

cek
3
meet.
196

LIBRARY

U.S. COMMISSION ON CIVIL RIGHTS

UNITED STATES COMMISSION ON CIVIL RIGHTS
NEW YORK STATE ADVISORY COMMITTEE

-----X
Bias-Related Incidents in New York State:
Recent Hearings and Proposed Legislation
Calling for Collecting Data
-----X

Javits Federal Building
26 Federal Plaza
New York, New York

June 25, 1987
5:00 P.M.

THE PANEL:

- Dr. Setsuko M. Nishi- The Chairperson
- Mr. Tino Calabia
- Mr. Antonio M. Stevens- Arroyo
- Mr. Benjamin F. McLavrin
- Mr. Edwin R. Espailat
- Mr. J. Iredelle Nixon

A.S.A.P. REPORTING COMPANY
Computer-Aided Transcription
By: Registered Professional Reporters
251 86th Street
Brooklyn, New York 11209
(718) 745-7997.

1
2 THE CHAIRPERSON: My name is Setsuko
3 Nishi, Vice Chairperson of the New York State
4 Advisory Committee to the U.S. Commission on Civil
5 Rights.

6 May I introduce the other members of the
7 State Advisory Committee: Dr. Benjamin McLaurin.
8 Dr. Arroyo. Mr. James Nixon. Edwin Espailat.

9 MR. MARKMAN: Pleasure.

10 THE CHAIRPERSON: We have three
11 speakers.

12 MR. MARKMAN: Yes.

13 THE CHAIRPERSON: Representing different
14 perspectives on the incidents of bias related
15 violence, as well as other associated kinds of
16 incidents.

17 We will hear first from Mr. Kevin Fox of
18 the Governor's Task Force on bias related violence
19 and he is representing Mr. Douglas H. White who is
20 the chair of that Task Force.

21 Mr. Dawkins, are you expecting him?

22 We also are expecting Mr. Andre Dawkins
23 of the Governor's Executive Chamber in Albany.

24 Following this presentation, we will
25 hear then from Mr. Norman Siegel of the New York

1
2 Civil Liberties Union, who is familiar with the
3 local situation from the prospective of its
4 history and civil liberties.

5 And Inspector Michael A. Markman and his
6 associate, Susan Herman.

7 MR. MARKMAN: That is the Special
8 Advisory Assistant to Police Commissioner Ward,
9 not my associate or assistant.

10 THE CHAIRPERSON: The assistant to the
11 Police Commissioner.

12 Mr. Markman is Commanding Officer of the
13 Bias Incident Investigating Unit of the New York
14 City Police Department and Susan Herman is the
15 assistant to Police Commissioner Benjamin Ward; is
16 that correct?

17 MS. HERMAN: That's correct.

18 THE CHAIRPERSON: Though I hoped that
19 Mr. Siegel would be back, I think we should
20 proceed because our time is somewhat limited.

21 Mr. Kevin Fox, then will make the first
22 presentation.

23 MR. FOX: I am Kevin Fox from the New
24 York State Human Rights Executive Office on bias
25 related violence.

1
2 As you indicated, Commissioner Douglas
3 White of the State Division of Human Rights had
4 expected to be here; unfortunately could not be
5 here and with your permission, I would like to
6 deliver the remarks that he had wished to convey
7 to you and to the extent that they do not, with
8 particularity, cover the points of greatest
9 interest to you, feel free to ask me any question
10 and I will try to answer as best as I can any
11 particular questions you have.

12 THE CHAIRPERSON: Thank you.

13 MR. FOX: Bias related crime is a
14 subject that makes many people uncomfortable.
15 They wish it would go away, but the racial
16 violence that exploded in Howard Beach in December
17 filled our newspapers and television screens and
18 forced us to take our heads out of the sand.

19 There are various estimates of the
20 extent of bias related crime in America. Some
21 down play it, including Assistant Attorney General
22 William Bradford Reynolds. Others claim it is a
23 serious cancer in the body politic. But there
24 were so few statistics available that no one knew
25 for sure.

1
2 Following the Howard Beach incident,
3 Governor Mario M. Cuomo established a Task Force
4 on bias related violence and charged it with
5 investigating the extent of the problem and
6 proposing programs and solutions.

7 The Task Force has held nine days of
8 public hearings around the State and has come to
9 some preliminary conclusions.

10 One, there are instances of bias related
11 violence in every region of the State; not just in
12 Howard Beach; not just in New York City and the
13 other large municipalities, but also in the
14 suburbs and rural areas.

15 Two, there is a need for mandatory
16 collection by police of data on bias crimes; not
17 just in New York State but across the country, so
18 that accurate comparisons can be made and
19 particular problems of various localities can be
20 clearly seen.

21 Three, the most moving and most powerful
22 part of the Task Force hearings was the testimony
23 of victim witnesses, not only the details of what
24 happened to them, but also their perception of the
25 reaction or the callousness of the government

1
2 agencies who are responsible for helping them. It
3 is clear that the police, the courts and social
4 services must be sensitized to the physical and
5 psychological damage caused by bias violence.

6 Four, what can be done to reduce the
7 problem? We need efforts in our schools from the
8 earliest grades. Our communities need mediation
9 and tension reduction programs which involve local
10 residents to deal with current problems and to be
11 in place for future incidents.

12 The Task Force's interim report calls
13 for training of police officers so that they can
14 identify and classify crimes that are bias
15 related; an assignment by all law enforcement
16 agencies to an experienced officer of supervisory
17 rank, the responsibility for receiving and
18 directing investigations of bias related violence
19 complaints and of implementing a uniform reporting
20 system; support of the Comprehensive Civil Rights
21 Bill in the State of New York which enhances civil
22 remedies available to victims of bias related
23 violence and increases criminal penalties for bias
24 related crimes.

25 Items of continuing interest of the Task

1
2 Force include police training, prosecutorial
3 procedures and the courts, the need for a
4 permanent special State prosecutor, the need for a
5 statewide civilian complaint review board,
6 responses by school boards; administrators and
7 faculty members to incidents of bias related
8 hostilities in schools, including an examination
9 of the roles of teachers and curriculum in
10 reducing prejudice and the policies and procedures
11 used to prepare teachers, human service
12 professionals and community leaders for living and
13 working in an increasingly diversified society;
14 community based programs for youth designed to
15 reduce and eliminate tensions motivated by
16 prejudice; the roles the religious community and
17 the private business sector might play in reducing
18 bias related violence; and the role of the media
19 in educating and sensitizing communities to the
20 problem.

21 The New York State Division of Human
22 Rights had begun a quest for the real dimensions
23 of bias related violence in 1985. It sought
24 information on prejudice motivated crime from 175
25 law enforcement agencies outside of New York City

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

and Long Island.

That was because New York City and the two counties on Long Island have special police command responsibilities assigned to receive and investigate such crimes. Their official reports show that in the five calendar years, 1982 through 1986, there were more than 2,100 investigations of bias crimes, resulting in more than 700 arrests.

In response to the 175 inquiries, we received less than 20 reports of such crimes, some of which occurred up to five years prior to the survey. The police response was frequently one of denial. We heard frequent comments like "We don't have that problem here." One chief even went so far as to say that it is not possible to gather such information because you cannot tell if a crime was motivated by prejudice.

In the closing weeks of the 99th Congress, after members of the Division's Executive Staff participated in a national conference on prejudice and violence in Washington, the Division wrote to the 45 members of the New York's Congressional Delegation urging them to support a measure, passed by the House,

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

mandating the collection of bias crime data by the Justice Department.

I am sorry to say that the measure never got to the Floor of the Senate because it never cleared the Judiciary Committee.

I urge the New York State Advisory Committee to the U.S. Commission On Civil Rights to lend its support to a new measure introduced in the present Congress as H.R. 993 and S. 797. It is important that the Federal criminal justice system to establish such a record keeping system in order to assess the phenomenon of prejudice motivated crime on a national scale.

MR. ARROYO: Repeat those numbers again?

MR. FOX: Of the bills?

MR. ARROYO: Yes.

MR. FOX: H.R. 993 and S. 797.

THE CHAIRPERSON: Do you have a dated version of the Senate's approval?

MR. FOX: It was sent to you in the package.

THE CHAIRPERSON: Yes.

MR. FOX: That would also serve to

1
2 stipulate states to act in establishing law
3 enforcement procedures and, equally important,
4 training of all police officers and prosecutors.

5 What is the value of statistics? There
6 used to be occasional reports of cross burnings in
7 Maryland. Some people dismissed them as a few
8 isolated events. Others disagreed. The State
9 decided to get the facts, to collect data on
10 racial, religious and ethnic conflicts.

11 In 1981, 23 cross burnings were
12 reported. The Maryland legislature made cross
13 burning a felony. Police issued strong warnings:
14 "Cross burning is much more than a prank. Those
15 involved are playing with fire, both literally and
16 figuratively. They are dealing with a felony and
17 we are not going to treat it as a misdemeanor."

