UNITED STATES
COMMISSION ON CIVIL RIGHTS

COMMISSION MEETING
AND
BRIEFING ON POLICE CONDUCT

Room 540
U.S. Commission on Civil Rights
624 9th Street, NW
Washington, D.C.

Friday,
October 6, 1995

9:30 a.m.

APPEARANCES:

COMMISSIONERS:

MARY FRANCES BERRY, Chairperson
CRUZ REYNOSO, Vice Chairperson
CARL A. ANDERSON, (VIA TELEPHONE)
ARTHUR A. FLETCHER, (VIA TELEPHONE)
ROBERT P. GEORGE
CONSTANCE HORNER
RUSSELL G. REDENBAUGH
CHARLES PEI WANG

STAFF:

MARY K. MATHEWS, Staff Director
CONNER BALL
BARBARA BROOKS
FRANKLIN CHOW
JAMES S. CUNNINGHAM
EDWARD DARDEN
BETTY EDMISTON
GEORGE HARBISON
CAROL LEE HURLEY
FREDERICK ISLER
JACQUELINE JOHNSON
WILLIAM LEE
STEPHANIE MOORE
REGINALD MARTIN

APPEARANCES: (Continued)

STAFF:

CHARLES RIVERA
MIGUEL SAPP
ILONA TURNER
ANTHONY WELLS, SR.
AUDREY WRIGHT

COMMISSIONER ASSISTANTS:

RENATA ANDERSON
RONALD BROWN
THOMAS GRAY
DENNIS TETI
KRISHNA TOOLSIE
STELLA YOUNGBLOOD

A G E N D A

A G E N D A

P R O C E E D I N G S

9:35 a.m.

Approval of Agenda

CHAIRPERSON BERRY: Call the meeting to order.

First item on the agenda is the Approval of the Agenda.

COMMISSONER HORNER: (So Moved)

CHAIRPERSON BERRY: Second?

COMMISSIONER WANG: (Second)

CHAIRPERSON BERRY: All in favor, indicate by saying aye.

(Chorus of ayes)

CHAIRPERSON BERRY: Opposed?

(No response)

CHAIRPERSON BERRY: No. Okay.

COMMISSIONER GEORGE: Madam Chair?

CHAIRPERSON BERRY: Yes?

COMMISSONER GEORGE: Could we call the roll?

(Roll Call)

CHAIRPERSON BERRY: All present and accounted for.

Approval of Minutes of
September 8, 1995, Meeting

CHAIRPERSON BERRY: The next item is the Approval of the Minutes of September 8th, 1995.

COMMISSIONER HORNER: Madam Chair, I have a correction I'd like to have made.

CHAIRPERSON BERRY: Correction.

COMMISSIONER HORNER: I -- on Page 3, I expressed concern more to the breadth of the subpoenas than their language, and I would like that word "breadth" be used to replace the word "language", --

CHAIRPERSON BERRY: Okay.

COMMISSIONER HORNER: -- and also I was concerned that First Amendment rights would be chilled by the subpoena, not infringed.

CHAIRPERSON BERRY: Chilled.

COMMISSIONER HORNER: Chilled. And also, my concern spoke to all witnesses, not certain witnesses.

So, I would like three words changed, "breadth" rather than "language", "chilled" rather than "infringed", and "all" rather than "certain" or just omit "certain".

CHAIRPERSON BERRY: Of the witnesses?

COMMISSIONER HORNER: Yes.

CHAIRPERSON BERRY: Okay. Anybody else have

any changes?

(No response)

CHAIRPERSON BERRY: Could I get a motion to approve the minutes as changed?

COMMISSIONER GEORGE: (So Moved)

COMMISSIONER HORNER: (Second)

CHAIRPERSON BERRY: All in favor, indicate by saying aye.

(Chorus of ayes)

CHAIRPERSON BERRY: Opposed?

(No response)

CHAIRPERSON BERRY: Okay. The minutes are adopted with the change noted.

Announcements

CHAIRPERSON BERRY: Announcements. Anyone have any announcements? Do you have any announcements?

MS. MATHEWS: Madam Chairman, I wanted to announce that the House Judiciary Subcommittee is going to be holding an oversight hearing on the Commission. The time I'm not quite certain of, but the date appears to be the 19th of October.

CHAIRPERSON BERRY: Thank you.

Anybody else have any announcements?

COMMISSIONER ANDERSON: What is our -- what is that date again, Madam Chair?

CHAIRPERSON BERRY: October 19th, the staff director says.

COMMISSIONER FLETCHER: Thank you.

CHAIRPERSON BERRY: Anyone else have any announcements?

(No response)

CHAIRPERSON BERRY: No announcements. Okay.

Staff Director's Report

CHAIRPERSON BERRY: Staff Director's Report. Any questions, comments? First, staff director, do you have anything to talk about in your report, that's not in the report, or that you want to underscore?

MS. MATHEWS: I don't have any new items this time.

CHAIRPERSON BERRY: Okay. Does anyone have anything they'd like to discuss? Yes?

COMMISSIONER HORNER: Madam Chair, I would like to have a discussion of the handling of the Title VI Report, and I would like to ask the staff director some questions about that.

CHAIRPERSON BERRY: Sure. Go right ahead.

COMMISSIONER HORNER: On August 15th, four of the commissioners sent a memo requesting some modifications to the report in order to make it possible for those four commissioners to vote for the

report.

We have had no effort on the staff director's part to assist the commissioners in reaching a consensus on this report, and I am concerned about that. The end of the fiscal year passed without our submission of this statutorily-required report, and I am very concerned that failure to move forward on this is impeding our statutory obligations, and I would like to know how it is that we have not been assisted in this process as a Commission.

CHAIRPERSON BERRY: I would like to answer the question before the staff director, which I think will shed light on the staff director's answer.

First, you have reminded me of something, Commissioner Horner. I meant to announce and forgot that I will not receive any memos that purport to be from commissioners that are not signed by commissioners.

If I receive any memo that purports to be from a commissioner, and it is not signed by a commissioner, I will either throw it away or return it to the commissioner who purportedly sent it.

There's no provision in our regulations or in our AIs for commissioners to send memos to other people or -- and you don't even know whether it came from that

person, when they're unsigned.

And, staff director, I thought you were going to make an announcement in this regard, too. You told me that.

MS. MATHEWS: Madam Chair, I intended to, and it slipped my mind.

CHAIRPERSON BERRY: Well, why don't you make it, so I can go on?

MS. MATHEWS: All right. The --

CHAIRPERSON BERRY: You can answer the question.

MS. MATHEWS: The memorandum that you are referring to has no signature whatsoever on it from anybody. There have been other memos that I have received that have had typed names of various commissioners. In some instances, there have been initials of one special assistant, not always the same one, but it would certainly help me if the signatures of the individuals who sent the letter were on it, and I would hope to receive memos that were signed in the future.

COMMISSIONER REDENBAUGH: Do you have a process -- may I?

MS. MATHEWS: Yes.

COMMISSIONER REDENBAUGH: Do you have a

process for verifying the signatures? Because I think if we're going to go to this level of certainty, one should then be careful that the signatures be verified, also.

CHAIRPERSON BERRY: Well, if I may answer for myself, whether or not they're verified, even if they appear to be signatures, I will accept them. But I am not accepting memos that are not signed by anybody, since I know for a fact that happened to me once when I was in the Education Department of the government. Somebody circulated a memo that was supposed to be from me that I didn't sign, and everybody was responding to it all over the place, and I never even wrote the damn memo or sent it or signed it or did anything, and it didn't even purport to have anyone's signature.

So, I don't see any reason why if you send a memo to somebody, why you can't either sign it or have somebody sign it and initial it for you, or something, and on one occasion, I was very offended. A memo that was sent to me signed by nobody got included in letters that went out all over the world as if I had somehow not responded to something, which was a piece of paper which I considered to be irrelevant because it wasn't signed, and, so, if you want to put a phony signature on it or have somebody sign for you, fine. But at

least have something that makes it appear that the memo was generated and not just from somebody's computer that somebody decided to send around as a joke or something.

COMMISSIONER HORNER: Madam Chair?

CHAIRPERSON BERRY: Yes.

COMMISSIONER HORNER: May I respond to that? With all due respect, I think this is an extremely disingenuous discussion. For -- purportedly four commissioners sent a memo of grave consequence to our statutory requirement, to meeting our statutory requirement, to the staff director. There were no initials on this memo, only names.

However, it seems to me when a memo of grave consequence bearing all the apparent appearance of seriousness arrives in the staff director's office on August 15th, and no one, no special assistant, no one picks up the telephone and asks any special assistant or any commissioner for close to two months whether this memo is legitimate, as there's no reason to believe it isn't, it seems to me that that is getting very close to evasion of normal ordinary daily responsibilities.

We all know that Commissioner George lives in Princeton, New Jersey, that Commissioner Horner travels

frequently, that Commissioner Redenbaugh lives in Philadelphia, that Commissioner Anderson travels frequently. It is not often possible to do other than approve a memo by telephone to our staff.

We have done this from time immemorial with no question being raised until this time, and it seems to me there is no way in all honesty that a case can be made that because this memo was not signed or initialed, that somehow or other the presumption should be that someone has dishonestly put it forward.

We have never had a problem of that sort, and it seems to me it was presumptuously -- it is now expo facto being described as presumptuously dishonest as a way of evading the fact that there was no reasonable responsibility exercised in responding to it.

I think we need to get serious about this.

CHAIRPERSON BERRY: I am going to answer the question substantively and then turn it to the staff director, but I first wanted to address this, and the words "dishonesty" were not stated by anyone except you, Commissioner Horner, since this record is a matter of great concern to me. You were the one who said "dishonesty".

In my time of serving on the Commission, before any of you were appointed, I have never received

a memo that purported to be from a commissioner that wasn't signed by somebody.

COMMISSIONER HORNER: Wouldn't you --

CHAIRPERSON BERRY: And I have never sent anyone a memo and would not and would assume that I would not, if I didn't have either my assistant sign my name and initial it or something, so that it would purport to be more than just something coming out of somebody's computer.

Now, secondly, to go to the substance of the matter, the staff director received a memo purportedly from four commissioners with no signatures, and we got copies of it. The vice chair and I responded and said that we like the report the way it is. Two other commissioners, Wang and Fletcher, liked the report exactly the way it is.

What you have here is four commissioners who love the report exactly the way it is, and four commissioners who hate it and want it revised. I retract the word "hate". Four commissioners who want it substantially and structurally revised, according to the memo which purportedly came from those four commissioners.

Now, the staff director under those circumstances has no option except to do nothing because you

have eight people, you have four who want it to stay exactly the same as it is, four who want it changed, and until the staff director gets guidance from a majority of the commissioners present and voting at a meeting to do something, the staff director is in no position to do anything at all in my opinion, and, so, I think that that substantively is my judgment, which I have shared with the staff director, and it is our responsibility as commissioners to approve reports and not the responsibility of the staff director.

The staff prepared a report. They gave it to us. We reached an impasse on the report, and until we resolve that impasse, it is highly irregular and not within the province of the staff director to unilaterally decide that she will either change it to one direction or the other when we are disagreeing, and we have to come to some resolution ourselves before we can place that burden on you, and I turn it to you, but I just wanted to state my view of that for the record.

COMMISSIONER ANDERSON: Madam Chairman?

CHAIRPERSON BERRY: Yes?

COMMISSIONER ANDERSON: Thank you.

I would like to make two observations, and I can't think of any way not to make this sound as harsh as it's going to sound. But I don't believe that it is

reasonable or a reflection of the kind of collegiality that I have experienced on this Commission over the last five years to receive a memo with the four names of the commissioners on a matter of this importance and act as though it is irrelevant and purportedly fraudulent.

I would like to -- I have never questioned the intentionality or the motives of any of my fellow commissioners, but this brings me as close to the line as anything I have experienced in the five years here. I'm sorry to say that, but I cannot conceive of a reasonable interpretation for not dealing with the memorandum. That's my first observation.

Now my second observation goes to the substance of this, which is that my recollection of the meeting which we voted on Title VI report quite clearly the Chair voted with the majority on that in order to be able to move to reconsider that report on the basis that there would be an attempt to reach a compromise position of all members of this Commission or a large majority of the commissioners could support.

So, to hear you say today that four commissioners want it exactly the way it is and just that somehow there was a misunderstanding regarding the vote at that meeting and what was said at that meeting,

because clearly the impression that I had, and I believe the record will bear this out, was that there was an intention at that meeting to attempt to negotiate and compromise on that report, that we could get a report out under the statutory deadline, that most of the Commission could support.

Now, that was not done, and the four commissioners that voted against that report sent the memorandum indicating areas for negotiation which we wanted to discuss, and the response was absolutely non-responsive and indicated that there was no area that would be negotiated to attempt to compromise on that report.

So far as this commissioner is concerned, I'm ready to vote again on the motion to reconsider the report and vote it down, because I don't see any intention for trying to reach an agreement on that report.

The third observation I would make is that there had been discussion in e-mail communications among the commissioners. I take it from what the Chairman has said, there's no point in having e-mail communications among commissioners because we can't verify whether or not e-mail has a signature on it either.

But for my sense, I would be very happy today to vote again on a reconsideration of Title VI, and if it's in order, I'll be happy to move it, because --

CHAIRPERSON BERRY: You cannot move it.

COMMISSIONER ANDERSON: -- I see no attempt on the part of the Chair or the Vice Chair to enter into a good faith negotiation, so we can release that report.

CHAIRPERSON BERRY: Well, Commissioner Anderson, since you have misstated what happened on Title VI, I feel no alternative except to read the memo from these four -- purported memo from these four commissioners, which you now say is actually from the four of you.

COMMISSIONER ANDERSON: Madam Chair?

