS. RUBIN. It is a project funded by ONAP, OHD-HEW.

VICE CHAIRMAN HORN. Well, this is, what, the Office of Human Development?

MS. RUBIN. That's correct.

VICE CHAIRMAN HORN. In HEW?

MS. RUBIN. Office of Native American Programs, Office of Human Development.

VICE CHAIRMAN HORN. Very good. Thank you very much.

Ms. RUBIN. Thank you.

MR. SCHWARTZ. Thank you, Ms. Rubin.

TESTIMONY OF LARRY LITTLE JOHN, SAN FRANCISCO

MR. SCHWARTZ. Mr. Little John, state your name, your address, organizational affiliation, if you care to, for the record.

MR. LITTLE JOHN. My name is Larry Little John, 775 Clementino Street, San Francisco. I am speaking as an individual and I will try to be very brief.

I would like to point out a problem which may not be your primary problem, but it's a problem, not just for myself, but for many people and communities. It's so ridiculous, it's almost impossible to believe.

At the age of 38 I decided to apply for a civil service position in the City of San Francisco, and that was a position as a police officer. I was denied the opportunity to apply for that position because the maximum age limit to be a police officer was 33. And I did not see how that was a relevant bar to a person applying for that job. I learned that there was no age protection for people under 40. The employers, including the civil service commission, were free to set a maximum age limit, and I had no remedy because I was under 40. At the age of 40 I applied for a position with the fire department and I was also turned down because their maximum age is 33, at which time I filed a complaint under the California Fair Employment Practices Act which does prohibit discrimination based upon the age of 40, which applies only to people 40 or above. And my point is very simple, that there is no rational basis or reasonable basis for saying that a person cannot perform the job of a police officer or a fireperson solely because they are over the age of 33. Obviously, there are many police officers and firefighters in their forties and fifties and even sixties performing the job, and I found out that there is just something that happened back in 1930 that was put in the city charter that was maximum age. I asked if there was any studies or any information that the departments had, as the civil service commission had, that would show that a person over that age was not capable of performing the jobs, and there were none.

I filed a complaint in March 1976, which is some 15 months, with the California Fair Employment Practices Commission, and at that time I was told, "We have big a backlog and that we probably won't get to this 6 months to a year." It's now 15 months and my complaint is not yet resolved.

So, I think we have continuing problem where there is a maximum age for applicants. I do not think that that maximum age can be justified by any rational basis, and I would hope the Commission and the staff would inquire into this and find out what the justification is for that. Since many of these departments receive Federal revenue sharing and other Federal funds, they should be held to account to

somebody for the reasonableness of saying after 33 you are washed up when it comes to that kind of a position. I never thought that at such a young age I would be in the same position as many people much older. I think that, although it may seem a very minor problem compared to the problems of the people much older, it is a real problem for many people and just reflects the total unreasonableness for setting a limit on maximum age for applying for any kind of a job.

VICE CHAIRMAN HORN. It's not a minor problem. I appreciate extremely you coming into here. It's a major problem and I would like Exhibit 40 to contain an exchange between the Commission and Mayor Moscone, who did testify before the Commission, as to various age discrimination requirements in the charter and other aspects of San Francisco's city and county policies, as well as a letter to the California State Fair Employment Practices Commission on the status of Mr. Little John's case. I think I certainly take a certain amount of delight in the request.

MR. LITTLE JOHN. I don't know whether the mayor's statement in regard to people over 65 and I don't know whether he has considered the very problem which I brought myself to the civil service commission of San Francisco of the people 33 for police and fire positions. I think that should be changed also. Thank you.

VICE CHAIRMAN HORN. Well, you hit a very key problem. We are most grateful to you for coming here. Counsel, does that complete your witnesses?

MR. SCHWARTZ. I have nothing further, Mr. Chairman.

VICE CHAIRMAN HORN. Very fine. Let me say in concluding that I want to particularly thank the staff, Mr. Nunez, Ms. Bradley as Director of the Age Discrimination Project, and Ms. Taylor, Mr. Schwartz, in particular, as the ones who have served as counsel during this hearing, on behalf of Commissioner Saltzman and myself. This was a very well-prepared hearing and I think we had diverse, indepth testimony in many of the areas of concern to the Commission.

I would also like to express the appreciation of the Commission to the Board of Regents, the University of California, and in particular the University of California Hastings College of Law for their courtesy and hospitality to the Commission for permitting us to conduct this hearing in their premises because, as I said earlier in the hearing, it is quite appropriate that we conduct them here, since the Hastings College of Law made its reputation on bringing to its faculty the very distinguished members of law faculties throughout America who were forced mandatorily out at varying ages, I suspect, from 60 on up.

So there is no further business to be brought before the Commission. I declare the hearing adjourned.

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