18 In 1985, only two cross burnings were
19 reported in Maryland.

20 There is an attitude that "something
21 does not exist until you can count it." I wish
22 you had the the opportunity I did of hearing
23 countless people tell Governor Cuomo's Task Force
24 about incidents of bias related violence,
25 including muggings and even murders, burning of

1
2 crosses and homes, vandalism of social clubs and
3 houses of worship. White, Black, Hispanic, and
4 Asian parents afraid to let their children out to
5 play. Reports of gay bashings around the State.

6 I will never forget the tearful pregnant
7 Chinese woman who was beaten by the police. She
8 and other victims of bias related crime deserve
9 our concern and need our help.

10 Thank you.

11 If there are any questions, I will be
12 happy to entertain them.

13 THE CHAIRMAN: If there are questions
14 specifically to Mr. Fox' presentation, that
15 perhaps we might take those questions now.

16 Mr. ARROYO: Did you indicate that there
17 are states or municipalities with experience in
18 tracking such information and taking data?

19 MR. FOX: Yes, sir. Maryland in
20 particular was one of the first to look into the
21 area of what they described as hate violence and
22 hate crime, what we are in New York identifying as
23 bias related violence or bias related crimes and
24 from their Commissioner's report through a
25 national center to gather information around the

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

country about such incidents of bias crime.

There are other states that have looked into hate violence or bias related crime, including California and Pennsylvania.

MR. ARROYO: Do you know what Maryland's reaction was to the question of such information being difficult to track accurately because of the fuzziness of reports?

MR. FOX: Their reaction then and their methodology was to seek to have put in place some type of concrete reporting system. In addition to that, they scan newspapers and other periodicals for articles about bias related crimes and from those articles, they make records and I believe make follow-ups so that their data can be current.

Moreover, there are certain private organizations like the Antidefamation League which collects data on anti-Semitic violence. Maryland I know is in touch with them to get the information from them.

MR. MARKMAN: You had mentioned that the area might be fuzzy. As a matter of fact, it is fuzzy. It is sometimes very difficult to tell

1
2 what is and what is not a bias motivated crime.
3 They do have a category called "Possible" and that
4 is just track incidents with racial overtones but
5 may not be absolutely clear as far as being bias
6 motivated. So, they have a category "possible".

7 In New York City, we have two
8 categories. If we have a bias case, we number
9 them one, consecutively. If we have a case which
10 has religious overtones but is non-bias, we number
11 them also consecutively. Again it is just to
12 track where incidents are occurring. They may not
13 be per se in our guidelines of bias motivated
14 crime, but with religious overtones and we want to
15 be aware of these.

16 THE CHAIRMAN: We want to come back to

17 --

18 MR. MARKMAN: That was just mentioned.
19 I don't want to interrupt.

20 MR. ARROYO: This is very, very
21 important and that is regarding the perception of
22 this. I have been on this Commission pretty long
23 and I remember at one point we had a rash of
24 robberies and break-ins in Catholic rectories and
25 it coincided in Long Island in cemeteries. It was

1
2 very interesting. It was astounded to me what I
3 saw was prankstism; the knocking over of actual
4 stones was perceived as a sacrilegious act. The
5 rape of nun that is left to street crime. In my
6 own terms of sensitivity, that is not a
7 sacrilegious act.

8 This ambiguous area here has to be in
9 some way-- I think some structure, some
10 responsible consultant group should help whoever
11 is keeping this information constantly update,
12 reevaluate and categorize this, otherwise you will
13 have a static set of categories for very dynamic
14 and fluent types of manifestations of these
15 things. Except to crime statistics act.

16 Is there anything else involved? You
17 mentioned Maryland as a paradigm.

18 Is there any other sort of focus of this
19 kind where you would talk about crimes as
20 manifested by racial, ethnic or religious
21 prejudice but is there some other body of
22 information to help in implementing that to be
23 directed?

24 THE CHAIRMAN: I would like to suggest
25 the issue of the uniformity of the criteria for

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

a bias related crime report; something. It is a very difficult issue and we are very eager to have your report of experience because I know that your unit has been in existence for sometime.

But before we do that, I would like very much if we might move to Mr. Norman Siegel, who is Executive Director of the New York Civil Liberties Union to make his presentation.

MR. SIEGEL: Thank you. Thank you for the invitation. It is a pleasure for the second time. I was here last year.

THE CHAIRPERSON: Yes.

MR. SIEGEL: So anyone who says you can't go to the Commission on Civil Rights and say what you want to say and will not be invited back is incorrect and that is proven by my presence here today.

Twenty-five years ago in Selma, Birmingham and Montgomery, Alabama; in Jackson, Mississippi, and Albany, Georgia, and in other southern locales, blacks and whites came together to overcome enforced segregation. That grassroots, nonviolent movement for social and political change eventually transformed a system

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

of dual citizenship for blacks and whites in the South.

Today, 1987, we need together to bring the success and spirit of the civil rights movement, as my southern friends say, "up South" to New York City and other northern locales where, it is apparent, that acts of racial harassment and discrimination are on the rise, and discrimination and harassment against women, gays and lesbians and the physically handicap unfortunately continue.

The struggle in the North over equality and harmony might be more difficult and protracted than the struggle that was waged and won by blacks and whites together in the Deep South.

First, the southern civil rights movement challenged the legal system of segregation. Southern laws were successfully challenged in the Federal courts as violative of the equal protection clause of the 14th Amendment of the United States Constitution.

In the North, the problem to be confronted is not the law but racial attitudes. For example, although there are no laws separating

1
2 blacks from whites in this town, I submit that New
3 York City is a segregated town. Our schools are
4 segregated; our neighborhoods are segregated and
5 so many of the policies in New York City have,
6 unfortunately, racial overtones.

7 Second, when a confrontation occurred in
8 the South, it had on the one hand civil rights
9 activists and supporters pitted against State and
10 local officials. The resolution of the conflict
11 required intervention of a third force, the
12 Federal Government. Today, I submit we cannot
13 rely unfortunately on the Federal Government or
14 for Federal leadership. I believe that the Reagan
15 administration has demonstrated a lack of
16 sensitivity to civil rights issues and has
17 forfeited its credibility on racial concerns.

18 Third, when we look back, we are talking
19 about two racial groups and that simplified and
20 focused the struggle. In the North, there are a
21 multiplicity of racial and ethnic groups with
22 varying interests and needs, which at times, have
23 conflicted among themselves. In the North, the
24 civil rights movement must address racial
25 discrimination against blacks, Latinos, Asians,

1
2 Native Americans and ethnic whites to be truly
3 effective.

4 Fourth, in the 1960's, the movement for
5 political and social change focused on racial
6 equality; mainly southern blacks. The women's
7 movement and the gay and lesbian movement, the
8 physically handicapped had not yet coalesced on a
9 national scale. Today, the equality movement
10 needs to address racism, sexism, sexual
11 orientation and handicapped bias. Although you
12 have talked about race and religion, I think we
13 have to go a little further and I submit that this
14 is not going to be easy, but it can and should be
15 done.

16 We, in the North, and we, in New York
17 City, must now come to grips with the reality that
18 we have our own racial and bias problems. We can
19 no longer delude ourselves into believing that
20 racism and bias are something that once existed
21 exclusively in the South. We must realize, no
22 matter how painful, that, unfortunately, racism
23 and bias are alive and well in New York.

24 I have certain specific systemic
25 suggestions that I recommend for you to consider

1
2 with the purpose of attempting to reduce what I
3 see as the growing racial and bias tensions in New
4 York, despite my Mayor's piece this morning in the
5 New York Times with regard -- when when I say "my
6 Mayor," I mean the Mayor of New York City.

7 Criminal Justice. We have formed in the
8 City a coalition called the New York Civil Rights
9 Coalition. It is now comprised of approximately
10 60 civil rights/civil liberties community and
11 religious groups that are holding racism hearings
12 in the communities. In June, we are doing five.
13 We will evaluate the pluses and minuses of the
14 pros. We have targeted another 20 communities and
15 in the summer, if we evaluate the pluses more than
16 the minuses, starting in September, we will
17 continue the second phase.

18 Of the two hearings that we have had so
19 far in the South Bronx and Chinatown, we had
20 approximately 90 people who had shown up and 21
21 have testified. The one area that predominates in
22 the testimony from people coming from the
23 neighbors, regular folk, is the criminal justice
24 area. We have asked people to focus on schools,
25 housing and criminal justice and the largest

1
2 testimony falls into the category of criminal
3 justice.

4 The New York criminal justice system
5 must improve its reaction to racial and bias
6 motivated acts of violence by acting fairly and
7 effectively. Too frequently, acts of violence go
8 unnoticed or are not effectively prosecuted and
9 consequently go unchecked. This must stop once
10 and for all.