CHAIRPERSON BERRY: And then I --

COMMISSIONER ANDERSON: I have --

CHAIRPERSON BERRY: Then I will read my response.

COMMISSIONER ANDERSON: At the meeting, I listened to you take an interpretation and clearly oppose another commissioner's view of what occurred at the meeting by calling it a clear misstatement, and I think that if you really believe it's a misstatement, then let's take the time right now and get the record

and look at the record of the meeting, because there was not a misstatement.

There was a clear indication that we would try to work together to produce a report that we could all support.

CHAIRPERSON BERRY: And what happened after that?

COMMISSIONER ANDERSON: We would be able to do that through that memorandum.

CHAIRPERSON BERRY: What happened after that, Commissioner Anderson?

COMMISSIONER ANDERSON: There was no indication that there would be any kind of negotiation on it.

CHAIRPERSON BERRY: What happened after that, Commissioner Anderson? What happened after that? A memo came from four -- August 15th memo that you're referring to, and Commissioner -- the Vice Chair and I sent a memo back to you explaining clearly that we did not agree that these changes should be made, and I indicated that I saw no reason for me to try to negotiate with you since what you were asking, if this is indeed your memo, and you say it is, what you were asking was that the entire report be changed and restructured, and we did not see any need to do that

because we thought that it showed a misunderstanding of the kind of report that was there.

So, I see no reason until we can have some agreement on what sort of report this is supposed to be to do anything, and I have stated clearly that the only reason why I voted for the -- voted the way I did was so that I would be able to reconsider the report and said that I was in favor of the report as it stood and made that clear, and I am in favor of it as it stands, and I do not think it needs one jot or one tittle of the report changed, and, so, there are four of us --

COMMISSIONER ANDERSON: Let's vote on it.

CHAIRPERSON BERRY: -- who feel that way. I don't -- I don't see any need for a vote. It's already been turned down. It's already turned down. Why should we vote on something that's already turned down?

Yes, Vice Chair?

VICE CHAIRPERSON REYNOSO: Madam Chair, just with respect to the role of the staff director, we had had a discussion some time back, I had been on the Commission only a few months, in terms of the concern that I had at that time that several commissioners had independently written to the staff director asking her or him, I forget now, to do this or that, and it seemed

to me I expressed the view that I thought it was improper for commissioners individually to be writing that -- those memos, and that the instructions to the staff director should come from the Commission, and I thought we had a general discussion, and we all agreed on it.

It seems to me that probably that would apply in this case, also; that is, if there's a disagreement among commissioners, then the staff director in terms of how to serve us is in a quandary, unless we give the staff director further instructions on this.

So, I just -- I really do think that the burden falls on us as commissioners rather than the staff director on a situation where we have a disagreement.

COMMISSIONER HORNER: Madam Chair?

CHAIRPERSON BERRY: Yes?

COMMISSIONER HORNER: I have operated on the assumption that the staff director's job is to guide the staff in meeting the needs of the Commission, and that when there is a -- a difference among commissioners and yet there is a statutory requirement for us to provide a report, it would be my assumption -- would have been my assumption that the staff director would propose options, would assess the -- would assess

the variety of views expressed by the variety of commissioners, and would propose a series of options for our consideration.

Now, I am perfectly happy at this point and this late date to suggest that the staff director reviewing the expressions of concern by the variety of commissioners present to us multiple options for our consideration, based on the staff assessment of our problem, our variety of problems with this, and that we attempt to move this process forward so that we may publish this report.

I have operated on this assumption because I don't know what the staff director is supposed to do. Is the staff director a mindless pass-through for the opinions of the staff or does the staff director mold the product?

If the staff director molds the product, given that Congress created this as a bi-partisan wide-ranging commission, with many different views, is it not the responsibility of the staff director also to take into consideration these expressions of points of view?

I really feel that we are not meeting our obligation, and we have not been assisted in meeting it in ways I would have assumed appropriate.

CHAIRPERSON BERRY: Commissioner Wang?

COMMISSIONER WANG: I think I want to just offer one observation. I think the staff director is in a very difficult quandary. When you have four commissioners expressing a very distinctive view versus the Chair and Vice Chair responding to a totally different opinion on that, so what do you expect the staff director to do? Just throw it back to the Commission and say, okay, let's -- I mean you guys decide what you -- I mean if the staff director wasn't given any distinctive directions, and the staff director were to take a position, then she would have put herself in jeopardy by siding with one over the other.

So, either way, she's going to be in a very untenable position. So, I think this -- I want to just clarify the record from the early point, yes, the staff director -- no, the staff director did not respond to the memo, but the Chair and the Vice Chair did respond to the memo.

So, the matter is in a discussion period. I think we can continue to have the discussion. I think there is certainly two views. If we can like --

CHAIRPERSON BERRY: I am going to recognize you when he's finished.

COMMISSIONER WANG: That we narrow our differences. I mean we then give the direction to the staff director. I think you just gave, Commissioner Horner, a directive to the staff director to prepare a statement with multiple options. I think that's a very distinctive instruction. If that is acceptable to all of us, then I think that the staff director would have a direction to follow.

CHAIRPERSON BERRY: Well, I am going to recognize you, but I want to reinforce Commissioner -- the Vice Chair's point.

I think it is inappropriate for commissioners to send instructions to the staff director. The staff director works for the Commission as a body, which means a majority of the commissioners. Individual commissioners are not supposed to instruct the staff director as to what to do, and this seems to be happening all the time.

When we sent our memo in fact concerning Title VI, we sent it to the commissioners, not to the staff director, because we knew that this was a policy matter among the commissioners, and we knew that even though I'm the Chair and Reynoso is the Vice Chair, we don't give individual instructions to the staff director as to what she should do.

But there seems to be a habit occurring around here that we get these four commissioners' things telling the staff director do this, do that, do the other, do the other, as if four commissioners somehow control the Commission and the staff director isn't supposed to pay attention to the rest of them.

She works for the Commission as a body. She doesn't work for individual commissioners.

Commissioner Horner?

COMMISSIONER HORNER: Madam Chair, the staff director produced a report for us for our consideration. She produced that report without our guidance as to its content.

So, I might ask how is it that now we are denied the opportunity to give her guidance as to its content and we're denied the opportunity before she writes the report and we're denied the opportunity after she writes the report; meaning when is it that the Commission is supposed to have input into this report and to guide its -- in other words, are we permitted only to react to what the Civil Rights Commission staff puts forward and vote it up or down or are we permitted -- and indeed I ask that rhetorically, I believe we are obligated to give direction to this report.

CHAIRPERSON BERRY: I know that. There is a procedure, Commissioner Horner, in which you probably have a summary of staff's and Commission on Civil Rights' project and report process. There is a project concept described, presented to the commissioners, who vote after long discussion about the idea, and often these projects come up at a retreat.

There is a proposal, which details what the project would do, and commissioners then vote on the project proposal.

Now, if commissioners feel that the project proposal is not adequate or that there are problems with it or they don't like the concept, they have every opportunity to do so, but the way this process is set up is what it does is it requires commissioners to act on the report itself at the end, so that individual commissioners cannot influence the direction of the report, so that the Commission as a body can see it.

But at the project concept stage, at the project proposal stage, the Commission -- and then there are status reports. We've discussed the reports as they go on. So, there is plenty of opportunity for commissioners to say what they think the report should look like, what they think it should ask, how it should be done, and what kinds of people should be talked to

and all the rest of it at the concept and the project proposal stage.

Now, if we'd like to change this process, Commissioner Horner, we could do that by someone proposing a new process, and if it received the vote of the majority of the commissioners, that would become the substitute process.

All the staff director and the staff is doing is following the process as it exists. If we want to change it, we should change it, and we should not get angry with them because they're just going about following the process.

Commissioner Horner?

COMMISSIONER HORNER: Madam Chair, I don't accept that characterization of what's going on here. What's going on here is that when we get these reports in their written form, they are full of assumptions which half the Commission routinely rejects, and that fact is well known to the -- to the staff at this stage, having heard these kinds of issues deliberated many times.

There are deliberate attacks that it is obvious to any -- anyone participating in the writing of this -- these reports will not be agreeable to half the Commission.

The Commission -- the staff director does not bring us as she goes reports at meetings that say this is the direction of our thinking, these are the concepts where -- these are the conclusions we're tentatively reaching. What we get is at the end of a two- or a three-year process, sometimes, a 3- or 400-page report that astounds us with its deviation from our perspective on the problems that we're dealing with.

Certainly we agree with we wish to look into a certain issue area, but it's, again I have to use the word, "disingenuous" to believe that simply because we've agreed to look into a certain issue area, that we will willy-nilly concur in the set of assumptions about what that issue area involves that the staff routinely puts forward to us, and it is frankly a rather rare occurrence when we don't have this kind of severe structural problem with the assumptions under which the report is constructed, and that is why our -- our expo facto requests for a structural change are pretty major, because we think these reports are often extremely structurally flawed.

CHAIRPERSON BERRY: And the problem is that you have four people who believe that, and four who don't.

COMMISSIONER HORNER: Therefore, the staff director might inquire of us do we wish to try to sit down in a meeting and work through one of these issues to see if we can find ways to express what concerns us about civil rights in ways that we can agree on. Perhaps as is always the case, we need to carve out areas where we can't agree and say so, and we do that.

In this case, I'm very concerned that no effort was made by the staff of this Commission to move us toward that process, and it was my presumption, and until corrected will be my presumption, that that's a major responsibility of the staff.

CHAIRPERSON BERRY: It was my responsibility, for which I take responsibility, because I said in the meeting that I was going to try to help the staff in doing this, but when I received the memo from the four, it was clear to me that what people were talking about was not changes here and there or trying to modify things; we were talking about a complete reconceptualization and restructuring of the entire report, and I do not agree, and the people -- the four people who agreed that this report was a good report don't agree with that.

So, that means that if the changes are so enormous that the entire thing has to be

reconceptualized and the whole concept of civil rights as it exists today has to be rethought under Title VI, there really is nothing to discuss. We've just reached an impasse, and maybe what we ought to do is ask the staff to write another report and to try to get it out on some other subject, and even though we're late, try to meet a deadline on some subject where we can agree and just agree to disagree about this one and move on.

I mean that's an option that's -- yes?

COMMISSIONER ANDERSON: Well, I think there was a third option, and that is to come back, given what both positions were, and attempt to see whether there wasn't any kind of agreement that could be had after two memorandums with positions stated and as developed in general or sort of tightening of the positions.

I don't believe that the problem that we have at the Commission today is a problem of procedures. I think it's a problem of willingness to work within those procedures and decide to produce a product that reflects the Commission and to not simply reflect four members of the Commission, plus the staff, and as far as I'm concerned, in the first several years of my service on this Commission, there was a very strong effort toward consensus, even if that meant we voted

for a report that we do not fully agree with, and I did that in the past, and I'm willing to do that in the future.

But as this conversation reveals to me today, I don't believe that that may be possible in this.

CHAIRPERSON BERRY: Well, I --

COMMISSIONER ANDERSON: So, I am very doubtful whether this Commission during the next year is going to issue any report.

CHAIRPERSON BERRY: Well, that --

COMMISSIONER ANDERSON: Unless we're willing to work within the procedure and try to come to some meeting of the minds on some issues, I see the work of the Commission as really grinding to a halt, and we could talk about it all we want, about pristine application of our procedures, but unless we're willing to work within them to try to reach some kind of consensus as a Commission, then I don't think it's going to work at all.

CHAIRPERSON BERRY: Well, I would like to make two suggestions. You may be exactly right, Commissioner Anderson, and that may be just a structural problem in terms of how the Commission is set up, so that you end up with four people thinking one thing and four people thinking something else.

But I would like to suggest we do one of two things on this subject, so we can move on, and the first thing is to try to have the special assistants of the commissioners sit down with the two memos, because I don't think the staff director can do this, she doesn't represent us, and see if they can come up with some kind of guidelines or some kind of approach for trying to rewrite this problem -- this report that everybody can agree with, even if we need -- if it means leaving out stuff that everybody would fight about like crazy, so that we can end up with a report that is on Title VI but does not offend so deeply four people on one side and four people on the other, so that we can't have anything, and if your special assistants, I'm willing to have mine do it, would be willing to do that, we could have them do it, and then give us something back, and then we can tell the staff director what to do, and say go implement this with the staff. This is where we are. This is what we think, and this is what we want to do.

I'd feel more comfortable doing that than asking the staff director to do it for me.

The second option is to forget about Title VI and have the staff work hard on one of these other reports that we think we can agree about because it

doesn't have the kinds of issues that are going to fracture us greatly and simply tell the committee that we know we're late, and we actually aren't because the statute doesn't say the end of the fiscal year. It's unclear, and there was some debate at the time as to whether it was the fiscal year or the end of the year.

But in any case, just move on and select something else, and on the second one, make sure by having your special assistants look at what it is that is being proposed again, that we don't end up in the same place and try to have a report and give some guidance back to us which we then collectively give the staff director and have dual reports.

So, it's either get together, figure out what to do with Title VI, tell us, and we tell the staff director, or it's move on and try to get another report together, and I think that either one of those would be healthier than fighting about this over and over again, at least it's worth a try.

Yes, Commissioner Horner?

COMMISSIONER HORNER: Madam Chair, I originally addressed the question to the staff director, and I would like to have --

CHAIRPERSON BERRY: Go ahead.

COMMISSIONER HORNER: -- an attempt here to

ask the staff director, Mary, do you agree that commissioner special assistants rather than staff under your direction should come up with options for compromise or do you believe that it is the responsibility of you -- your responsibility working with the staff under your direction to provide alternative language for this report?

MS. MATHEWS: Commissioner Horner, I would be happy to do and have the staff work on anything that the commissioners as a group would agree to and direct me to do.