11 We must begin to recognize, analyze and
12 draw conclusions about patterns of both racially
13 motivated and bias related instances. If a white
14 police officer beats up a young black man or a
15 group of black youths beat up a white youth, or a
16 group of heterosexuals beats up a homosexual, we
17 should categorize the act both as assault and
18 battery and as a possible racial or bias motivated
19 act of violence. Although there can be no
20 guarantee that racism or bias has caused the
21 incident, history teaches us that prejudice may
22 well have been the motivation.

23 One, we must call for substantial and
24 systemic affirmative action in the New York City
25 Police Department. The time is over for

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

tokenism.

I am very happy that the New York City Police Department has a black Commissioner. But, we have to go further. We need systemic change.

Overall, 79 percent of approximately 27,000 New York City Police Department employees are white. 77 percent of the police officers and, get this, 99 percent, as you have heard it, 99 percent of the captains, approximately 300 are white. This situation is very simply unacceptable and change is needed immediately.

If we are going to convince the people in the streets, especially people of color, to have confidence in our system and for us to say to them try the institutional system, work within the framework, we can't have a demographic of the New York City Police Department being approximately 79 percent white in a town that now is probably 50 percent non-white. It is just unacceptable. We have to take immediate steps to undo that.

Whenever I talk about this issue, I always like to think of the good side and the pluses. There is a gentleman named James Hargraves I believe.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

MR. MARKMAN: Hargroove.

MR. SIEGEL: Hargroove. I met him a few weeks ago. I was enormously impressed with his commitment. He seems to want to bring about the change and I always like it if I can praise, rather than be the continuing critic. I would like to do that. So what I say on this point, now that I have met this gentleman, people should acknowledge him and give him the support and commitment he needs because he seems to be generally committed to changing the statistics that I just talked about.

Second, the time has come to create a special prosecutor, a permanent special prosecutor for what I call legally protected class based acts of violence and police abuse. Class based means race, creed, color, age, national origin, physically handicap, sex or sexual orientation. The categories presently listed in the Human Rights Law.

We must address the need for special prosecutorial expertise, independent investigations and the elimination of local political pressure regarding what I call class

1
2 based motivated acts of violence and police
3 abuse. Not to address this issue, is to ignore or
4 misunderstand the nature and depth of our racial
5 and bias problems.

6 To my good friend over here who is on
7 the Governor's Commission, I have told the
8 Commission and I repeat it again, that if they
9 only come out with recommending selecting data and
10 they only come out with increasing the severity of
11 crimes because of racial motivated violence, that
12 ain't good enough. In fact, that is easy and with
13 the problem that exists in this City, we must
14 address this issue of having a special prosecutor
15 or not on an adhoc case by case effort and we have
16 to convince the Governor and the Attorney General
17 to appoint a special prosecutor.

18 We need a permanent special prosecutor
19 who is free of the kind of the political pressure
20 that unfortunately exists in the local communities
21 with regard to the District Attorney's Offices.
22 Alternatively or supplementing either one, we
23 should create a statewide agency to augment the
24 criminal justice system. Its mandate would be to
25 serve as a resource center dealing specifically

1
2 with class based motivated acts of violence, both
3 police and civilian incidents.

4 The agency should bring together
5 lawyers, paralegals, organizers and criminologists
6 who are prepared to investigate and prosecute
7 specific occurrences of violence caused by
8 intolerance and discrimination. The agency would
9 analyze class based motivated acts of violence
10 acts, case by case, recognizing their patterns and
11 educating the public about the scope of the
12 problem and possible solutions to it.

13 The model when I was in Legal Services,
14 we used to have back up centers; housing, family,
15 law. If there was a particular problem that you
16 in the field needed someone who had that overview,
17 who had the time to look at it from a different
18 prospective, we could call them and they could
19 assist us by sending material, by having
20 conversations over the phone or even doing it
21 together in a co-counsel relationship and I think
22 that model, the back up center, is the kind of
23 center that we should establish, probably in New
24 York and in other places around the country.

25 The agency that I am talking about, if

1
2 we had an alternative, because of the "the
3 willingness to take on the District Attorney's
4 associations on this issue," if this agency as an
5 alternative is created, I would see it as
6 assisting the local law enforcement agencies. At
7 the discretion and invitation of these law
8 enforcement agencies, the center would participate
9 in either a consultant or a collaborative
10 capacity. In specific instances, an attorney from
11 the resource center could be appointed as a
12 special prosecutor by the Governor and the
13 Attorney General of the State of New York and
14 supersede a local law enforcement agency.

15 I think I made it a little more
16 complicated than it is. I am suggesting, one,
17 that we create a special prosecutors office that
18 could have that kind of mandate. Alternatively,
19 if we don't do that, then I suggest that we create
20 this kind of back up agency that would be able to
21 work with the law enforcement agencies, but also
22 have the capacity under the existing law where one
23 of their attorneys could supersede the local law
24 enforcement. You need that, in effect, carried in
25 stick approach.

1
2 If the people are not going to work with
3 the agency, you need to have the Governor and a
4 particular instance, say, to X county, it seems
5 you are not working, not moving expeditiously, we
6 are going to supersede you by putting someone else
7 in.

8 Third, at least in this town, we need to
9 create a real Civilian Complaint Review Board. I
10 am not going to go on too long on this. Last year
11 I spent a lot of time on this. Unfortunately--
12 well, there has been some changes which I will
13 touch upon in a second. The Civilian Complaint
14 Review Board is presently constituted. I think it
15 should be replaced again with a statewide
16 independent Civilian Review Board.

17 The Civilian Complaint Review Board is
18 run mainly by New York City Police Department
19 employees and mostly relies on police officers to
20 investigate the complaints. Some of the changes
21 that have occurred, and I do applaud what I would
22 say seems to be an apparent new direction; example
23 6 of the 12 Civilian Commissioners will be
24 civilians. Although I think the appointments have
25 been made will be civilians, and as of April 1,

1
2 Mr. Charles Adams told me recently that 6 of the
3 36 investigators are now civilians. So, I applaud
4 that apparent new direction, but we must further
5 increase the civilian participation, and the
6 sooner, the better.

7 And I reiterate again, that a real
8 Civilian Complaint Review Board should not be seen
9 as a threat but as a hope; a mechanism that gives
10 people a sense of getting a fair shake and such a
11 structure would assure due process for police
12 officers and complainants alike.

13 Two other quick areas, especially with
14 Human Rights Commission. The City and State Human
15 Rights Commission must be strengthened. Their
16 aims towards equality and harmony sound great in
17 the abstract; however, turning their policies into
18 effective action has not substantially occurred.

19 We people around the State legislators,
20 etcetera, must be persuaded that a serious effort
21 to minimize class based motivated acts of violence
22 deserves adequate funding. I don't have to go too
23 long with your agency. I think you know pretty
24 much about what that point is all about.

25 Ideas for reform are okay, but without

1
2 sufficient funding, they are impossible to
3 implement. For instance, as far as I understand,
4 someone correct me if I am wrong, at the New York
5 State Human Rights Commission, the Bias Crime Unit
6 consists of only one person. That one person is
7 charged with organizing all of the efforts to
8 combat bias crime throughout New York State. The
9 odds for success speak for themselves. A Bias
10 Crime Unit is a good idea, but in its current
11 form, its reality is a travesty.

12 More funding for the State and City
13 Human Rights Commission are in order.

14 Mediation and Education. Let me take 60
15 seconds. We need to create more effective efforts
16 towards both the mediation of class based
17 motivated conflicts and the alleviation of
18 community fears. Public and private funding
19 should be made available for the creation of
20 mediation councils throughout New York City and
21 New York State and probably throughout the
22 country.

23 We need to have experienced skilled
24 people from different perspectives, black, Latino,
25 Asian, white folks who are committed to racial

1
2 equality and harmony, working together, going into
3 communities, rolling up their sleeves and talking
4 it out.

5 The Governor of New York State is quoted
6 as saying "The law is the law." What does that
7 mean to people in the community? We need more
8 effective leadership where people don't run away
9 from the issue. You have to go to the issue as
10 difficult and painful as it is, because if you
11 don't do that, it gets worse. And we have to
12 recognize that it is a certain skill, no matter
13 how bright people are, no matter how articulate
14 they can be, whether they are being on the 19th
15 floor of this office building or out in the
16 streets, it is a dynamic.

17 We have to train people to understand
18 that so they are not afraid. People don't want to
19 get involved politically because it is a no win
20 situation on a short-term basis. It only makes it
21 get worse later on.

22 B, the political leaders are frightened
23 to go into the communities and be on the streets
24 and in the school yards. I have told the
25 Commission, when I testified last year in Harlem

1
2 on the 9th floor of 125th Street, why don't we go
3 to the school yards and street corners and get out
4 and talk to the people on the streets, not talk to
5 the lawyer advocates like me As far as I know,
6 that hasn't been done and it doesn't look like it
7 is going to happen and I think, therefore, a
8 recognition of funding to the people, including
9 the leaders, should be made to deal with this
10 issue. I think it is in order.

11 It is easy for me to support the two
12 recommendations of the Governor's Task Force on
13 bias related violence with regard to increasing
14 the criminal penalties and enhancing the civil
15 crimes, motivated bias crimes, as well as
16 mandating the collection of data on bias related
17 instances by police.

18 I want to add one thing, though. When
19 we are documenting, we should not document only
20 bias related incidents by police, but also by
21 citizens on citizens. Those are the two
22 dynamics. It happened in Howard Beach with
23 citizens on citizens and we have to focus on that
24 also.

25 I submit, as I said before, that the two

1
2 recommendations are only looking at the material,
3 that you were asking for direct testimony, which
4 is should we on a Federal level recommend the
5 collection of data? Of course. Yes. Yes. That
6 is simple. I think we have to commit ourselves to
7 it. I think making it happen might be difficult
8 but at least we are committed to that goal. But I
9 do submit that that is a first step; a first step
10 in the right direction that is needed. But times
11 are moving on and if that is the extent of the
12 debate or the extent of what we are going to
13 recommend, I don't think we are in good shape. We
14 must go further.

15 Now, I think in concluding that we have
16 a lot of work to do, especially in New York, after
17 all these many years, New Yorkers participating in
18 marches in the Deep South, speaking out against
19 apartheid in South Africa and recognize the
20 problems in our own back yard. The Civil Rights
21 Law from Birmingham, Alabama, 20 years ago, called
22 it the Albert Schweitzer liberalism, that people
23 were against racial injustice as long as it was
24 1,500 miles away or 5,000 miles away, but in our
25 own back yard, I don't understand. We still don't

1
2 recognize it and we still don't bring that kind of
3 movement together to overcome.

4 After saying all of these things and
5 people might think that he is painting a negative
6 picture, don't walk away with that. I have gone
7 through the southern civil rights movement and I
8 have been involved in other movements in the last
9 25 years and I am confident that we too, here in
10 New York, because of an enormous talent that
11 exists here and that we too in New York, black,
12 brown, red, white and yellow together, are going
13 to overcome and I hope that your group will be
14 able to look at the information that is given to
15 you, question us critically and make the kind of
16 recommendations that are necessary to get us
17 moving in that kind of direction.

18 Thank you.

19 THE CHAIRPERSON: Thank you very much,
20 Mr. Siegel.

21 Are there any immediate questions?

22 MR. FOX: If I could clarify something
23 in connection with something Mr. Siegel said.
24 Perhaps I misspoke or was not as clear as I should
25 have been in my original statement.

1
2 The recommendation on collecting data,
3 bias data, is not directed at collecting data on
4 incidents where police officers are alleged to be
5 the perpetrators. It is a collection on data by
6 anyone, civilian, law enforcement, anyone who
7 would commit an act of violence.

8 MR. SIEGEL: It is both categories.

9 MR. FOX: Exactly.

10 THE CHAIRPERSON: That is my
11 understanding.

12 We will proceed then to hear from
13 Inspector Michael A. Markman and Susan Herman.

14 MR. MARKMAN: I would like to give an
15 overview of the New York City Police Department.

16 The establishment of the Bias Incident
17 Investigating Unit in December of 1980 was the
18 first of such units to be created in a major
19 metropolitan Police Department. It was created as
20 a result of a study panel that had been organized
21 by the Police Commissioner at that time. The
22 Panel was directed to review department procedures
23 regarding the prevention, and investigation of
24 bias incidents. As a result, the study group
25 recommended that a distinctive priority be given

1
2 to the investigation of bias related incidents by
3 creating a specialized unit to conduct the
4 investigations and to coordinate pro-active
5 approaches to the problem.

6 The Bias Unit was thus formed to
7 strengthen the capability of the department to
8 prevent and respond to criminal incidents and acts
9 which were racially, ethnically or religiously
10 motivated. In July 1985, that mandate was
11 expanded by our Police Commissioner to include
12 persons who became victims of crimes because of an
13 animosity toward their sexual orientation. That
14 would be the gays and lesbians.

15 The unit consists of myself, the
16 Commanding Officer, three sergeants who supervise
17 investigations, 18 investigators, one civilian,
18 senior police administrative aide and two civilian
19 assistant police administrative aides. I would
20 like to say at this point that the investigators
21 are made up of, in the City of New York, black,
22 Hispanic, female, males and we have Asian and we
23 have a mix of the City.

24 As the Commanding Officer of the Bias
25 Unit, I report directly to the chief of the

1
2 department. He is the highest ranking uniform
3 officer of the department and he reports directly
4 to the Police Commissioner. This unique position
5 in the department's organizational structure
6 streamlines administrative procedures by
7 presenting any intervening command levels between
8 the unit and the highest level of this department
9 and serves to further emphasize the importance
10 attached to the unit's mission.

11 The Bias Unit has the ultimate
12 responsibility for the investigation of all
13 incidents that have been confirmed as bias
14 motivated by the Commanding Officer of the
15 precinct in which they occur.

16 The incidents that we investigate are
17 only civilian on civilian. Any incident involving
18 the police is investigated by the CCRB or the
19 Internal Affairs Division, depending upon the
20 severity of the incident.

21 The procedure used which has been
22 reduced to writing and distributed to each and
23 every member of the department is as follows:

24 Any police officer who becomes aware
25 that a crime has occurred and suspects that the

1
2 crime was generated because of prejudice against
3 the victim's race, religion, ethnicity or sexual
4 orientation is required to notify the patrol
5 supervisor immediately. The supervisor in turn
6 must notify the precinct commander or, in his
7 absence, a predesignated duty captain. The
8 captain's responsibility is to conduct a
9 preliminary investigation, and based on the facts
10 as ascertained, to make a determination whether
11 the crime was bias motivated or not.

12 A list of some of the criteria used to
13 make that determination is attached and I have I
14 package here if you would like that later on and
15 it maybe reviewed later on.

16 If the captain conducting the
17 preliminary investigation deems the incident to be
18 bias motivated, he makes an immediate telephone
19 notification to the Police Department Operations
20 Unit which notifies the Bias Unit. This unit is
21 open 24 hours a day. We are on beeper call; so in
22 case something serious comes in, we will be
23 notified at home to respond to the scene. In the
24 meantime; however, that is the duty of the
25 commanding marshal or any other forces that are on

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

the scene, to respond to that condition until we arrive.

These are placed in one of ten categories depending upon the target victim. Anti-Semitic, black, Hispanic, white, gay/lesbian, Asian Pacific Islander, church, cemetery, ethnic and any other.

The Bias Unit has proven to be a valuable asset to the investigation of bias motivated incidents. Since inception, the unit has investigated approximately 1,400 reported incidents and effected over 600 arrests. This quick and effective response has acted as a positive deterrent to all those contemplating similar acts. In addition, it tells the victim and the community of our total commitment and concern. No case is considered too trivial to pursue to its successful completion.

I might add we had a case in Brooklyn and in this one case we interviewed 750 people. We were not successful in completing the investigation with the results that we wanted, but again, we went to those lengths where we had 750 people interviewed in the neighborhood. That is

1
2 the extent that we go to our investigation.

3 In addition to conducting field
4 investigations, the Bias Unit performs the
5 following functions:

6 A, analyze bias incidents and determine
7 trends city-wide. Although analysis of statistics
8 over the past two years has shown anti-Semitic
9 cases to represent 50 percent of all reported
10 cases, the majority of these cases involved crimes
11 against property. Anti-black cases representing
12 approximately 30 percent of all reported cases
13 indicate; however, a majority of these cases
14 involve crimes against the person.

15 B, we provide support and assistance to
16 the victims of bias crimes. This support includes
17 maintaining contact with the victim two months
18 after completion of the case to reassure the
19 victim of our concern and to ensure that no other
20 incidents have occurred. And when I say "maintain
21 contact," I think that is one of the most
22 important things we do.

23 I mandate that my investigators contact
24 each complainant, whether something has developed
25 in the case or not, on a weekly basis. I prefer

1
2 contact with the person at least by phone once a
3 week, then we maintain a two months follow up;
4 whether we make an arrest or not make an arrest.

5 Always I found as an investigator in any
6 type of crime, the biggest complaint is not being
7 notified of what is going on and I think we serve
8 two purposes; number one, to keep them apprised of
9 the case and to show our continuing concern. So
10 we have a two month contact after the completion
11 of a case to reassure the victim and that no other
12 incidents have occurred.

13 In addition, a new program called the
14 Good Neighbor Program has been created with the
15 assistance of the Community Affairs Division and
16 local precincts. The volunteers in the Good
17 Neighbor Program will help convey a sense of
18 community concern, remove the feeling of isolation
19 that many bias victims feel and make suggestions
20 about other systems which may be needed.

21 This program was started officially last
22 night with one of the prosecutors in the State of
23 New York and I trained the ten volunteers that
24 were volunteers in this program and it is hoped
25 that if the bias incident occurs in that precinct.

1
2 We will then select one of the ten individuals who
3 we feel would be the right individual to know.
4 They would be the good neighbor and offer that
5 support to that victim.