If the commissioners here today vote and agree to have special assistants take a look and come back with a compromise approach, then obviously that's what you can do and that would be fine with me.

If the commissioners as a group decide to have the staff take another look and give us direction as to what areas to look at, we would be glad to do that as well.

COMMISSIONER HORNER: Therefore, you, even though you are presidential appointees sitting at this table, don't assert the responsibility to participate in this process until specifically instructed as to the specific content of a compromise previously achieved by the Commission?

MS. MATHEWS: I -- I think our role was to provide the commissioners with a completed staff draft, and we did do that, and I have been waiting for guidance as to how to proceed from this point forward.

VICE CHAIRPERSON REYNOSO: Madam Chair?

CHAIRPERSON BERRY: Yes?

VICE CHAIRPERSON REYNOSO: If -- if the commissioners agree to, say, have the special assistants work on this, I just want to express the view that presumably we're looking for consensus. So, I'm a little bit concerned about posing the issue as options. That means that you'll say --

CHAIRPERSON BERRY: No, I'm not saying options.

VICE CHAIRPERSON REYNOSO: Oh, well, --

CHAIRPERSON BERRY: I'm saying my proposal is that the special assistants take a look at this, find areas where there can be agreement, even if it means dropping whole parts, so they know we're going to -- then they can fight bitterly about it. Then bring back to us what that consensus is. We will agree to it and advise the staff director that this is our consensus, and this is the guidance we'd like to give in terms of getting this report rewritten. That's the first option.

VICE CHAIRPERSON REYNOSO: That's fine.

CHAIRPERSON BERRY: And not that they would give us -- because they're acting for us. So, they would tell us what they -- I mean they can talk to us. But come back and tell us what that consensus is and what it would look like, and then we will say fine, and tell the staff director go and have the staff put together something like that and get it back to us and let's do it.

VICE CHAIRPERSON REYNOSO: Okay.

CHAIRPERSON BERRY: I just think it will take longer than us trying to do it, and I don't feel confident in having the staff director. So, those are my proposals. Otherwise, I don't know what else we can do here. We can move on, if that's the end of the discussion.

Yes, Commissioner George?

COMMISSIONER GEORGE: Yeah. I -- I believe just from my -- I know the analogy is an imperfect one, but just from some experience in trying to settle cases, tort cases and so forth, that often, more than often, just about every time, the parties begin from their ideal positions, one side wants $2 million, and the other side doesn't even want to acknowledge liability and pay a dime, and, you know, obviously then

there's a long process going back and forth.

Sometimes that's not possible where major points of principle are concerned, and that's, I think, where the analogy breaks down, but my own view was from the beginning and hasn't changed that there's probably room here to compromise and get an agreement on this report, and I for one am certainly prepared to agree upon a report that's not perfect in my view. I'm sure that people on the other side have the same view.

So, I think that the only question now before us is, is how to proceed, having in mind that this is going to happen in the future, and we should come up with a -- a method of -- of bringing about the compromise, if that compromise is possible, that works not just for this case but can be a reliable procedure for us.

The procedure you've outlined -- that the Chairman has outlined sounds reasonable to me. Let me just ask, though, what the -- how the steps would go so the -- once our assistants have gotten together, if they've narrowed the disagreement to some extent, how do things -- maybe you could speak to that issue.

CHAIRPERSON BERRY: Okay. What I had in mind, and I guess I was just thinking like a lawyer, excuse me for doing that, it was like you say,

negotiating the differences.

I just -- all I meant was that they would take the report and the memos and they would talk to each other about areas where there seems to be like total disagreement and maybe we can -- if you're not going to, you know, agree at all about that, then let's just, you know, ditch that, and to find out areas where we can make some changes, whether they're conceptual or whatever they are, and they will have more time than we do to sit down and talk to each other, and they, of course, are at liberty to come back to their principals when they need to, and they may even come up with -- when they come up with concepts, they may come back to us and go back to the discussion, if that's necessary.

And that at the end, what they will have is here's where consensus is. They will agree. Here's where consensus is. Everybody agrees that this document ought to discuss X, whatever X is, and that these parts of it are okay or not okay, and everybody agrees that this is wrong, and everybody agrees that this ought to be changed in the following ways, and then give that to us, and we will agree as commissioners to adopt that as a consensus for outlining this, tell the staff director, and they'll redo the thing and bring it back to us, and we'll vote

on it.

COMMISSIONER GEORGE: So, the staff would come in at that point?

CHAIRPERSON BERRY: Right. They won't be involved in the discussion, and the reason for that is they can be involved if people want to ask questions, and I guess that would go to the staff director, but what I had in mind is we have the draft, and people have read it or the assistants have read it, reread it, what I had in mind is them carving out not specific language but areas where they think, you know, some rewriting should be done, and when we get a consensus, we can tell the staff director she can give it to the staff, and they can even have a try at it, and they can give it back to her, and she could give it back to the special assistants again and read it again, and then we finally got to the point where everybody thought the consensus had been reached, it would come to us, and we would vote for it.

COMMISSIONER GEORGE: Okay. Fine.

VICE CHAIRPERSON REYNOSO: I'm just concerned that this be characterized as -- as the commissioners trying to compromise with their -- with their assistants being their surrogates --

CHAIRPERSON BERRY: Right.

VICE CHAIRPERSON REYNOSO: -- because the regulations are clear in terms of the broad responsibility the staff director has. So, if this is characterized in terms of the commissioners doing this in an effort to compromise, then it's not impinging upon the quite broad responsibilities of the staff director.

I just bring that up in light of Connie's questions of the staff director.

CHAIRPERSON BERRY: Right. So that's the point. That's the point. It's us trying to compromise among ourselves.

COMMISSIONER HORNER: It is an observation I must make that I believe in the past, this has been a function performed by the staff director, and therefore this activity represents a departure from what has been the norm.

CHAIRPERSON BERRY: We have never had a four-four impasse on a report that the staff director went about trying to reconcile, not in the history of this thing being a four-four split or six since when I've been on it.

VICE CHAIRPERSON REYNOSO: Madam Chair?

CHAIRPERSON BERRY: Yes?

VICE CHAIRPERSON REYNOSO: The -- I thought

the importance of my observation was that if interpreted the way I indicated, it is not a departure because we often have statements on here, well, let's cross that sentence out or let's put this -- this proposal there to a letter or something else that comes from the staff.

So, I want to interpret what we're doing now as not a departure of what we've done before, even though it's on a broader scale.

CHAIRPERSON BERRY: Well, that's what I was thinking. This just happens to be a big report, as opposed to a little statement or something like that, and it's a huge report, but the same principle applies. It's commissioners trying to negotiate among themselves to reach a conclusion so that the staff has guidance as to what it is we want, --

VICE CHAIRPERSON REYNOSO: Okay. I agree with that.

CHAIRPERSON BERRY: -- and what we can agree to.

VICE CHAIRPERSON REYNOSO: Okay.

CHAIRPERSON BERRY: Commissioner Wang?

COMMISSIONER WANG: What we are proposing right now is having this option. It's not a departure. I think it's just one other option. We could ask the

staff director to function in the way that you suggested. I don't think that is something that is non-acceptable. But I think at this very moment, we did not -- because the circumstances -- because of the two divergent views, the staff director chose not to act. I don't think that is really a departure from the rule. I think it's just an option where we're trying to exercise.

COMMISSIONER HORNER: I am of the same opinion still.

COMMISSIONER GEORGE: One of the things that's always troubled me, and it might just be nothing, there might be nothing that can be done about it, is that in the actual preparation of the reports, there don't seem to be opportunities for the commissioners to weigh in and shape the way the report is being drafted.

Now for the redrafting, it looks as though the -- what we're going to do is -- is pretty much leave that in the hands of the commissioners. Something doesn't seem properly proportioned to me in that. It seems that there should be a greater role for the commissioners in the first half, when the report is being drafted, and an analogous role for the staff in the redraft.

CHAIRPERSON BERRY: I'll explain why.

COMMISSIONER GEORGE: Yeah. Okay. Please.

CHAIRPERSON BERRY: Conceptually, the reason why, and none of this -- you know, we can change it, if you don't like it this way. But conceptually, the reason why is that the staff is supposed to go out uninfluenced by us because we all think different things and gather the facts on the issue, write the report according to the proposal, bring it back to us, and they've done their best effort without us telling them go do this, go do that, talk to this one, talk to that one, we don't think you should talk to that one.

They've given us their best effort to do what they think is an objective thing that fits with our proposal, and when we read it, often the commissioners have changed parts of reports in the meeting itself. I mean we've sat right here in the meeting. I mean when Arthur Flemming was here, the commissioners sat all day long and went through reports line-by-line and changed whole sections while we were sitting here and got consensus on them, and that's one way to do it, and that was considered fine because the commissioners have a policy and a responsibility to respond to what the staff does, but the idea is that we do not want as individuals -- collectively, we can act. What we don't

want is individuals to be pulling the staff hither and yon, saying, well, I think it should be this way, and you think it should be that way, and that was the point.

COMMISSIONER GEORGE: I wonder if an intermediate position would be to have a kind of formal circulation of a draft at one or two critical points along the way so that we would avoid a situation where a report came in that was just unacceptable to half the Commission, one way or the other, so that we're not now individually sending the staff hither and yon, but we're having a look at the thing to see if this is the direction we want to go in, if the -- if the implicit, you know, values of the things are -- are -- are in conflict with what we think is right or whatever.

Now what I -- I -- I -- I take it from your point that this would require some kind -- some formal change on our part, but maybe we should make such a change -- no? Cruz is shaking his head.

VICE CHAIRPERSON REYNOSO: Not in terms of what we are talking about, in terms of looking at it earlier and all that.

COMMISSIONER GEORGE: That's what I mean.

VICE CHAIRPERSON REYNOSO: Oh, yes. That would take a fundamental change.

CHAIRPERSON BERRY: And we could do that if we decided to -- and it would do no violence to the principle I just explained, if we did it collectively.

COMMISSIONER GEORGE: That -- that was my point. That was in having -- where a draft came in. None of us were speaking individually with Mary Mathews or anybody on the staff. So that instead of getting the draft of the report, we -- we've been involved at one or two points along the way, so that if we saw a direction that we just knew was going to produce a report that was going to stalemate us, we could at a meeting say, look, we don't like the way this thing is going on.

Now we might then have to fuss with each other as commissioners or whatever, five to three, whatever it is, but we would avoid the report coming in at -- at the end for approval, vote it up or down, at -- where we have an impasse.

CHAIRPERSON BERRY: That doesn't do violence to the principle, though, doing it collectively. It just means that we just change the way we do it.

COMMISSIONER GEORGE: I wonder if people think that's a good idea or whether it's just a bright idea that maybe we shouldn't vote on right now. Maybe --

CHAIRPERSON BERRY: Why don't we say that it seems -- it is an idea that doesn't violate the principle. Why don't we think about it till next time and vote on it for future?

COMMISSIONER GEORGE: Okay.

CHAIRPERSON BERRY: And discuss it again, but what about the impasse we've reached on the Title VI? Can we just move on?

COMMISSIONER GEORGE: Just one more -- just one more point about it.

CHAIRPERSON BERRY: Yes.

COMMISSIONER GEORGE: Maybe what we could do -- could I -- I just ask the staff director to put on the agenda for our next meeting a proposal that I will come forward with after discussing informally the matter with the Chairman and other members of the Commission, for -- and subject -- general subject will be arrange for Commission input in the drafting process of reports.

CHAIRPERSON BERRY: Okay.

MS. MATHEWS: Except the Chair is the one that sets the agenda.

COMMISSIONER GEORGE: Oh. Oh, okay.

CHAIRPERSON BERRY: It's fine with me if you want to do it. We can talk, and we can do that. But

what do we do about the -- shall we just move on from the Title VI or do we want to consider doing any of the things that were suggested? Shall we just move on to the next item?

VICE CHAIRPERSON REYNOSO: Well, Madam Chair, I just suggest -- I make a motion that we follow your suggestion because I would hate to have the meeting come to end without our knowing what we're doing.

CHAIRPERSON BERRY: You mean the one about the special assistants --

VICE CHAIRPERSON REYNOSO: Yes.

CHAIRPERSON BERRY: -- getting together and seeing --

COMMISSIONER GEORGE: I don't --

CHAIRPERSON BERRY: -- what they can come up with?

COMMISSIONER GEORGE: I don't think we need a vote on that. Maybe there's a reason you can tell me about. I think we all know where each other is now.

CHAIRPERSON BERRY: Is there anyone who objects to having that done?

COMMISSIONER GEORGE: Okay.

CHAIRPERSON BERRY: Objections?

COMMISSIONER GEORGE: None. Any commissioner can --

COMMISSIONER HORNER: I -- I -- I object but will -- will participate if it's the agreement of the Commission to do it.

CHAIRPERSON BERRY: Okay. Well, then maybe we -- it's not different from the process we use. So, since no one has really said we shouldn't do it, then why don't we give that a try and see if it works?

COMMISSIONER GEORGE: But I mean I think any -- any commissioner assistant can -- can at the direction of the assistant's commissioner talk to any other, and I think this should be very informal.

CHAIRPERSON BERRY: Why don't we ask them to do it, though? Why don't we just specifically say we hope that they will do this some time starting in the next week and try to come up with something? Maybe we should each ask our assistants to please do this. I'll ask mine.

VICE CHAIRPERSON REYNOSO: Yeah.

CHAIRPERSON BERRY: Okay? And if we can get a consensus, that would be great.

All right. The -- anything else on the staff director's report?

(No response)

CHAIRPERSON BERRY: Okay. Yes, Commissioner Redenbaugh?

COMMISSIONER REDENBAUGH: Yes. At the last meeting, I raised the issue of the modification to the AIs with respect to the production of SAC reports. Is there -- do you have a report on that for us, staff director?

MS. MATHEWS: Yes, Commissioner Redenbaugh, we have drafted a revision, and it is in the review stage at the present time.

COMMISSIONER REDENBAUGH: And when will that be available for us to -- is that something we should look at as a Commission?

MS. MATHEWS: Well, the AIs are under the purview of the staff director as administrative instructions.

COMMISSIONER REDENBAUGH: Hm-hmm.

MS. MATHEWS: So, --

COMMISSIONER REDENBAUGH: But you're going to tell us what it is at some moment, right?

MS. MATHEWS: Well, --

COMMISSIONER REDENBAUGH: May we know it?

MS. MATHEWS: Yes.

COMMISSIONER REDENBAUGH: Or --

MS. MATHEWS: A copy of the AI and --

COMMISSIONER REDENBAUGH: And, of course, I would like you to sign that, as you say.

MS. MATHEWS: Yes. I do intend to sign it.

COMMISSIONER REDENBAUGH: Okay.

CHAIRPERSON BERRY: Staff director will send a copy of the AI on the subject that Commissioner Redenbaugh is -- has proposed to the commissioners.

Yes, Commissioner George?

COMMISSIONER GEORGE: On the issue of memoranda being signed, let me propose a policy and see if this would be acceptable to everybody. That memos that go into the staff director's office should be considered to be valid and not merely purported memos if they bear somebody's initials who is taking responsibility, so that it can be the initials of a commissioner on behalf of a group of commissioners or of a special assistant to a commissioner on behalf of a group of commissioners.

This way, someone has taken responsibility and could be held accountable if a fraud were committed. So we'd have that covered, but it would save the trouble with people in different places and traveling and so forth, of everybody having to sign the thing.

Would that be an acceptable method to people?

CHAIRPERSON BERRY: I -- see, everybody keeps talking about fraud. My concern is not always -- is

not fraud. My concern really is that I would like to know that a commissioner seriously considered the contents of the memo on a substantive matter before it was sent in, because these matters are too important, and if I have no assurance that the commissioners even read it or is assured at least -- I mean they may not have read it if they signed it. That happens, too.

But least I'd feel a little more confident if -- even if somebody signs their name and just scribbles, you know, initials in the form or something, that maybe they at least told them about it, and they discussed it, and the person really feels strongly about it, especially when it's one of those fiery memos where I really feel strongly about X, I'd like to really feel that they really feel strongly about that, and -- yes, Commissioner Horner?

COMMISSIONER HORNER: Madam Chair, with all due respect, if a commissioner assistant signs, it seems to me that's -- signs on behalf of a commissioner, it seems to me that's appropriately a question not between you and that assistant or that commissioner but between that commissioner and his or her assistant, and it seems to me that if I want my assistant to sign his initials for me when I'm traveling, and he's read something to me over the

phone, that that's an issue between me and him, and I would like to say just for the record anything that my commissioner assistant initials for me should 100 percent be viewed as exactly my point of view and my knowledgeable point of view.

So, I think we're making a mountain out of a molehill here. I really do.

CHAIRPERSON BERRY: You have responded not to the question I raised, the point I raised. The point I raised was about no signature, not about some signature. If the assistant signs it, I don't have any problem with that. I'm talking about memos where, as I understood Commissioner George, there would be no signature of your assistant, but there might be a signature of somebody's assistant.

COMMISSIONER HORNER: Yes.

COMMISSIONER GEORGE: Yes, on behalf of.

CHAIRPERSON BERRY: Signing for you.

COMMISSIONER HORNER: Yes, that's all right.

CHAIRPERSON BERRY: Since that person doesn't work for you, and he's saying that that person should be understood to represent you. If that's what you want, fine.

COMMISSIONER GEORGE: Oh, I'm sorry. I don't want -- I don't want to --

CHAIRPERSON BERRY: Fine. That's fine, if that's what you want.

COMMISSIONER GEORGE: No, I don't want to get people into conflict. I'm just trying to find the solution here that will be convenient for people but also meet, you know, the legitimate need of -- for authentication, if the staff director is to -- now I take the point that it would be -- it would be -- you make a little bit of a statement by signing it.

So, if --

CHAIRPERSON BERRY: It's okay, it's okay. I understand, Commissioner George. If I understand correctly, the signature of any assistant to the four of you, Commissioner George, Anderson, --

COMMISSIONER GEORGE: Or anybody else.

CHAIRPERSON BERRY: -- Redenbaugh -- no, not in my case. If I don't sign a memo, it's not from me.

COMMISSIONER GEORGE: All right.

CHAIRPERSON BERRY: Commissioner George, Redenbaugh, Horner and Anderson, the signature of any of the assistants of any of them for any -- the four of them is a valid signature, and we should accept it as something that came from all four of them.

Is that my understanding?

COMMISSIONER GEORGE: Well, I'd make it a

little broader than that, for my case.

CHAIRPERSON BERRY: Okay.

COMMISSIONER GEORGE: Okay. If -- if -- if I am on a memo with any other commissioner, --

CHAIRPERSON BERRY: Okay.

COMMISSIONER GEORGE: -- whether it's Vice Chairman Reynoso or Constance Horner, if that commissioner -- one of those commissioners' assistants authenticates it with initials, then that -- the other commissioners can have my authorization to rely on that as being --

CHAIRPERSON BERRY: Okay.

COMMISSIONER GEORGE: -- representing my view.

Now, if -- if for any reason, that memo does not say what I was told it was going to say or something like that, then I would take up the issue with either Commissioner Reynoso or Commissioner Horner, --

CHAIRPERSON BERRY: Okay. Right.

COMMISSIONER GEORGE: -- and I would expect them to come down very hard on their assistant. That's -- that was my only point.

CHAIRPERSON BERRY: Okay. And does that also go for memos that have no signature at all? I just

want to be clear. If we receive a memo from the four of you with no signatures, we should accept it?

COMMISSIONER GEORGE: No. I'm happy to set a policy that -- that requires -- let me ask the -- can I ask the staff director?

CHAIRPERSON BERRY: I'm talking about to me, too, and --

COMMISSIONER GEORGE: Oh.

CHAIRPERSON BERRY: -- the staff director.

COMMISSIONER GEORGE: Okay.

CHAIRPERSON BERRY: If I get a memo from the four of you, and it's not signed at all, I should assume that it's from the four of you?

COMMISSIONER GEORGE: I -- I would -- let me ask this. If -- if -- if you get a memo from -- from commissioners that's not signed, could you get in touch with those commissioners and ask for a signature? Don't throw it away, in other words.

In other words, if it's a clerical error and somebody forgets to put a signature on it, can you notify my commissioner or -- my assistant or one of the assistants that this doesn't have a signature? Let's go through the formality. I think there's good reason for authentication. Go through the formality of getting a signature.

CHAIRPERSON BERRY: Okay.

COMMISSIONER GEORGE: But not -- not -- not just throw it away.

CHAIRPERSON BERRY: Okay. Well, I'll move on, but it would have taken less time, I think, just to sign the memo than the discussion we've been having here or have somebody sign it.

COMMISSIONER GEORGE: Do we have a policy or do we have to vote?

CHAIRPERSON BERRY: Well, I accept that she gets the memos. You accept that?

MS. MATHEWS: I accept that.

CHAIRPERSON BERRY: We accept that.

MS. MATHEWS: If the commissioners --

CHAIRPERSON BERRY: That's your will. We see something from you, then that's, you know, -- is that the agreement of everybody here? Is there anyone who disagrees? No one disagrees. Fine.

Affirmative Action Hearing Update

CHAIRPERSON BERRY: The Affirmative Action Hearing Update. Is there anything to say, staff director?

MS. MATHEWS: Yes, Madam Chair. The Affirmative Action Hearing is scheduled in terms of dates, the commissioners had agreed to November 15, 16

and 17.

I wanted to report to the Commission that we have not been able to secure a site yet to meet all of the needs of the Commission on those dates. We have one site which is the National Education Association, which meets about three-quarters of our needs, but it doesn't have all of the requirements. So, we are still looking for a site, and that's just a troublesome angle of the arrangements. Apparently a lot of other activities were previously scheduled.

We called some 60 or more hotels in D.C. and checked with some other federal buildings and have been unable to get another option, other than NEA, at this stage.

Briefing materials, briefing book, will be given to commissioners about a week ahead of the hearing, and we're still wrapping up the events that occurred after Miami in terms of coordination and review of the transcript and whatnot.

So, that's about where we are right now.

CHAIRPERSON BERRY: What happens if we don't find a place?

MS. MATHEWS: Well, we may not -- we may not be able to have it on those dates, if we don't find a place suitable.

CHAIRPERSON BERRY: Commissioner Horner?

COMMISSIONER HORNER: Madam Chair, I have two quick points I want to raise, but I wonder if it would be procedurally all right for us to conclude this business at the conclusion of the staff director's report, and let our -- our witnesses appear so they don't need to wait. I don't know whether we're permitted to do that under the rules.

CHAIRPERSON BERRY: That's fine. We can do that.

COMMISSIONER HORNER: I think we should, if we can.

CHAIRPERSON BERRY: We can recess.

COMMISSIONER HORNER: Just two quick questions. One is, may we have the proposed or tentative witness list and the agenda for the affirmative action hearing, even if we don't have a site or a firm date yet, and, also, may we have correspondence between you and your office and the Congress on the subject of the October 19th hearing?

MS. MATHEWS: I --

CHAIRPERSON BERRY: What was the last question?

MS. MATHEWS: The last question was -- what was the last question again?

COMMISSIONER HORNER: May we have copies of the correspondence from the Oversight Committee to you or your office and from you or your office to the Oversight Committee? We want to know what the communications are saying.

CHAIRPERSON BERRY: I thought they sent a copy to the commissioners.

MS. MATHEWS: OK is. I thought -- I thought you'd received copies. My letters have cc's commissioners, and every name is listed on it.

COMMISSIONER HORNER: Well, I haven't. So, may we -- will you please cc me again?

COMMISSIONER GEORGE: Are we talking about the copies from or the copies to or both?

COMMISSIONER HORNER: From the staff director to the congressional committee.

CHAIRPERSON BERRY: I think it's going to take more time to discuss this than a moment because my view is that the chairman of the committee has chosen to deal directly with the staff director and not us, and if the chairman of the committee wanted to deal with us, he would have.

In fact, it's unprecedented that a chairman of a subcommittee oversight would not deal with the commissioners, and in particular, the chairperson of

the Commission, who by statute is the spokesperson of the Commission.

This has not been done, and it's -- there's no precedent for this. So that since the chairman chose to deal with the staff director, I am perfectly willing to let the staff director handle what she's doing with the chairman however she wishes, and if the chairman of the committee wishes to deal with the commissioners, then I'm sure he would do that. But since he's not interested in doing that, at least I haven't seen any interest, I don't think it's the business of the commissioners to interfere with that relationship, which the chairman of the committee has -- has determined.

Now, if the staff director wants to send something to commissioners, I think that's just fine, but I don't even think the chairman of the subcommittee wants us involved in it. That's my understanding. We can discuss it more after we have this. We can recess and then come back to it after the witnesses. We might do that because we're about 15 minutes, and thank you for the suggestion, Commissioner Horner, that we do that.

So, why don't we recess and have the briefing? We're in recess.

Could you bring the witnesses, the briefers, forward? We'll take up the other matters on the agenda next time and start off our discussion there, and we therefore without objection are adjourning the actual meeting.

(Whereupon, the committee meeting was adjourned.)

Committee Briefing on Police Conduct - Panel I

CHAIRPERSON BERRY: Okay. On behalf of the commissioners, I want to welcome all the panelists, and I want to thank each of you for appearing here today to share your information and insights with us.

Whatever other painful lessons may emerge from the Rodney King incident and the O.J. Simpson trial, the revelations contained in the Mark Fuhrmann tapes serve to remind Americans again that biased behavior by police officers can exacerbate existing racial tensions and erode public confidence in our criminal justice system.

Police officers are entrusted to be a community's guardians of law and order, and most people choose police work as careers because they want to ensure that our laws are properly enforced and that justice is done, and we as citizens and as residents of this republic are very grateful to the police.

Yet communities and those who administer police departments must remain vigilant to ensure that good police officers are recruited, remain honest, obey the law themselves, and respect the civil rights of those whom they are hired to protect.

The Civil Rights Commission has been paying attention to the connections between police behavior and civil rights issues for a very long time. Our past investigations into this topic have resulted in such reports as the 1978 Police Practices and the Preservation of Civil Rights, and the 1981 Who Is Guarding the Guardians. These reports are available from Public Affairs staff at the Commission.

This briefing today is designed to help the commissioners learn more about why and how biased behavior can become rooted in a police department. How does that happen? And what is being done about it? And what can be done to address this problem?

We will be hearing about police recruitment, training, the organizational climate and culture within police departments, codes of silence, reward systems for police officers, community policing and the latest on civilian review boards.

We will now proceed by having each of our panelists make a brief statement, and then there will

be questions from the commissioners, and after that, panelists may raise discussion points with each other.

Our desire and need is to learn as much as we can from you. I call first Mr. Thomas Glover. Mr. Thomas Lee Glover, Sr. Mr. Glover is currently a sergeant of police in the Dallas, Texas, Police Department.

He has extensive experience in the recruitment of police officers and developed and wrote a minority recruiting plan for the Dallas Police Department.

Mr. Glover, thank you for being with us.

MR. GLOVER: Thank you. Good morning.

CHAIRPERSON BERRY: Good morning.

MR. GLOVER: As previously mentioned by Ms. Berry, I spent seven years recruiting in the Dallas Police Department, and one of the things that I think all of us should realize is that the buck starts with recruiting. The type of people we get in the door result in behavior that has been manifested in police departments in recent history that's been going on for years that we have been in denial of.