6 C, maintain liaison with all five county
7 district attorneys. This liaison allows for the
8 prompt response of an Assistant District Attorney
9 when necessary, such as line-ups, and ensures a
10 full prosecution when the case comes to trial. In
11 one recent case, in which two arrests were
12 effective for a bias motivated assault, on
13 Assistant District Attorney responded to the
14 Police Precinct at 2:00 A.M. in the morning to
15 assist in the investigation.

16 I may add this is not an usually
17 procedure. This was a simple assault which is an
18 A misdemeanor, punishable by a year in prison.
19 The maximum, we know, will not be a year. Two
20 boroughs in the City will be going on 24-hour
21 service very shortly, but we notified the
22 Assistant District Attorney and they responded at
23 2:00 in the morning for a minor case. Since we
24 place great importance on bias, they responded at
25 2:00 in the morning and that is the result of the

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

liaison we have with the D.A.'s office.

Plus, we insure cases do not fall through the cracks. We follow up on the case. We know cases where sometimes an arrangement is made between one D.A. and another D.A. at trial and they don't quite understand. They see assault and don't realize it is bias motivated. I think more attention should be put on a bias related crime rather than a similar crime.

D, Maintain liaison with other City, State and Federal law enforcement and human relations agencies. An example of this inter-city agency cooperation is a meeting I recently had with Mr. James Payne, the Commissioner of Probation. The meeting explored the possible establishment of an alternate sentencing program for teenage offenders on a city-wide basis. The alternate sentence, consisting of community service, would apply only in those cases where the Judge and prosecutor were of the opinion that incarceration would not be appropriate. It should be emphasized that an alternative sentence is intended only for those cases where no jail time is intended and should not be a substitute for .

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

incarceration.

On April 20th of this year, I chaired a one day multi-racial awareness workshop with a Mr. Tim Johnson, Conciliator with the Community Relations Service of the United States Department of Justice, and Michael McQuillan, Executive Director of Panel of Americans; a not-for-profit human relations organization, for members of the Police Department's special program to educate and control drug abuse. That is what we call our S.P.E.C.D.A. program. It is a drug awareness program that is aimed primarily at students in Grades 5 and 6. It is hoped that the S.P.E.C.D.A. personnel will be able to successfully integrate the information learned at the seminar into their drug awareness program.

It should be noted that three areas covered by S.P.E.C.D.A. is self-awareness, peer pressure, and making a positive decision are closely interrelated with bias motivated behavior. Again, because we find that most cases are random isolated and involving teenagers and I think there is a certain amount of peer pressure and also decision making that has to be made

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

there.

E, we provide staff assistance for precinct in-service training programs. It must be acknowledged that long before the duty captain can investigate and deem the case biased, he must be alerted to the incident by the responding police officer. Without training in recognizing bias cases and without being sensitized to the needs of identifying such incidents, many acts would go unreported.

At the present time, the Bias Investigating Unit is one of but a few such units in existence throughout the country. However, an awareness that bias related crimes must be taken seriously is increasing, due to the dramatic impact these crimes have upon both the victims and the ethnic group the victim represents. This heightened awareness has resulted in Police Departments outside of New York City expressing interest in the workings of our unit. One major Police Department in particular has sent representatives to observe our operation firsthand with the intention of using our organization as the model for their own bias unit.

1
2 In addition, the success of our unit has
3 resulted in several police and non-police agencies
4 requesting Commissioner Ward to explain the
5 operation of the New York City Police Department's
6 response to bias motivated crimes and I have a
7 copy of one of his responses.

8 We believe that the New York City Police
9 Department will soon be joined by other police
10 departments in organizing their own bias units as
11 the importance of having a specially trained unit
12 available to handle bias related crimes quickly
13 and efficiently becomes apparent.

14 In conclusion, I just would like to make
15 a few recommendations that I think we touched on
16 them before. These are recommendations that I
17 made before the Governor's Task Force and I think
18 they are appropriate now also.

19 1, all state and local law enforcement
20 agencies should, on an ongoing basis, train all
21 their assigned personnel to recognize, respond to
22 and effectively deal with bias motivated
23 incidents. All personnel should understand the
24 need for identifying bias incidents and understand
25 that the needs of the victim go beyond those of a

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

victim in a similar non-bias case.

2, all state legislatures should pass legislation that would require every state and local law enforcement agency to develop and implement a standardized system of reporting all offenses and unlawful acts motivated by bias or prejudice based upon the victim's race, ethnicity, religion or sexual orientation. Such legislation has been introduced in the New York State Assembly Senate. At present, only two states have a standardized state reporting system and that is Maryland and Pennsylvania.

The enactment of this legislation would prove invaluable in not only identifying developing patterns of hate crimes, but would also enable an effective inter-agency response.

3, state governments should encourage, assist and in some cases, financially fund, local school boards in developing policies, curriculum, activities and programs to develop racial, ethnic, and religious harmony.

And not to keep you any longer, one more.

4, state and local governments should

1
2 assist victims of bias motivated incidents in
3 pursuing all legal actions they are entitled to.
4 At present, for example, all crime victims who
5 wish to pursue their rights before the the Crime
6 Victims Compensation Board can seek assistance
7 from the victims service agency.

8 Thank you.

9 THE CHAIRMAN: Thank you, very much.

10 MS. HERMAN: He is speaking for the
11 department that I stand for.

12 MR. ARROYO: Inspector, how long has the
13 unit been in place?

14 MR. MARKMAN: Since December 19, 1980.

15 MR. ARROYO: You also mentioned the fact
16 that you had 1,400 incidents investigated.

17 MR. MARKMAN: Yes.

18 MR. ARROYO: For that period of time?

19 MR. MARKMAN: Yes, it is.

20 THE CHAIRPERSON: It seems in New York
21 City and the amount of crime and events that take
22 place and incidents and so on, it is a very minute
23 number that you have there and I am relating. I
24 come from a school system, and I know that one of
25 the problems that we have at the U.F.T. is that in

1
2 the cases where they had incidents in the schools,
3 we had to go and get our own surveys done and our
4 own records because principals, in general, would
5 not like to report the number of incidents because
6 it reflects on the school.

7 Is there such a situation that you feel,
8 in this particular area, because I am sure there
9 are a lot more incidents that are happening out
10 there. Where do you see the problem?

11 MR. MARKMAN: Well, number one, as you
12 said, it doesn't seem like a lot of cases and it
13 is not a lot of cases, reported cases, that is.

14 We take a bias motivated case number and
15 then we take a non-bias case number because,
16 again, we are cognizant of the fact that everyone
17 reports a bias case but it is not always easy to
18 determine what is a bias case and what is not.

19 We look at the 1,400 numbers. Some are
20 very, very minor in nature if you want to consider
21 it compared to assault. Let's say all bias cases
22 are important; some are less and some are more.
23 We do find that there is underreportings. I have
24 to say underreportings, that 50 percent of all
25 crime was not reported. I would have to say that

1
2 same number probably prevails in bias cases and
3 maybe even more so to some extent. I don't know.

4 I would say, if I wanted to mention two
5 groups in particular who do not report bias cases,
6 I would say gay and lesbians and I think it is
7 obvious, but I will just spell it out to anyone
8 why they do not report. They don't want their
9 landlord notified. They don't want their employee
10 notified and maybe not even their family
11 notified. In that case, we work with the gays and
12 lesbians and the Violent Project.

13 Monday night I attended one of their
14 functions and I was there last night at 13th
15 Street and I addressed them. I gave a
16 presentation like I am doing now and responded to
17 their questions. I know they are underreported
18 and to them I think we are a very effective unit;
19 however, we can never reach the effectiveness we
20 want to be if you are not going to tell us about
21 your cases.

22 Am I going to change their minds? I
23 don't know. I do work with their project. I work
24 with the two leaders. They gave me cases. Many
25 of the cases do not have names on them. If there

1
2 is no way for people to talk about it, I can't
3 give the number.

4 What it does do for me though is it
5 gives me a sense of a feeling of what is going on
6 where. At least I have the situation and I have
7 the location where it occurred. Now, if I get a
8 number of those cases, similar cases in the same
9 area where I can determine whether they actually
10 occurred or not, I have to assume that there is
11 something there.

12 Now we have to have a proactive program
13 which the chief of patrol has instituted early in
14 the year. The program was sent out to all 75
15 prosecutors in the City of New York where he
16 wanted each prosecutor's commander, whether it was
17 a commander or deputy inspector, to identify the
18 youth conflict locations and they had them
19 prioritized and they put them there. We
20 identified the core areas and secondary areas.

21 I will explain what that is. A lot of
22 times we are not identifying areas. We were
23 addressing a particular problem when an incident
24 occurred, we responded, we did a great job, we
25 made an arrest. However, we then had another

1
2 incident, very similar in nature in the same area
3 and we addressed that and then so on.