There have always been L.A. police departments. There have always been police departments, such as New York, Miami, New Orleans,

Philadelphia, Dallas, Houston. All of those are the departments where we've had recent corrupt behavior that made the news.

One of the things I saw when I was recruiting is that people get into law enforcement for different reasons, and I think after talking to an acceptance of 5,000 potential police officers over a seven-year period, I saw vast differences in why people get involved in police work.

One of the things that I think we must all realize is that the majority of black Americans, the majority of Hispanic Americans, and a lot of our Asian Americans look upon police departments as symbols of oppression.

I made an analogy once, and I got quite an interesting response from it, that if you go into the Anglo community, and you yell police, everybody runs to you for help. If you go into the African American community and yell police, everybody runs away. It didn't get like that overnight. It started back in the 17 and 1800s.

The specific mission for police departments at their inception was specifically to catch slaves. That's the bottom line. There was never a police department in this country until after slavery was

abolished. In fact, your first police officers were called freedman catchers, meaning that they went out and caught slaves.

So, I guess the whole point I'm trying to make is there's a mentality and a mindset that has started a subculture in police departments that indicates that a lot of our Anglo officers get into law enforcement for the wrong reasons, and specifically for what I call institutionalized racism, and there are two forms of racism.

We have symbolic racism, which simply means that I think the general population as a whole has that, and that's -- we talk about affirmative action, welfare reform, hand-me-downs, pass-outs. All of that is something that we have as an attitude, but when we talk about institutionalized racism, the police department itself is an entity of our society that is embedded in institutionalized racism, and what I mean by that is by the mere set-up, the mere pattern, the mere existence of police departments indicate that decisions are made on a daily basis, agendas are set, issues are defined, simply by how they effect us along color guidelines.

You can take and look at every major police department in this country, and out of the top 20, the

only city that has a representative number indicating what its population looks like is probably going to be Detroit.

Everywhere else you look, the police out-number by race the make-up in the community, and what we need to do, we need to start looking at getting people in law enforcement. We need to start getting early warning systems in place. What I mean by early warning systems is that Los Angeles Police Department is in the news right now. It didn't get that way overnight. Somebody turned their back and said this is the best police department in the world.

The culture itself allowed a Mark Fuhrmann or that type of person to exist, and Mark Fuhrmann didn't start out by planting evidence. We give people in law enforcement what we call discretion, and I'm a firm believer in discretion, but discretion allows us to get to where we are today, and what I mean by that is that a police officer has the discretion to make a decision and enforce the law based on his social upbringing or how he feels he should impact the person he runs into, and what I -- I think what we all need to do is when I talked about early warning systems, every police department in this country ought to continuously monitor the behavior of its officers.

There ought to be quality control checks on the people that police officers come in contact with. Your complainants, your citizens, the suspects. From time to time, you ought to just go down and interview these people and ask them how did this officer act when he confronted you. Did he use any racial slurs? Do you feel like you were degraded? Do you feel like your personality was demeaned?

These things need to be put in place, and we need to make sure they are enforced, and, Number 2, we need to make it possible for people to come forward and report police misbehavior without thinking that they're fighting against the world.

One of the major problems we see in the black community is that corruption, corruption, corruption, corruption exists in the police department and black community in terms of planting evidence, unequal enforcement, and blacks are afraid to come forward because they simply believe that it's going to fall on deaf ears.

If it was possible to have every police complaint heard, every police complaint addressed by a neutral body, then we would probably have some significant movement toward mending the problems than we have in the police departments today.

CHAIRPERSON BERRY: Okay. Thank you very much for your opening statement, Mr. Glover.

The next presenter is Mr. Hiram Rosario, who is currently a master patrol officer with the District of Columbia Metropolitan Police Department. He also is the president of the Hispanic Police Association. In his current position, he has responsibility for training new police officers.

Welcome, Mr. Rosario.

MR. ROSARIO: Good morning.

CHAIRPERSON BERRY: Nice to see you.

MR. ROSARIO: Thank you for allowing me the opportunity to be here today.

One of the main things and the main problems that we face today dealing with discrimination and those that are biased against racist groups has to do with training. I'm a strong believer in training.

Currently, the Metropolitan Police Department alleges to have sensitivity awareness training for its officers. Number 1 is these classes are not properly supervised. There are members of my police department who openly will say I don't care about X, Y and Z. I don't have to go to the class. I don't have to pay attention. I don't have to be sensitive to Latinos. I don't have to be sensitive to gays, and they will go

out there and not do what we get paid to do.

So, the training is very important. Supervision has to do with it, also. If we don't supervise our police personnel for police misconduct, we don't get no where.

Another thing has to do with the lack of concern. You bring issues to different agencies. You bring issues to the department itself. There is various discrimination going in our department. We have officers who will stop, for instance, Latinos because they believe that every Latino that drives in the District of Columbia might not have a permit, and you mention these things to management officials that will do something about it, but however nothing is done, and then we allowed it to get out of hand, continues to get out of hand, and then we look on tv, for instance, Los Angeles incident.

Like the fellow board member here says, it didn't just happen overnight. Something could have been done, but nothing was done because apparently nobody cared. Now, because it's on tv, because everybody knows about it worldwide, now we have a concern.

My theory is if we stop the problem, if we try to address the problem at the right time, we might

have something going, and what I say about this is my impression is justice delayed is justice denied.

In our department, we have a process of how to file complaints, excuse me, for discrimination and other acts, and what happens is when you bring these complaints and when you make them aware to management, when I say management, again I'm talking to official sergeants and above, nothing is done. You go down to the equal employment opportunity office that we have to abide by our department orders and follow ceratin guidelines, complaints are lost, mishandled. For some reason, you give a complaint, they say the EEO counselor is getting ready to retire. That person will just let it sit there for awhile, and then before he or she retires, will come back and say I have to turn the complaint over to somebody else. Six-seven months have gone by, nothing is done. So, it makes the problem even greater.

The other thing, the community police, and I believe in it, I agree with it, I think it's great, however, it's not properly implemented in Washington, D.C. I would think it's not properly implemented. Right now, it's really hard for my community, the Hispanic community, to be properly represented.

The Metropolitan Police Department has nearly

3,800 members, and out of those 3,800 members, we have less than a 150 Latinos in our department. Nothing is done to go out there and recruit more Latinos. We get the excuses that Latinos are not coming forward to take the test, that after the first stage, they don't make it to the second stage, and we get all these different -- then what's done to go out there and get the people that we need and get qualified personnel, because the one thing I believe in, we have to have people that are qualified to be police officers. We cannot just hire a person that wants to be a cop because when he was a kid or she was a kid, they got robbed or raped or whatever and now they want justice. Now they want to go out there and beat up on people or whatever, which still we see on a regular basis.

We saw the Rodney King incidents. We have seen that detective on the O.J. Simpson trial. There are individuals like them in my police force, and I would just end it by saying that.

CHAIRPERSON BERRY: Okay. Thank you very much, Mr. Rosario.

Ms. Roslyn Watkins is a deputy sheriff with the Alameda County Sheriff's Department in Northern California. She has more than 13 years experience in law enforcement and is the president of the Western

Region of the National Black Police Association.

Thank you, Ms. Watkins, for coming, and please proceed.

MS. WATKINS: Thank you, Commissioners, for giving me the opportunity to speak before you.

To understand the climate of racism and sexism in the United States police departments, all you have to do is look around the country. You'll see that we are divided along racial and gender lines.

The officers that are employed to protect and serve the people in this country are people that come from the communities, and just because they wear the badge of law enforcement doesn't change their attitudes about what they believe in.

I've talked -- in preparation for speaking before you today, I talked to many officers around the California and the Western Region area, and they reported several incidents of harassment in their police departments which ranged from racial slurs, hate mail being placed in their mail boxes, racist cartoons being placed in open places for all officers to see, vandalism to their personal vehicles, humiliating racial jokes being told, vicious pranks and the list goes on.

As for the sexism in the police department,

all you have to is add sexual innuendos and sexual harassment for the females.

Some officers, hoping that it will just go away, they say nothing and hope that if they don't report it and they say nothing about it to the people that are committing these acts, that they'll just become one of the boys, and that these incidents will stop.

So, they remain silent. Some feel compelled to do something at the expense of being ostracized and -- and have a feeling of being alone in their department. It's a personal issue, and everybody handles the problems personally.

Sometimes a person will report it, and they will be labeled as a troublemaker, and the harassment doesn't stop. Some people opt to just leave the police department because they can't find any answers, and sometimes when the incidents are reported, nothing is done, and -- and -- and that's the feeling that some African American officers that report these incidents and females as well, when they report incidents of sexual harassment.

The tone and the climate and the culture in the police department, it has to be set at the top. Minority officers and females used to have these same

concerns in the Alameda County Sheriff's Department, but there was something done about it.

The sheriff who was Charles Plummer, he came in, and he set a tone for the -- for the -- for all employees in the police department that made it comfortable for everybody. Everybody didn't like the tone that was set, but he set a tone, and what he did was he video -- he made a video tape, and he called it his five cardinal sins.

He listed some things that would not be tolerated in the sheriff's department. One was no racial slurs. Another one was no sexual harassment, was added to the end of the list, but there was no lying. That's either in writing or verbally. No gratuities being taken from anybody while you're on duty. And what this did was everybody listened to it, and we felt a change in the department.

Then it was challenged, and I don't think it was challenged on purpose, but what happened, one of the officers who was a white officer, he was talking to another white officer, and they were working in the jail. He tells the one officer, I know how you can get an inmate to go off, and he used the "N" word and said all you have to do is call him an "N".

He said that the other office reported it.

Now, normally this wouldn't have gone reported. It was reported largely due to the Rodney King incident. When the Rodney King incident occurred, what happened in most police departments in the Bay area was that there was a feeling of if you do something -- the rule had always been there. If you do something and you don't report it, if you're with somebody that does something, and it goes unreported, you're just as guilty as the person that commits the act.

That rule was stressed when the Rodney King incident occurred, and people began to feel that if somebody does something, and I'm with them, I better go tell or my job is on the line. It was really stressed in the sheriff's department.

So, this officer felt compelled to go and tell. He don't know who heard. He doesn't know if it was reported later. He went and told. The sheriff terminated that person through the sheriff's department discipline process. The person was terminated. He fought to get his job back. Civil service gave him his job back, and the sheriff appealed it on the Superior Court level. The officer is still employed with the department but that sent a powerful message throughout the department, that that would not be tolerated, and that the sheriff was serious about what he meant, and

we haven't had a problem since.

There are still problems within the sheriff's department, but they're dealt with, and minorities and females feel it's a more comfortable environment now because we feel that, first of all, it's changing the behavior of the officers that we work with. It's a more comfortable environment. If -- even if the person doesn't mean it, we're a lot more friendlier to each other while we're at work, and that -- and that changes wanting to come to work. That changes dealing with the problems as they come up.

Also, the sheriff has an open door policy, which has changed the environment, to let people know that if they do something, that it's not going to be kept in the dark, and also what we're doing is we're participating in a cultural diversity program.

The cultural diversity program is a program that the entire county is going through. It's going through a process of people learning one's culture, not just along racial and sexual lines, but along lines of different cultures, different people's ways of living.

We're all coming together in classes where everybody's talking about different issues that may bother them, and some surprising things are coming out of this, that a person that might wear glasses and

somebody might call them "four eyes" or something like that, how that bothers them.

We're learning things like that about people, and people are becoming more sensitive to other people's way of living, to things that people are sensitive about, and a lot of that is -- is -- is coming to a halt, and it's through education. It's not trying to push something down people's throat, but educating them to the racial issues and what racial and gender issues and how they affect people and how it affects people in their work place.

It's giving them more responsibility as far as, you know, taking on their own behavior. So, although there are the problems in law enforcement, like my panelists said here, it didn't happen overnight, and it's not going to go away overnight, but this is a possible solution to ways of solving some of the problems that we have in our police departments today.

CHAIRPERSON BERRY: Okay. Thank you very much, Ms. Watkins.

The next presenter is Mr. Pat Santangelo. Mr. Santangelo is a state trooper with the Dade County, Florida, State Highway Patrol, a position he has held for the past 12 years.

He is the past president of the Florida Police Benevolent Association and has been very active in police officer rights throughout his career.

Thank you, Mr. Santangelo, for coming, and please proceed.

MR. SANTANGELO: Good morning. We are here today because we know that racism exists in the United States police departments. We know that it's been swept under the carpet for years.

Today, our mission should be to lift up the rug, lift up that carpet, and deal with the problem. It shouldn't be just a job of the Commission or just a job of the people on the panel or just a job of the unions, just a job of the management. It should be everybody's mission.

I believe that the public feels that somebody should do something about it, not realizing that they're the somebody that ought to do something about it.

There are solutions, but the deputy pointed out to us examples of solutions that have worked. When I came on my department, there were virtually very few minorities employed. There's 1,500 troopers in Florida, and until the 1970s, they never even hired the first minority. So, we're starting from way back at

the beginning.

When you tell people that, they don't believe it, but it's not a south thing. I'm from Rhode Island originally. I know by my accent, you probably thought I was from Alabama, but in Rhode Island, in Rhode Island, they have the same problem.

I remember the first female officer, Mary Noones, on the Rhode Island State Police, and she went through hell. She finally doesn't work there anymore. Our first black officer's name was Al Lofton, our first trooper, and he was the Rosa Parks of the Florida Highway Patrol, and there's a reason why no one sat in that seat on the bus before Ms. Parks did, and Al Lofton found out why.

Anyway, the solution was in the 1970s the consent decree was enforced by the Federal Government, and from that point on, the department had to -- had to hire at least 50 percent minorities and females for each recruit class until the numbers came out even or came out properly, and they're still not proper. So, we're still following the guidelines.

Late in the 1970s, years after the consent decree, it was blatantly obvious that no minorities were getting promoted, and I've been involved because I realized that the system was crooked. If you weren't

in the good old boy clique, if your dad hadn't been a trooper or a politician or a government official, you weren't going to get promoted.

So, what I did, I teamed up with some black troopers in the highway patrol, in the Miami area, and we decided to see if we could address this problem. We did solve the problem, but the solution didn't come easy.

What we did was basically do everything possible, use all means necessary to -- to solve the problem. In 1986, out of 300 supervisors, there were only two black, one Hispanic, and one female sergeant in the 1,500 person department. No one higher than that.

When we told people that, they didn't believe us. Even the Dade County Community Relations Board was real skeptical. How could this be true, in approximately 1984-85, in this day and age? It's just not possible, but it was true.

We used things. We used, like I said, all means necessary, including the media. We used community relations board. We used anything that we could possibly get together. In fact, my first involvement with a community activist happened completely by accident.

Approximately 1985, I was driving to court in Miami on I-95, and there's a high occupancy vehicle lane, and a lady was driving in the lane and drove right by my patrol car, marked patrol car, and I kind of beeped my horn, and I waved her out of the lane. Well, that lady followed me all the way to the courthouse. I got out of my patrol car, and this lady comes storming over to me, and she was a pretty big lady, and she starts yelling at me, says first I've been tear gassed by you all, and now I can't ride in the damn carpool lane. What kind of thing is going on here? And she went on and on and on, and I just looked at this lady, and I said, you know, lady, ma'am, you got a lot of energy. Is there any way I can meet up with you, like after work, and she was kind of like stood back up, and, so, anyway, that lady, some of you might know her from the Miami area. Her name is Georgia Ayers Jones, and Ms. Georgia really scared me.

So, anyway, we spoke. We became good friends, and she introduced me to the community relations board, which I didn't even know existed. An individual there, Reverend Willie Simms, spoke to me, and he said, you know something, we do need to do something about this.

As soon as we started getting the community

relations board involved, things started going really bad for us. They kind of knew where it was coming from, and Mr. Simms and the community relations board members were physically banned from highway patrol property, and this is in the '80s. They were not allowed to set foot on highway patrol property in the City of Miami, okay, and this is a true story. I know it sounds like we're making up things, but it's true.

Anyway, the result -- the result turned out to be that the inspector general did an investigation, found out as the -- as Officer Glover has pointed out, that there was institutional racism. That was a finding of the inspector general. Senator Graham was the governor at the time, and they still ignored the recommendation of the inspector general.

I brought a couple of examples of newspaper articles during the time, and this is from approximately that time, and the headline is "Complaints About Patrol Real or Imagined".

What happened generally when problems are brought up to management by politicians, by community relations boards, by the public, the immediate thing they do is deny the problem. The problem -- they will put the problem on the person who's bringing the message. Okay?

So, the typical thing is to Number 1 deny the problem. Number 2 tell people that the problem is fixed, although you don't fix it, and by that, the media will go away. Like right now, it's a hot topic with the trial going on and so forth about racism and sexism and the code of silence and so forth, but then a hurricane will come by and then something will happen in Bosnia, and they won't have time to get back to this, and it will go away, and it works, and that's a common method.

When the media calls the office, they'll say, well, the boss isn't in. I remember a reporter from -- Cecilia Fernandez, who worked for Channel 7 news in Miami, and the troop commander asked her to wait outside his office. He ducked out the back door and left here there for several hours. He never returned. She never came back because it started raining, and the boos calls her up and says Cecilia, you're doing weather, go ahead, get out there and talk about the weather.

So, that is basically what happens. So, anyway, just -- just briefly, they start out by saying the complaints don't exist. Okay. The next thing they did to us at that time was they took the offense. They tried to kill the messenger. This headline is

"Fairness Debated Within the Highway Patrol, Union Blocks Minorities, Officials Say". They blame the union. They said that union contracts are preventing minorities from rising up in the ranks.

Well, the union contract only covers trooper to sergeant, lieutenant, captain, major, chief. They're not covered by the union contract. So, how could they blame the union, but again you read this, you say damn union, you know. So, fine.

The next -- so, then we decided that it became war. The next headline from Miami Times, which is a black-owned newspaper in Miami, and the headline is, "Highway Patrol Again Under Fire Over Black Issues", and there's an article about the community relations board being banned from the property. Also, it points out again educating the public, that there were only two black, one Hispanic and one female sergeant out of 310 supervisors.

We then move to our local politicians, and they formed a -- there's a state representative whose name is Willie Logan, Representative Logan in Miami, and what we did, a bunch of minority troopers went to his office, Representative, you need to help us.

So, between Willie Logan, Representative Logan, the community relations board, and the black

troopers, we were able to get a commission -- a legislative task force on racism and discrimination in the highway patrol in the Dade County area.

Although they were focusing on Dade County, that was probably the least of the problems in the state of Florida. Anyway, this headline shows "Lawmakers Blast FHP on Minority Problems". So, now we had our boss' bosses bringing them on the carpet, and Senator Meek was then a state representative, said to them -- well, first, Representative Cosgrove said to our bosses, who didn't even show up, they just sent a representative, but the message was that if you don't take care of this, we're going to get people who can take care of this problem, and Representative Meek says, I don't have a big stick like Representative Cosgrove, but my stick will impale your tail, and that was a quote here in the paper.

Anyway, that article was on February 7th, 1989. The headline on February 9th, 1989, "FHP Promotes First Black Lieutenant". It didn't take long once their bosses got involved. Okay.

Finally, just to wrap it up, the headlines that we do like are some recent headlines. This one says, "Good Old Boy" -- "Good Bye to Good Old Boy Rules". Just between -- by making the promotional

system fair, the perception was that now if anybody who studies and works hard can get promotion. Previous to that, only -- it was manipulated in such a way that only a ceratin few privileged people could get promoted.

Therefore, minorities and other qualified people wouldn't even take the test. Well, as soon as the perception was that it was fair, people tested, and the statistics in this article, in 1993, there were 33 minority supervisors in the Florida Highway Patrol. In one year, in -- to 1994, went from 33 to 67 minority supervisors, over double in one year, because people who were qualified did take the test and they passed the test. The test was administered by an outside agency and graded by an outside agency, and the questions were made up by an outside agency, and it was perceived to be fair.

Just to wrap it up, some things we can do or this Commission can help us with. Right now, a police officer could be called in by a sheriff or a chief in many place and told Ms. Berry, you're fired. Ms. Berry may say, well, why am I fired? I don't have to tell you. Pack your stuff and get out of here.

Part of the problem why there is corruption in police departments is because a lot of police

officers are afraid to say anything. There's -- they're very, very -- there's very vicious retaliation against people who bring up problems, and these people all here can probably testify to the same thing, and they can probably give you examples.

Right now in Congress, there's a House Bill 878 and a Senate Bill, I have the number here somewhere, that is designed -- it's called the Law Enforcement Officers Bill of Rights, and all this does is give basic rights to law enforcement officers.

Now, some management people may be opposed to this, but most management people already have guidelines that far exceed this policeman's bill of rights, and many states do have a policeman's bill of rights. But for those people who don't -- mandated similar to the consent decree, mandated minimum rights for police officers would be something that we could -- that we can do now, and if this Commission can help with this bill, this bill is in existence and is on the Hill right now.

Another thing we can do, there's what's called a National Law Enforcement Steering Committee that meets here in Washington, which represents any segment of the police community. National Organization of Black Law Enforcement Officers, National

Organization -- NAPRO, National Organization of Police Officers or National Association of Police Organizations, the Hispanic Troopers and Hispanic Officers, the National Troopers Coalition, not ICEP, but the Major Cities Chief Association. They're all here, and what I'm going to do is give Ms. Barbara Brooks a copy of this bill. I'm going to leave a copy of the Law Enforcement Steering Committee members and how -- how people can get in touch with them, and that's sort of a one-stop shopping where you can be talking to management, labor, and all different groups at one time.

CHAIRPERSON BERRY: Okay, Mr. Santangelo.

MR. SANTANGELO: Okay. I'm sorry.

CHAIRPERSON BERRY: Thank you very much.

MR. SANTANGELO: Thank you very much.

CHAIRPERSON BERRY: Thank you very much.

Do -- does any commissioner have any questions for any member of the panel? Commissioner Horner?

COMMISSIONER HORNER: Yes. I have a lot of questions. I was very interested in something that Deputy Watkins said on the question of firing someone who is obviously unsuitable to be a fair policeman, and you indicated that a good message had been sent by the

police leadership's effort to fire such a person.

But you also indicated that because of civil service rules, that policeman was still on the job. By the same -- in contrast, Officer Santangelo is calling for more protections for police officials from termination by their -- by their superiors, and the reason I'm puzzled about this and would like to hear both of you react to each other is that in a recent column in the Washington Post, Lew Cannon talked about the Los Angeles Police Department, and he talked about the problem of some bad apples very much damaging the environment for those who work with them and those who are abused by them.

So, Tom Bradley appointed the Christopher Commission to look into this question, and the Christopher Commission looked at six million computer messages sent by officers over a period of time, and according to Lew Cannon's column in the Post, the offensive messages amounted to only one-tenth of one percent of all computer transmissions and only a third of those involved race or ethnicity.

That tends to suggest that a limited number of people are having a very major bad effect, and therefore in my mind, it becomes a serious question how you address those people in terms of their remaining on

a force.

So, I'd like to hear the two of you react to each other on this, if you would.

MS. WATKINS: Okay. I used that example because the person's history was looked into. He was a quiet person. He had five, maybe six or seven years on the department. Nobody hardly knew him. He stayed out of trouble. He didn't have a history of brutality. He had a clean record.

But because he made that comment right after the sheriff had addressed everybody and said this, he was terminated. That sent a message to everybody. That sent a message to all the Mark Fuhrmanns in the department, that if you have those attitudes, you better keep them to yourself. If this person had had a background where he had a history of brutality, where he had a history of making these comments constantly, people would have been in uproar about him getting his job back through civil service.

It's -- we -- the perception is that it's pretty easy to get your job back through civil service, if -- I mean, you know, it's real easy -- if -- if you fight -- if you take it that far, and you fight it. But I used that example because this person didn't have that type of a history, and he was terminated, although

he eventually got his job back.

He would have been a hard person to work with, especially for African Americans, if he had -- if he had had a history of police brutality, if he had had a history of making racial slurs and that sort of thing, and he would have been eventually forced out of the department. He would have probably opted to quit because the pressure would have been so hard on him.

COMMISSIONER HORNER: How long is eventually, typically? Can -- if there's someone who fairly obviously doesn't belong in the job, can that person be removed within a matter of weeks, months, or years, if the person fights removal?

MS. WATKINS: It used to be years. The Rodney King brought about a situation where law enforcement is being looked at under a microscope in some cases.

So, now it's -- it's -- it's -- you know, it will take months to get him out because people are becoming more vocal about some of the things that are going on in their department and planting of evidence and those sorts of things. People are feeling more compelled to tell now where they didn't used to before. The code of silence is being broken by the Rodney King incident, because all the people that got in trouble

behind that incident there.

Their jobs are on the line, whether they did anything or not. Just because you have knowledge of something, your job is on the line. So, now it's taking months, and it takes years for a person to do something, they get away with it, they continue to do it, and eventually they weed themselves out of the business.

COMMISSIONER HORNER: So, civil service rules are not a deterrent to removal of bad officers --

MS. WATKINS: Right.

COMMISSIONER HORNER: -- in your view?

MR. SANTANGELO: There are extremes of what we're talking about here because it's places with no civil service rules, and that's what I was addressing.

COMMISSIONER HORNER: I see.

MR. SANTANGELO: Most sheriffs have -- do voluntarily comply with these things. In my position as union president for six years, is that the rules are the rules for everybody. If the sheriff has a rule that you cannot use racial slurs, that's the rule. If someone comes to me and says, oh, geez, they're trying to fire me, I made a racial slur, I say did you do it, yeah, well, that's the rules.

A union contract is for both sides. So, if

there's clear rules, that's the most important thing, and what her sheriff did, which was excellent, was set up the rules. There's no gray area. You cannot do that. If you do that, you're going to get fired, and that's the type of management that we need.

And up until two years ago, we didn't have that, and now that we have that type of management in our organization, you don't see that going on anymore.

COMMISSIONER HORNER: But he did that, and he's still on the job. That's what --

MR. SANTANGELO: Again, you know, --

COMMISSIONER HORNER: It's a clear rule.

MR. SANTANGELO: There's a --

COMMISSIONER HORNER: He broke it. He's still on the job.

MR. SANTANGELO: Right. Again, --

MS. WATKINS: But it's looked at. It's looked at. His history is looked at. If -- if he had had -- I doubt he would still be on the job if he had a history of brutality, a history of making racial slurs, and -- and discipline record. This guy had no discipline history. He had no -- he had never even done this before. This was -- he was probably joking, but the rule is the rule, whether you're joking or not, and the sheriff carried it out.

But there are some checks and balances that if the sheriff is wrong in carrying out his discipline, there is something that you can do about it to seek retribution, and in this case, this guy just happened to get his job back, and I used that example because it was so minor. I mean it wasn't minor what he did, but his -- he didn't have the history and the things that go along with it, and -- and it was carried out. It sent a powerful message.

COMMISSIONER HORNER: One more question for Officer Glover. There's an advocacy organization called the Sentencing Project, which came out with a report this past week. I think I have this figure right. I'm not absolutely certain of it, but I think the report said that in some cities, 50 percent of African American men between the ages of 20 and 29 are under some form of court supervision. They are in jail. They're on parole. They're on probation.