4 For instance, one prosecutor had a
5 roller rink and the roller rink was from an area
6 which was-- I am not going to give ethnic groups.
7 It was separated between ethnic boundaries. It
8 usually broke about 3:00 in the morning. When
9 they left and went North, they became the
10 assaultees. When they went South, they became the
11 assaulters. We now station police officers south
12 and north of the core area. We reduced the
13 numbers. And I looked at the area now and the
14 cases we had in 1985. As a matter of fact, I was
15 at the first Deputy Commissioner's office
16 yesterday. He had a town hall meeting with Mayor
17 Koch last night. I showed them the figures of
18 1985, 1986 and up to May 3, 1987 and you can see
19 the numbers being diminished because of that
20 proactive approach.

21 Again, even if those cases were not
22 deemed to be biased in the first place, at least
23 in fact we identified problems with racial
24 overtones. Again, as we said before, it is so
25 fuzzy. Some cases are very obviously bias

1
2 motivated cases and the key to this whole thing is
3 the word "motivated." The fact that it is one and
4 one and not of the same color, ethnic group does
5 not make in necessarily a bias case. We have, for
6 instance, a lot of crime in the City which is
7 interracial. Is every one of those crimes a bias
8 motivated crime? I contend it is not. I think we
9 have to go look at the motivated factor.

10 The Howard Beach goes both ways; it is
11 used by blacks; it is used by whites and the mere
12 mention of Howard Beach and incident does not make
13 that a bias motivated case. That just gives
14 someone an excuse. They were going to do
15 something any way. You can look at their rap
16 sheet or criminal records long before Howard Beach
17 existed.

18 THE CHAIRMAN: I think the whole matter
19 of the criteria that are employed and the process
20 by which the prosecutor captain determines that
21 a-- do you call it bias related or biased--

22 MR. MARKMAN: Bias motivated.

23 THE CHAIRMAN: Bias motivated, this
24 seems to be the hesitancy of the U.S. District
25 Attorney, according to some information that has

1
2 just been transmitted to us, with regard to the
3 pending legislation in the Congress with regard to
4 uniform reporting of bias related incidents.

5 So, we would very much be interested in
6 what your criteria are; how people are trained to
7 apply uniformly these criteria and how adequately
8 these criteria seem to be.

9 MR. MARKMAN: You gave me a lot there.
10 Let me just say that, again, training is the most
11 important factor and the training I do-- there is
12 a unit training session that goes on on a daily
13 basis, four days a week, Monday through Thursday
14 at the Police Academy for all sergeants and
15 lieutenants in the State of New York. I attend
16 that cycle every Monday through Thursday. I
17 address the sargeants and lieutenants myself. I
18 give a presentation that runs for about an hour
19 and a half. This is part of my job. Going
20 through cases and given them examples of bias
21 cases; what is and what is not.

22 What I do is leave them one final point
23 and that is if there is any doubt whatsoever in
24 your minds, it will be reported as a biased case.
25 We can reclassify a case to non-bias. However, if

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

the case is not reported in the first place, we cannot investigate it.

Again, it is not a clear picture what is a biased case. I think we have the totality of the circumstances. I think the mere mention of a bias remark does not make it a bias case. I think the absence of a bias remark does not make it a non-bias case. There are a lot of negatives there. My point is that it is not clear cut. We encourage, in the Police Department, to make cases that have the slightest hint of being bias motivated to be reported, to be investigated.

THE CHAIRMAN: I would like to push you a little further on this and that is, not the verbal communication, but what are the behavioral indications that you use or the kinds of situational conditions that you use as criteria to classify it as bias related or?

MR. MARKMAN: We look at, number one, if there were any racial, ethnic, religious or sexism intimidations made.

THE CHAIRPERSON: That is verbal?

MR. MARKMAN: Is that individual the only one of his or her kind ethnic, religion or

1
2 racial in that case right there. For instance, if
3 there, in fact, are ten people on a train, nine of
4 one kind and one of another, all equally
5 vulnerable and isolated, and two individuals of
6 the minority come in and say no words not of their
7 kind and assaults a person, that leads us to
8 believe it is a bias motivated crime. Can we
9 actually determine that it is? No. We have to
10 apprehend the individual and say why did you do
11 it.

12 But, again, it just becomes so
13 difficult. Every case is decided on its own
14 merits and that is why again training is ongoing
15 all the time. The perception of the complainant
16 is one of our own important factors. It may not
17 be biased but, in fact, with the perception of the
18 victim that it is a bias motivated case, we will
19 investigate it as a non-bias case because it was
20 sensitized. We are doing it. If the victim feels
21 that way, we will take that case. But, we will
22 investigate it as a non-bias case.

23 MS. HERMAN: As opposed --

24 MR. MARKMAN: I will explain. If it is
25 non-bias and the victim has the perception that it

1
2 is, there is no indication, but the victim just
3 has that feeling, we will still take it because of
4 the perception of the victim, the feeling of the
5 victim. We will take it because I think my unit
6 is more sensitized to it. I don't let them
7 classify it as biased, if we are not too sure what
8 the circumstances are and if we can tie it, we
9 will then classify that as a bias case. That will
10 be then the primary indicator to make it bias.

11 So, we have the verbal remarks, we have
12 the tokenism, as you say, we have the perception
13 of the complainant and just any other facts they
14 may add to it.

15 We had one the other day. A man was
16 riding on bicycle and a man stood out the window
17 and hit him. They started laughing. The only
18 thing I can think think of is that it is a bias
19 motivated case. We made the arrest on that case.
20 No, he said, it was a mistake. I didn't mean to
21 do it. It doesn't seem to be that way. We
22 arrested him. It is just not that clear.

23 THE CHAIRPERSON: That is the toughest
24 part and I think this is the kind of argument they
25 are going to get data collection on this. I am

1
2 sure there must be other factors but this is the
3 kind of surface rationale that would be presented
4 in opposition to bias related incidents
5 reporting.

6 MR. MARKMAN: As I said before, even in
7 Maryland they have the classification as possible
8 because, again, I don't think anybody can sit down
9 and draw a complete guidelines, what is a bias
10 motivated crime.

11 THE CHAIRPERSON: Your procedure is that
12 your prosecutor captain must confirm that it is
13 bias related?

14 MR. MARKMAN: Yes.

15 THE CHAIRPERSON: And he is trained to
16 use the same criteria?

17 MR. MARKMAN: Yes.

18 THE CHAIRPERSON: It seems I am
19 extremely interested in the situational
20 conditions, for example, the pattern of this kind
21 of boundary position with the recreational
22 center. If they went north, they were the
23 victim. If they went south, they were the
24 perpetrators of a bias related kind of thing. You
25 inferred that from the demographic pattern, the

1
2 flow pattern, and it seems those are extremely
3 interesting but not at all unusual patterns that
4 are just not put down in any standardized way.

5 I think since yours is one of the very
6 few such bias units and since you have been in
7 operation probably for the longest period, I think
8 your accumulative experience is extremely valuable
9 and something I want to convey to the
10 Commissioner.

11 If there are any other situational kinds
12 of factors that you take into account, we would
13 very much like hearing about it.

14 MR. MARKMAN: I may say-- I will read
15 the whole thing to you. This is not an official
16 thing. This is just something we use:

17 Motive; the absence of any other
18 apparent motive for the Racial, Religious, Ethnic
19 or Anti-gay Act.

20 Display of any offensive symbols, words
21 or acts. I don't have to go into the words or
22 acts; we know them. A common sense review of the
23 circumstances surrounding the incident; consider
24 the totality of the circumstances.

25 How the victim feels about the

1

2 incident.

3

Statements made by the suspects.

4

5 Prior history of similar incidents in
6 the same area affecting the same victim group. Is
7 the victim from one Racial, Religious, Ethnic or
8 gay/lesbian group and in the suspect from
9 another? Did the incident occur solely because of
10 a Racial, Religious, Ethnic or Sexual orientation
11 difference between the victim and assailant or for
12 other reasons.

12

13

14

Is the victim the only Racial,
Religious, Ethnic or gay/lesbian group member in
the neighborhood or one of a few.

15

16

17

Did the victim recently move into the
area; is the victim acquainted with neighbors
and/or local community groups?

18

19

20

21

What was the modus operandi? Is it
similar to other documented incidents? Has the
victim had past or repeated attacks of a similar
nature?

22

23

24

Is there a coincidence of the act to
holidays such as Halloween, trick or treat, school
activities, etcetera?

25

Is there an ongoing neighborhood problem

1
2 that may have sparked/contributed to the event;
3 could the act be retribution for some conflict
4 with neighbors.

5 If an organized hate group such as the
6 KKK, American Nazi Party, Adolf Hitler Defense
7 League, is indicated in the incident: Is the
8 literature printed or handwritten? Does the name
9 indicate a "copy cat" syndrome? Is there any
10 documented or suspected organized hate group
11 activity in the area? Was group involvement
12 actually present or merely a scare tactic?

13 Were the real intentions of the
14 responsible person Racial, Religious, Ethnic or
15 Anti-gay oriented or were there other reasons such
16 as childish pranks unrelated vandalism?