I want to ask you a question about recruiting in the light of that statistic, if it's true. I don't know whether it's true. If a large number of African American men are under court supervision and therefore ineligible to be recruited for police work, and if the African American community does not hold police departments in high regard, does that make it difficult

to find sufficient numbers of police recruits or is -- are those two considerations not a problem?

MR. GLOVER: I'd like to answer your question by giving you an analogy of a socio- or physiological term called "gatekeeping". Police work, as I mentioned earlier, was in my opinion, and this is through years of talking to in excess of 5,000 potential applicants, police work was an occupation set up by/for white males, specifically, and in that set-up, you have a gatekeeper who sits there and who allows certain people to come through the door, and part of gatekeeping deals with if I have to let a female through, I have to let an Asian through, I have to let a black man through, it's going to be someone that I am comfortable with, and in that comfort level, there are certain things that are done to dwindle or reduce the numbers of people available.

In having almost 40 percent -- 47 percent on national level of African American men tied up in the criminal justice system of some sort, it does impact the availability of African American men and women to become police officers.

I say it's a form of systematic institutional racism that I talked about, that you don't have to deal with 50-60-70-100,000 African American men and women

who want to be police officers, if they have police records.

The racism stems from a small kid all the way up. Police officers have a lot of discretion, and when I say discretion, you pick a kid up for a minor violation, you can take him home to his parents or you can take him down to the police department, give him a record, and that record follows him.

I think the latter applies when you deal with blacks. Also, deferred adjudication or probation comes at a rate for blacks that's a hundred percent less than for whites. So, those numbers are tremendously reduced, but again even with that, there are sufficient number of African American men and women who can fill our police departments.

The problem comes with the gatekeeper, and I hope you understand what I'm talking about when I say gatekeeper. There are systems in place to keep blacks out of law enforcement.

COMMISSIONER HORNER: I would like to ask you to talk about that a little bit, about the system.

MR. GLOVER: Number 1, written examinations. Civil service exams are normally required around police departments, and civil service exams through recent research in this country have been shown to be biased

or prejudicial towards certain groups of people.

You go in and you take an examination, and just by the nature itself, it discriminates against you, and I'll give you an example. In my city, Dallas, Texas, the first black police officer was hired in 1896. He was killed on the job three months after he was hired. We didn't hire anymore black officers until 50 years later, 1947.

Since 1947, we've only had 10 black officers to retire from the police department. My point is exams, disciplinary processes, qualifications to be police officers, i.e. no past convictions in the state of Texas, more than three tickets in a year, misdemeanor convictions within the last two years, certain experimentation with certain drugs, all of these things that are set up impact us in a negative way.

And Number 1, blacks in my opinion come in to contact with police officers in negative situations on a rate that's probably triple or four times as high as what whites do, and these contacts with the police departments, the system allows them to be given excessive tickets, arrested for minor offenses, taken down to jail and booked on charges that discretionary practice would allow the officer to release, and as a

result, you have that background being built, and you have that unconscious or subconscious system that I call gatekeeping keeping certain people out, and vocal -- vocal -- when I say vocal, people who turn in your Mark Fuhrmanns, they don't make it in police departments.

If you speak out, and you break that code of silence, then you're expected to leave, and I tend to believe that every police department in this country has some form of code of silence simply because it starts at the top level with the police chief. He has a certain responsibility to keep his city out of court. He has a ceratin responsibility to keep the lawsuits down. So, sometimes an act that may produce liability to him and his officers is swept under the rug, and that allows that officer and that person under him to form this culture, and it's like a boiling frog syndrome.

If you take a frog and put him in a pot of water and it's cold, and you turn the fire up under him, he'll sit there in that water, and he'll boil to death, but if you put him in the water while it's hot, he'll jump out. That's the same way codes of silence and police corruption are. They start very slow, and each time they get away with an act, no matter how

little it is, the heat keeps going up until we have a Mark Fuhrmann or we have a Philadelphia or we have a New York, we have a Miami or we have a New Orleans police department.

So, the system itself in my opinion are designed to set up certain groups to fail because the gatekeeper doesn't want them in in the first place.

COMMISSIONER HORNER: All right.

CHAIRPERSON BERRY: Commissioner Wang?

COMMISSIONER WANG: Thank you, Madam Chair.

Sergeant Glover, I think when you mentioned the gatekeeper aspect, you forgot maybe one thing. A certain height. I see Commissioner Murphy here from New York. If you're not a certain height, you can't join the police force.

MR. GLOVER: Yes.

COMMISSIONER WANG: I think it was under Commissioner Murphy that we started to -- I mean do away with the height requirements on many Latinos and Asians, whatnot, as high as Commissioner Murphy, and you were able to join the forces. So, I think as a breakthrough, certainly we -- I hear from your testimony that we have made a lot of progress, but there's still a long way to go.

I think I want to ask two questions, I think,

if you can -- I mean choose to respond. I think one is certainly when you talk about recruitment, and also the training and you emphasized a lot of it is training, but at this very moment, I find personally I used to be called at the 7:00 roll call and give a talk about the community and helping the officer to understand more about the immigrant and the different aspects that they're facing on their day-to-day affairs.

But few people like me would spend the time 7:00 in the morning and join the roll call. So, I try to -- I mean the -- the -- the professionals who are actually training the officers. I don't know at this very moment -- you find -- have they really been -- really bring to speed with the current kind of a development. If they are still with the mentality of the old time, and they're still there until their retirement, and they're not going to turn out the kind of, shall we say, the type of officer with the kind of attitude and the understanding and sensitivity towards a multi-cultural/multi-ethnic community. So, that's one -- if we were to really see some -- we want to see some changes, we got to see from the academy, the instructors, and the professors at the academy really have to be going through their own training before we can see some changes.

I'd like you to comment on that, and one other aspect, which I find always troublesome, is that individual police officer runs through a red light and have their car parked in a different unauthorized location, and give the kinds of immediate -- I think the outlook -- if the police officer can violate the law, and you are asking every citizen to obey the law, I don't think they would care to really see the kind of example given and then have the respect of the officer, says you can violate the law, why should I not be -- and then give punish and penalized for it.

I'd like you to comment in the general sense.

MR. GLOVER: First of all, from an academy training standpoint, it is my contention that the majority of our problems that our recruits face when they come on the street are problems that perhaps they may not bring with them in terms of attitudes simply because at the present time, like you're saying, I think we're getting a better applicant, Number 1, because of education, and, Number 2, because of cultural awareness, Number 3, because of laws right now that don't allow ceratin things to happen, but what you have to remember is that normally in an academy setting, you are taught, and this is in my police department, this is the blue profession. We're all

brothers, and we all stick together, and that attitude permeates itself out into the streets, where you have a gentleman going or a female going to the street, who starts an alienation process.

In this alienation process, they tend to believe, do and get along with those people who are like them. As a result, when it's time to go to the academy for training, most of these people go just because it's required.

Officer Watkins talked about cultural awareness, cultural diversity training. In my department, it's mandatory, but people sit in the class and make jokes and turn their backs, and there is no repercussion for that. You have to sit eight hours and that's it.

I instruct cultural awareness to sergeants and lieutenants in my department in the past. I've had people turn their backs and just not even listen. So, my point is even though the mechanisms are in place, the officers are only doing it because it's required. You know, there's an attitude in police work that it's us against them. That's why civilian review boards are not wanted, because you ain't qualified to judge me. Number 2, that's why the code of silence exists because I can't tell on my fellow brother, he has a wife and a

kid to feed.

So, my whole point is yes, the training is there. You have people going into police work, and it appears that we may be making some progress, but I tend to say it's microscopic, you know. It's a form of evolution. It means it has to evolve over a period of time. Not a revolution that takes place right away, and we've been doing it now for the past 10 or 15 years, and I think we're still 200 years behind.

CHAIRPERSON BERRY: The -- did any of you want to comment on that question?

MR. ROSARIO: In reference to what he was saying about the academy training, when I came here seven years ago, I came here from Puerto Rico, and a lot of the things that we used to hear from the instructors, diego, your banana friends, came on a banana boat. So, this is the instructors making these kind of comments around other recruits, allowing this type of behavior to take place and for this behavior to be taken out to the streets.

So, if -- like he was saying, the instructor is certainly very important. Right now, the Metropolitan Police Department instructors, the majority of them are police officers, people with connections on the job, people that, Number 1, I feel

should not be teaching/instructing recruits how to be police officers.

A lot of this personnel does not have any type of training and education, no kind of -- they are not active teachers. Some of them just have a high school diploma. However they are instructing people.

Another thing is a lot of the physical training that we go, that we face in our department, a lot of profanity is used towards us. Again, allowing this type of behavior to be taken out to the street, a recruit officer is encountered by his instructor who calls him all kinds of names, him or her, and this person will graduate from the academy and go out on the streets and probably use this type of behavior towards citizens because it was allowed back in the academy. The instructor used to call you all kinds of names and make all kinds of racial slurs and that was overlooked.

Like if you fell out, we just put you back on your banana boat, you go back to Puerto Rico, those kind of statements were allowed to happen, and my fellow recruits saw that. So, they figure it's okay.

About the sensitivity courses, like I mentioned earlier, these courses are not supervised. Recently, I met with an assistant chief of police from our department, because I was named by Interim Chief of

Police Soulsby named me as the acting Hispanic program manager for the Metropolitan Police. So, I met with the assistant chief's office, and I asked them that I would like, along with other members of the Black Police Association, the Womens Police Association, to go and sit in some of these courses, these classes, and kind of supervise and jot down what really goes on, and to identify individuals who don't like these courses because like I say, I have heard why should I be sensitive to Latinos? I don't have to like them. I'm a police officer. If they can't speak my language, have them go back to where they come from. This is not the type of behavior that we need in our police force and to serve our communities.

And when I say this, there's -- we have to be able to identify those that discriminate -- discriminate against each other. If we don't identify these people, it will continue to go on, because right now, our department has a very serious discrimination problem, but again nothing is done because nobody cares. This is not the first time I have been before this type of situation where I have spoken out, and like we mentioned before, snitching.

If I go out here and tell on one of my fellow officers, says so and so said this type of statement,

it might be okay, it's acceptable because according to our department guidelines, I am supposed to report police misconduct. I am supposed to snitch on my fellow officers.

However, when I snitch, and now I'm labeled as a snitch, he'll snitch on you, and go out, he will make your career short, because then you get problems like come out to your car, somebody smash your windows, the tires are flat, you got all kinds of stickers on your locker, you leave your log book and all of a sudden, it disappears.

So, it do make life impossible for you when you go out there and you do your job.

CHAIRPERSON BERRY: The -- I had a couple questions, if no other commissioner has another one.

There are two questions I had. The first, the Commission in 1981 in its report on police practices called "Who's Guarding the Guardians", which was done after hearings around the country on police practices, recommended that psychological screening could be used by departments to get rid of people in the application process who were predisposed to violence and/or racism, it says, and that this would have a significant impact on reducing the number of incidents that occur.

One, do they use psychological screening in your department, and do you think psychological screening in fact reduces the number of problems of this kind? Anyone on the panel. Mr. Santangelo?

MR. SANTANGELO: Well, one of the things that the Commission could recommend is minimum standards for hiring police officers, national minimum standards. The minimum standard could be psychological testing. It's under a hundred dollars to give that test. They generally cost $50 to $60,000 to train a police recruit.

CHAIRPERSON BERRY: Do you use it in your department, though?

MR. SANTANGELO: No, they don't.

CHAIRPERSON BERRY: No. Do you use it in your department, Ms. Watkins?

MS. WATKINS: Yes, we use it in our department, and I would say it's pretty effective, as far as screening out people that are predisposed to aggression, screening out people that are predisposed to racism and somehow allowing it to seep out, but one of the things that people -- one of the ways people can get around that is to know what the psychological evaluation is, know what questions they ask, know how to answer those questions, know what to say to the

psychologist, and, so, it's not absolute that you -- that the psychological process screens those people out, because there are a way to get -- there is a way to get around it.

CHAIRPERSON BERRY: Do they use it in your department, Mr. Rosario?

MR. ROSARIO: Yes, they do. However, I would have to make a statement as far as criticizing it. We do use it. How effective it is, it works majority of the time. But if it was something that was really looked into, our department has high number of suicides. So, we have personnel psychologists that catch this, this type of situation should be looked into, and they should be able to at least, when they meet with some of these persons, at least find out if this person have suicidal tendencies, and they don't, because last year, we lost a good number of officers that committed suicide.

New York City is one of those agencies that has a high suicidal rate. So, even though we have it, I don't think it's really working to its standards.

CHAIRPERSON BERRY: Do you have it, Mr. Glover?

MR. GLOVER: Yes, we use the psychological exam for pre-applicant screening. I might add

something, that the Commission may look into doing, maybe recommending that psychological exams be done on a yearly basis for police officers throughout their careers.

Most departments that use them on pre-employment screening, that's the last time you'll take one unless there's a specific order due to misbehavior, misconduct or whatever to go in, but there are few departments require you to come in on a yearly basis and take a psychological exam, random testing, that type thing, and what you have over the years, you have an officer who builds up frustration, and by the time he has 10-15 years on, you create Mark Fuhrmanns, and that was a rumor, that Mark Fuhrmann requested years ago to go to psychological services because he was having problems. His department turned their back and look what we have.

So, I think that would be something significant, that we could have yearly psychological exams.

CHAIRPERSON BERRY: Okay. The second -- oh, yes, Mr. Santangelo.

MR. SANTANGELO: Just one other thing. I'd like to add to what Officer Glover said, is to give it to all ranks, not just recruits, not just -- even if

you're going to do an annual. Do it to all ranks.

CHAIRPERSON BERRY: Okay. The second question I had was, you panelists placed a great emphasis on having more minority officers in general. Is there any correlation between the increase in minority officers and the decline in complaints about police abuse or brutality?