17 Does the person responsible have a true
18 understanding of the impact of the incident on the
19 Racial, Religious, Ethnic or Sexual orientation of
20 the victim such as children?

21 Note: If, after applying the criteria
22 listed and asking the appropriate questions, a
23 suspected Racial, Religious, Ethnic or Anti-gay
24 incident cannot be definitely determined to be any
25 other types of problem (or is a "borderline"

1

2 case), it should be confirmed as bias for the
3 investigative and statistical purpose.

4

5 So we are interested in many cases as
6 being reported to us as possible. Whether, in
7 fact, it fits all the criteria or not; if it fits
8 into one, we will take that case. In between, we
9 can reclassifie it to non-bias. But then we can
10 have it on record and we are now computerized, as
11 of today, and with all of this information we can
12 follow the cases.

13

14 MR. CALABIA: What you just said we are
15 glad to have that for the record.

16

17 Last week in Hartford I met with a
18 counterpart to this Committee and we had a
19 legislator who offered legislation, such as being
20 called by the Governor's Task Force here in New
21 York, and he produced the legislation in
22 Connecticut that was signed recently. They are in
23 the process of figuring out a way to remedy the
24 very problems that you are grappling with and
25 thank you for sharing your experience with us.

26

27 When we go back, we will make a report
28 of this. We will share it with our Connecticut
29 counterparts and share it with the people who

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

participated, including the Connecticut State Police.

My question is this, though, the captain confirms as our chair has mentioned that you have said, but it is the officer in the street who has to bring the information to the captain; right? What training does the officer in the street get?

MR. MARKMAN: I mentioned that in my report. I said that was the key. Before anyone can investigate the case or identifies a bias case, usually the rank of patrolman responds. In the Police Academy he has social studies training. That training consists of a number of ethnic groups, including the gay and lesbian stereotyping of New York City; he has all that training. I give training in the academy to the new recruits. I give training to the police cadets. 10:00 tomorrow morning I am training them. They are not even uniform members of the department. They will be trained and recognizing what a bias case is.

We have 18 investigators. I have broken down in the City of New York the number of precincts. There are 75 presincts and each

1
2 investigator has four or five presincts that they
3 are responsible for giving training. We have a
4 flip chart presentation and that is a presentation
5 I have, actually video taped myself and I show it
6 to my people. I have them come up when I train my
7 sergeants and lieutenants. Also, on a number of
8 occasions they are now prepared to train in the
9 precincts and that is exactly what they do.

10 They go out to the precincts in the
11 morning, at 7:00 in the morning, we have what we
12 call unit training in the precincts. The unit
13 training lasts from approximately 7:05 to 8:00 in
14 the morning, approximately 55 minutes. That is
15 every day, Monday through Friday. On the weekends
16 it is a sergeant. Each precinct has a sergeant
17 who is in charge of training for each precinct.

18 There is a rotating shift. We get the
19 midnight men and they are taken off the midnight
20 tour early. At 7:00, they are brought in. The
21 8904 included is sent out and everybody is
22 trained. We keep a sheet to make sure that each
23 squad is trained because, again, we work in a fine
24 squad chart. The midnight squad, it takes seven
25 visits to each precinct to insure we visit each

1
2 squad. Each precinct is apprised of it in the
3 Police Academy, gets it in the precinct, I train
4 on a yearly basis, I give it to the sergeants and
5 lieutenants, they attend the unit training at the
6 Police Academy. When I am not available they put
7 my video tape in.

8 I prefer to be there because I think the
9 interchange is very important. The sergeant may
10 have questions like you have, what is a bias
11 motivated crime and what is not and I give them
12 examinations of some of the things we had and I
13 asked them what do they think what is the
14 motivating factor. I acknowledge sometimes racial
15 overtones there but it wasn't motivated by bias.
16 For instance, I will give you an incident if, in
17 fact, we have a male white and female black in a
18 car and they are both vying for the same parking
19 space and the bumpers touch such as a V shape,
20 well, they both get out and exchange words. It
21 leads to the male saying something antiblack.
22 Well, is that a bias case? Or is it motivated by
23 bias or is it motivated by a parking space. I ask
24 you if the female black was walking down the
25 street would this male gratuitously say something

1
2 anti-black?

3 That is what you have to ask yourself,
4 what was the motivating factor. Was it racial
5 overtones? If it was two males vying for that
6 same parking space, I submit that they may have
7 said something else to each other and the male was
8 of a different ethnic background and said
9 something else. Again, is it bias motivated?

10 MR. ARROYO: I have a couple of
11 questions.

12 You mentioned ten categories.

13 MR. MARKMAN: Yes.

14 MR. ARROYO: What are they? Can you
15 repeat them again and what are their function?

16 MR. MARKMAN: You want me to classify
17 them as who was the victim.

18 MR. ARROYO: Yes.

19 MR. MARKMAN: Anti-Semitic, black,
20 Hispanic, white, gay/lesbian, Asian Pacific
21 Islander, church, cemetery, ethnic and other.

22 Someone mentioned about the Church with
23 the head stones. We investigate those also. It
24 is part of what we do.

25 MR. ARROYO: The question I raised with

1
2 Mr. Fox, before he entered into here, as a member
3 of the Hispanic community, I am aware of
4 discrimination because besides being classified as
5 a racial group, we really have an ethnic group
6 within ourselves. In certain neighborhoods, there
7 are conflicts between Puerto Ricans and
8 Dominicans. Would that register in your scheme.

9 MR. MARKMAN: It could, yes. It
10 absolutely could register, yes. I have to say
11 though Hispanics, have not been a large class of
12 complainants in the bias related crimes. I have
13 to say that all through the years, they have not
14 been the reported victims of bias motivated
15 crimes.

16 MR. McLAURIN: In your police unit is
17 there a section related to that.

18 MR. MARKMAN: Gay/lesbian I said.

19 MR. McLAURIN: I am saying section.

20 MR. MARKMAN: No, we don't have that.

21 MR. McLAURIN: There is some other
22 police unit that deals with that.

23 MR. MARKMAN: No. In other words, if
24 you are actually discriminating against a female?

25 MR. McLAURIN: Yes.

1

2 MR. MARKMAN: No, we do not handle
3 that. The City Human Rights Commission does.

4 MR. FOX: During our public hearings, we
5 did hear testimony about gender based violence.
6 Something that I don't think that a lot of people
7 focused in on earlier or expected to hear
8 testimony, but it does occur and so it is
9 something that the Task Force thought would be
10 worthwhile to include in a definition of bias
11 related violence or also pursue as a separate
12 investigation, as would be race, ethnicity and the
13 other things mentioned.

14 MR. McLAURIN: Sure. It comes to mind
15 because I noticed occasionally, at least graffiti,
16 that specifically is violence toward women.

17 MR. FOX: There is also-- we heard the
18 testimony the perception of some people, that a
19 woman might be a lesbian. Whether she is or not
20 and that caused a person to act out.

21 MR. ARROYO: I had the point on
22 Hispanics. Dr. Nishi raised the point as to the
23 survey. We don't hear about the Graduate Center
24 for the State Commission of Human Rights and the
25 question was, how come certain groups don't make

1
2 more of a direct outreach of these resources? I
3 think this is the real problem with the Hispanic
4 community for various historical and culture
5 reasons. I would hope that you have both the
6 funding and the opportunity in your operation
7 which I think is very, very well ordered to
8 include religious institutions and so forth.

9 MR. MARKMAN: We have that.

10 MR. ARROYO: That is the one area where
11 hispanics, in particular, that is an institution
12 which has some credibility and leadership by
13 people in a community setting through the Church
14 groups can very often open up doors and know it is
15 done.

16 MR. MARKMAN: If I might say, each
17 precinct has a bi-annual meeting. That is one of
18 the efforts we make.

19 MR. SIEGEL: It is not just the Hispanic
20 community. Throughout the City of New York,
21 people do not have the confidence in the
22 agencies. We if we went out there now, a lot of
23 people wouldn't even know it exists. I don't mean
24 to embarrass Inspector Markman, but there has got
25 to be funding. You have got to get it known to

1
2 the people out there. I went to ride on the
3 subway and the bus and I see see posters talking
4 about racial discrimination.

5 I want people to know that there is a
6 hot line that they can call. I want people to
7 know that they can call, people who speak in
8 Spanish and, in Chinese, so you don't have to
9 speak English and that kind of systemic approach I
10 don't think occurs and it doesn't occur because
11 the powers we have have yet to decide that they
12 can put the resources into the issue. Which means
13 this guy and his unit probably should be getting
14 more money and then we evaluate whether they do a
15 job that is according to the amount of money they
16 are getting, and if they don't, you make the
17 changes.

18 We are talking about 7 million people in
19 the State of New York and there are a lot of
20 tensions.

21 THE CHAIRPERSON: In the interests of
22 trying to bring this meeting to a conclusion, I
23 think that we are very deeply aware and I think
24 the dialogue is certainly indicated, the serious
25 problem of underreporting and that there probably

1

2 is some variation about willingness and a lot of
3 other factors and the outreach kind of need, I
4 think, has been certainly indicated.

5

6

7

8

9

10

11

MR. CALABIA: To trace this issue to
three levels, let me start by acknowledging
obviously your experiences, allowing you to
systemically collect this data at the local level
with some problems, but your learning how to do
that, most of us are impressed about how much you
have done that already.

12

13

14

This is a call now for the State to have
legislation at the State level and attempting to
do that at a State level?

15

16

17

18

19

20

MR. MARKMAN: Yes, I am.

MR. CALABIA: With respect to the
Federal Government, there are these bills which
you yourself have alluded to and I gather you are
in support of such legislation created at the
Federal level?

21

22

23

24

25

MR. MARKMAN: Yes.

MR. CALABIA: As you have experienced
some problems but overcome many, do you think
those problems could be solved both at the State
level and at the Federal level.

1

2 MR. MARKMAN: Yes, I would say talking
3 about not having a system because we can't
4 determine what a bias motivated crime is, is a
5 mistake. We cannot identify every bias motivated
6 crime to everybody's satisfactory. I still feel
7 we should have a system and refine it as we go
8 along. It takes time; experience. I think it
9 takes seeing cases and discussing it.

10 Every time a case comes in, I call up
11 the captain of the precinct and inspector and
12 discuss it with my sergeants and the
13 investigator. We go over that case and learn from
14 each other and decide whether it is bias or
15 non-bias. Again, it is a feeling you are going to
16 get.

17 THE CHAIRPERSON: But I think it is
18 quite clear though, you are probably more advanced
19 than anybody else, in terms of an effort to
20 standardize and make uniform the reporting and
21 handling of bias related cases or bias motivated
22 cases, that we are very glad to have this
23 presentation.

24 Mr. Espaillet has been waiting to ask a
25 question.

1

2

3

4

5

6

7

MR. ESPAILLAT: It has been partially answered already. I was going to ask whether there are any reach out programs that you participate on to meet some of the basic needs my colleagues are raising, the awareness in the communities that the service is available.

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

MR. MARKMAN: I am glad you asked that question. Each precinct has a precinct community council. And last night, as I told you, I started the Good Neighbor Program. That was also the night of the precinct council. I gave them my presentation. The precinct council is a number of individuals in a community that attend these precincts every month and they are a representative of a community and hopefully, by me talking to them, this gets back to the communities. There are 75 precincts in the City of New York. I attend every one of them. Not everyone every month. Within a year's time, every precinct is visited by me and I attend and speak to these people.

23

24

25

I attended the Gay/Lesbian Violent Project on Monday night. I called up the Asian Defamation League. I am in contact with the ADL.

1
2 I am in contact with the Urban American League on
3 135th Street. I make my rounds. I see all the
4 people there are to see. I leave them my hand
5 printed card. I am available and I am here. I do
6 know people do know we are here.

7 There was a nice incident where we
8 called up a victim. I have to tell you, in a bias
9 case, they are actually visited by nine different
10 members of the Police Department, including the
11 borough commanders who are in charge, let's say,
12 of one whole borough. He is mandated by the
13 Police Department to visit that victim. They
14 become overwhelmed by all the people they see.
15 They like that, but they are overwhelmed. They
16 said, "I am tired. I don't want to know."

17 The message is getting out there is a
18 Bias Unit out there that is sensitized to their
19 needs. So I think by going to the precinct
20 council, by going to all these advocacy groups,
21 including the Spanish groups is making people know
22 we are here. It was alluded that we have people
23 who speak different languages. I do have
24 Cantonese and two main Chinese dialects in my
25 units and there aren't many Asians in the Police

1
2 Department. I have one. She is a very
3 intelligent young lady and she is going to be a
4 good investigator. She has that equality. We
5 have the Spanish. We have a Spanish male
6 investigator, three male investigators. We have
7 one female Hispanic, one female black, three male
8 black investigators and we have a black sergeant.
9 We have the mixtures.

10 We are addressing all of these problems
11 and reaching out to all of these groups. It is
12 underreporting and we want to get those reports.

13 THE CHAIRPERSON: We are very pleased to
14 have the investigations that have gone on by the
15 Governor's Task Force and we are grateful to had
16 been Mr. Fox here and Mr. Siegel from the New York
17 Civil Liberties Union and Inspector Markman from
18 the Police Department.

19 MR. McLAURIN: Mr. Siegel, my
20 understanding of you is if we had a wider
21 distribution of different groups of people on the
22 Police Department, as a whole, we would get better
23 results in terms of this public confidence about
24 reporting bias incidents.

25 MR. SIEGEL: Yes. I think if we had a

1
2 police force, as well as other agencies in the
3 City of New York, that truly reflected the makeup
4 of the City of New York, you would have a minimum
5 of different perceptions about fairness and
6 justice and, second, I think that there is a
7 possibility that if you had people who came from
8 all different communities and background, would
9 you then have people who might under the different
10 communities that make up New York and sensitized
11 to the various patterns and practices and things
12 of that sort? The answer is yes.

13 Second, even if not, that is the right
14 thing to do because in and of itself, the public
15 position should reflect the public community.
16 Even if it wasn't that, that is not a ground not
17 to do it.

18 MR. McLaurin: You mentioned as one of
19 your recommendations strengthening City and State
20 Civil Human Rights Commissions.

21 MR. Siegel: Right.

22 MR. McLaurin: You obviously want a more
23 vigorous prosecution and more articulate Human
24 Rights Civil Rights Commission at the Federal
25 level and with --

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

MR. SIEGEL: Do we have one at the Federal level today?

Q. That is the question. If we were able to restore, not only the funding, but the public confidence in the Federal Commission, would that help this recommendation?

MR. SIEGEL: Absolutely, in capital letters. I can remember as a young lawyer working in the 1960's in the ACLU in the southern office and being able to call upon the United States Commission on Civil Rights for information, for documents that you put out, for the kind of leadership with clarity about what we should do on racial equality in America.

This afternoon when I was coming here and I was telling people that I was coming here, people wondered, why are you spending your time going to the United States Commission on Civil Rights?

Second, people have jokingly, as I said before, said to me is there still a United States Commission on Civil Rights? And because of my initial love, when I got out of law school, almost loved the United States Commission on Civil Rights

1

2 because of the role that you play, I said to those
3 people, yes, there is one; and second, there are
4 huge problems and I am sure that half a dozen
5 people will be here and they care and that is why
6 I do what I do and hopefully get it back to where
7 it is.

8 I say to you who are here and point out
9 in observation in this room for the record, it
10 appears to me, from my eyes, that the members from
11 the Commission are all people of color and I would
12 assume that the Commission is not made up of only
13 people of color and, therefore, I would urge that
14 the whites and, for the record, I am white, that
15 they too have to continue to come and struggle and
16 work together and they should not disappear as it
17 apparently seems from what I am observing here and
18 that bothers me because, although we are in hard
19 times and as my testimony stated, if the Reagan
20 administration has basically been sensitized to
21 this issue, and perhaps has created the increase
22 of racial tensions that exist in this country
23 because of the lack of force of leadership and so
24 on, we are in these hard times. As I learned,
25 better days will come and we together are going to

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

be here to overcome it. That's the way.

THE CHAIRPERSON: Thing you very much.

Any other questions?

We want to thank each of the panelists for taking the time and for giving your extremely valuable experience.

MR. ARROYO: In view of the testimony we have heard today, we would like to make the following statement:

That there is a climate in New York City of increased racial, ethnic, religious and other forms of discrimination and bias, that secondly that the government agencies, city and state, have made appropriate efforts to address these problems and we are --

THE CHAIRPERSON: And civic.

MR. ARROYO: So, it is city, state and civic agencies have made attempts to address these problems, all of which we find very valuable but which require greater pleasure of public visibility, funding, outreach, recruitment, education and other such matters.

Lastly, we have heard direct testimony from one of the panel participants that the

1
2 historic role of the U.S. Commission on Civil
3 Rights has been extremely important in developing
4 and focusing public consciousness on these issues
5 and we therefore judge it would be an error of
6 great magnitude to defund the U.S. Commission of
7 Civil Rights at this time and thereby forestall
8 the very important work given the New York State
9 Advisory Committee in which we are engaged.

10 Therefore, we call upon Congress to take
11 actions appropriate to restore the United States
12 Commission on Civil Rights to its historic
13 leadership function in American society.

14
15
16
17
18
19
20
21
22
23
24
25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

C E R T I F I C A T E

STATE OF NEW YORK

COUNTY OF QUEENS

I, JOANNE FLEMING, a Shorthand Reporter and Notary Public within and for the State of New York, do hereby certify:

That the foregoing record of proceedings is a full and correct transcript of the stenographic notes taken by me therein.

IN WITNESS WHEREOF, I have hereunto set my hand this 25th day of August, 1987.

Joanne Fleming-----

JOANNE FLEMING