I've read a great deal about the culture of police departments, and one of the allegations is that black and Hispanic officers when they join departments become part of the culture of the department, and that they are very often likely to engage in the same kind of abuse if that is a pattern in the department that exists already, so that they can become part of the networks and become part of the gang, as it were.

So, you seem to emphasize getting more minority officers as sort of a palliative, and I'm trying to figure out what's the relationship between that and making sure that all these other things don't happen, code of silence culture, that they don't become part of the problem instead of part of the solution.

Yes, Ms. Watkins?

MS. WATKINS: It has been my experience that with few minority officers in the department, you do tend to become part of whatever the culture is because

it's not that many. You're -- if you -- if you maintain your culture, you're isolated. You're by yourself. If there's more officers that come from the same culture that you -- then they're -- then you have somebody to go to, somebody to talk to, somebody to talk to and say before you go and snitch, to say this happened to me today, and -- and be able to discuss it with somebody on a personal level and feel like you have some type of support when you report misconduct and abusive things, and if you're the only one there or if there's just a handful of minority officers there, and we're all spread out all over the county or all over the city, you don't have anybody to go to.

You more tend to blend into that environment of corruption or the environment of abuse and go along with what's going on there as opposed to saying this is not right or this is wrong and maybe I should, you know, go a different way with this or maybe I should report it.

CHAIRPERSON BERRY: Hm-hmm. Okay. You wanted to comment?

MR. GLOVER: Yeah. When you look around the country, what you said is exactly true. I think what a lot of us miss is that -- in my opinion, I don't believe police misconduct has increased. I believe

that reported misconduct has increased.

Throughout the history of police departments in this country, you had corruption, you've had misconduct, but people would not come forth. Be it a change of attitude, a change in society or whatever the case may be, you have more incidents of misconduct being reported now.

At the same time, you have more blacks and more Hispanics, more Asians, more women being hired on. If you look at the Miami Police Department, a recent article, a recent study in a report done by "60 Minutes", indicated that during the '80s, they went out and hired a lot of Hispanic officers, and they had a lot of corruption. They are correlating the corruption to hiring all these Hispanic officers.

I say baloney. Same thing happened in New York with blacks. The same thing in my department. We set records between 1983 and 1991 hiring African American officers. At the same time, we've had some levels of corruption exposed in the police department in recent years, and almost half of the corruption was done by officers with one to five years on the police department, and the correlation has been made that uh-oh, you go out and you hire all these blacks, and look at what happens, corruption has gone up. That's not

the case. It just happened to be coincidental in my opinion that police misconduct is being reported at a much higher rate now coinciding with the hiring, mass hiring of blacks, Hispanics, women, Asians, and many people correlate those two together, and I think that's a bad analogy for us to make.

CHAIRPERSON BERRY: Mr. Santangelo?

MR. SANTANGELO: There are --

CHAIRPERSON BERRY: Yes, Commissioner Fletcher, I'll recognize you in just one second.

COMMISSIONER FLETCHER: I'm going to have to step away from the mike -- away from the mike for a few moments.

CHAIRPERSON BERRY: Okay. All right. Thank you.

MR. SANTANGELO: There are tapes available to the public at this time on how to sue the police and how to file complaints against the police, and these are -- these are -- National Organization of Police Officers can provide you with those tapes here in Washington, if you would like to see them.

CHAIRPERSON BERRY: Okay. Well, I won't pursue this, but I still don't think I got an answer to my question as to whether hiring more minority officers is a way to stop more incidents of the kind that

Fuhrmann alleges he was involved in and other kinds of incidents, but maybe there isn't any specific answer. I'll just leave it at that and contemplate that.

But thank you very much, panelists, for being with us. We very much appreciate it. Thank you.

Panel II

CHAIRPERSON BERRY: Could we have the next panel come forward as quickly as possible?

I want to thank this panel very much for being with us, and we want to begin with asking the panelists to make a brief opening statement, and what we'd like to do is to begin with Mr. Ronald Hampton, who is presently the executive director of the National Black Police Association. He recently retired after 22 years with the District of Columbia Metropolitan Police Department, where he had experience training citizens in crime prevention and community relations.

Welcome to you, Mr. Hampton.

MR. HAMPTON: Well, thank you very much, and good morning, and that was the least of my experiences.

CHAIRPERSON BERRY: All right.

MR. HAMPTON: The best experiences was the one I had with struggling with the institutional -- the results of institutional racism being a police officer, but thank you very much, and I'm honored to be here and

to have the opportunity to talk with you this morning in reference to this issue.

I just sort of laid out a couple speaking points that I wanted to just go through and go over, and in doing this and thinking about it, I sort of laid it out in a way that I thought I joined my police department, and I joined it 22 years ago because I wanted to -- because I wanted to help people, and I wanted to be involved in service to my community, and lo and behold, at the same time, that was my -- not my first encounter, but my encounter with racism and sexism at -- in relationship to policing. That was my first experience.

Recruitment of -- recruiting people. Clearly, the issue of recruiting people is very important because I think that as I think about how I got recruited at a particular time when they were looking for African Americans and policing, as a result of the Kearney Commission and as a result of other reports that had come out at the time that talked about government reflecting those that it governed, police departments ought to reflect the communities that they served, so we went out and hired an awful lot of blacks.

Also, we hired women. Thanks to Pat Murphy,

the reduction of the height standards, the ceiling, we saw more women in policing. We talked about retention, and we talked about what it is that causes people to stay around and not stay around. We talked about advancement, and when I say advancement, I usually put things like promotion and assignment under advancement because it really makes a difference, and all of those things are encompassed, and we talked about how can we move more blacks, because I remember hearing our police department, and I still call it our police department, because when you go from being one who is involved in service to one who's being serviced, it's still my police department.

When you talk about promotions, you talk about assignments, those things are intertwined in terms of how people see theirselves move through their police department, whether or not they advance.

Chief Jefferson used to talk about how he got to be chief of the Metropolitan Police Department. He had never ever been availed of the other four areas of the police department at that time, which were everything other than Patrol Division. He came up purely through Patrol Division, and as a result of Bertelle making it, he began to open up the other vast areas of the police departments to people of color and

women, so that they would make much more well-rounded individuals of the police experience and be able to manage and direct and lead people, and he talked about that, and that was very important.

That had never ever happened in the history of the Metropolitan Police Department, and that wasn't just unique to use. We talk about the institutional culture of policing. We all are blue. There's a family, and my mother used to say there's a test that you give people when they say you're part of their family, Pat, and that is, you judge their behavior because, see, you can call me your brother, but if you don't treat me like a brother, then I'm not your brother, it don't make no difference what color my uniform is.

A value system. You know, we -- we talk about the split and this driven wedge between blacks and whites, and the fact of the matter is that we live in this world together, but because of the -- where we live as African people and white people, say it's not important, and -- and -- and in the context of white people, what -- it's not important to them in relationship to us because they don't have to live in our world because this is their world, see. So, that's why they don't know anything about our experience.

But we know everything about their experience because it's important for us to know about their experience in order to be able to maneuver and manipulate through there in order to be successful because the picture of success is that of a white male in this society, nothing else.

So, that's why there's always this perception -- different perception, and I noticed that early, and I just say that, that the truth was said, that you all think this is a lie. I didn't think it was a lie, and most black people in this room didn't think it was a lie either.

He was saying that white people think it's a lie because they haven't had the experience. See, there's a reason why women talk about the glass ceiling and men don't, because men don't experience the glass ceiling. You can't talk about something you don't experience. That's easy.

The value system is important. Rewards/award system. See, I maintain that you do what you get paid to do. See, they don't pay us to act like black people in the police department. They don't pay us to act like anti-oppressors. They pay us to act like oppressors, and believe me, let me say this, that there is nothing more oppressive in my opinion than the

environment in our police departments in this country, and yet we place this inordinate amount of responsibility on people to free people and empower them by -- from a group of people who are oppressed, and that's how I think the police run this oppressive point of view, and you know and I know and -- and -- and there's a gentleman from early on that talks about oppressed and people who are abused and how they internalize that and then practice it, and then the results of it.

Discipline, the code of silence, racism, racist comments, behavior, how all of that manifests itself in terms of how we do our job every day. It's not by accident that an organization like ours exists. When we -- when we started 70 -- in 1972, and, of course, black police organizations predate even that, but we started because we were experiencing the problem in police departments, but the most profound point at that time was that our community was experiencing the same point, and it wasn't no isolated set of circumstances that we were enjoying this attention. It was because of the color of our skin, and, so, we had to come together.

I mean we didn't want to have a black police organization, but we couldn't be a part of the police

organization, you know, and folks say, well, even today, as black organizations organize all over the world, why do you need a black police organization? That's what our brothers and sisters in London were confronted with, and in Canada, when they just organized. They were confronted with the same statement.

Why do you need a black police organization? Well, we're not a part of the police organization, and that's our response to it.

Internalized racism manifests itself in the service to the community and to our citizens, and we continue to see that. When we talk about why we -- I think why we are where we are, we talk about the fact that now we have more African Americans in law enforcement than we had 20 years ago. We have more African American executives today than we had 20 years ago.

But I want to be honest. We have less today than we had 10 years ago. We had more African Americans in leadership roles in police departments 10 years ago than we did today. Seven out of the 11 cities 10 years ago had black leaders. Seven out of the 11 cities today have white leaders. We have African American -- we have police departments that

have less African American police officers today than they had 10 years ago because there's no need to replace them. We don't have to. That attack on affirmative action and the results of affirmative action has not netted us more. What it is, is, yeah, we have more police in America. We have over 600,000 police in America. Less than 10 percent of those are African American people.

The fact of the matter is we have police departments in this country now that do have African Americans that didn't have African Americans 20 years ago. We have police departments today in America that -- that have women that didn't have women five years ago, and we have some who don't have women.

The picture of our state police departments in this country when we talk about women and minorities is miserable. The best state police department in this country, probably the minority representation of those departments is probably at best somewhere between five and eight percent, and I'm talking about in states where there's a substantial number of African American people. That's miserable.

So, and again, Ms. Berry, I want to ask you a question. The reason why the addition of African Americans and other minorities and women in law

enforcement hasn't changed anything is because we haven't changed law enforcement.

So, you can put all the peas in the pot you want, but if the water's hot, the peas get cooked. It's no question. We never have dealt with the culture. We never have dealt with what produces those people, you know, and what produces them is the academy creates this culture, this value system, this dynamic.

We have never changed that. We have never addressed the value system in policing. It's simple. Send in some African Americans and women and Latinos and Asians there, it's like sending hogs to the slaughter. It is because it's a powerful thing they got there. It ain't changed nothing because again, Pat, they pay you to act like a police. They don't pay you to act like an African -- for the poor and downtrodden and the homeless people.

Police departments don't pay nobody for that. They pay you to go out there and arrest people and lock them up, and they don't care how you do it, and the ones who lock up the best and treat them the worst is the ones who get promoted, and whether that's by accident or not is irrelevant because it's the signal that is sent that's important.

So, let's be real, and it ain't changed, Ms.

Berry, because people want to get paid, and they get paid for what they do, and it's going to continue to work, and one of the reasons I think, and this is my own opinion, I think one of the reasons because we have less African American leadership in policing.

It's because they didn't do anything, because, see, people will come back and use you if you do something, and they just set themselves apart from their predecessors. They were better gatekeepers, Glover, than the original gatekeepers. They were better at oppressing and suppressing the malcontents than the original one because, see, sometimes in my experience when I was there, the white guys recognized right away that they couldn't do anything with me. So, they left me alone. It was the brothers and sisters who used to come to me and say man, you got to be cool because, you know, this here is stirring up some trouble, and I want to get promoted. I want to go to assignment, and you know what? I'm not blaming them.

But I want you to understand that I understand because, see, you can't address this unless you understand what you're up against, and I don't fault for that. I'm not making any judgment because I understand where they are and why.

But I just didn't operate like that. My mama

didn't raise me that way. See that. Our job is like a bus. If you miss one, catch the next one. And don't let the job run you, you run the job.

So, at the risk of all that, and understanding, too, who I was working for, see I didn't work for -- I didn't have the pleasure of working for Pat Murphy, but I didn't -- I worked for Chief Fulwood and the rest of them, but I really worked for the citizens of the District of Columbia. That's who I owe my allegiance to, and I understood that. They understood that I understood that, too. So, it wasn't no mistake.

CHAIRPERSON BERRY: Okay.

MR. HAMPTON: We got to address those kind of things. We're not going to do it, ain't nothing going to change.

CHAIRPERSON BERRY: All right. Thank you very much. Thank you, Mr. Hampton. You answered my question.

Mr. James Moss is the director of the Police Officers for Equal Rights, and recently retired after 24 years with the Columbus, Ohio, Police Department. Mr. Moss also is a teacher in American History, and, so, we thank you very much for coming to us this morning, afternoon, I guess it is, now, and please

proceed.

MR. MOSS: Thank you. I just want to explain that in 1970, I joined the Columbus Police Department, a veteran of the Vietnam War. I think that had a great impact on my life because in Vietnam, an African American soldier was very much aware of racism in the military.

So, when I got back home and joined the police department, it was few of us who had that background to change things in our own police department.

In 1970, there were only about 20 black police officers, approximately about 600-800 officers. In 1973, there was a federal lawsuit filed on the hiring practices of the Columbus Police Department. When I got hired, it was seven of us. It was the largest group of blacks ever hired, seven, and I remember taking my physical. The white doctor set me beside an air conditioner, a window air conditioner, and he told me sit there, and I was sitting by the air conditioning, and he took his watch, I guess, and he put it in my ear and he said, do you hear this, and he turned the air conditioner up real loud, and he pushed my head back towards the air conditioner. I said no, I don't hear it. He said okay, we're finished with you.

I got a call at home said I was deaf in both ears. I suggest that as a physical examination for the military to get be a gunner in Vietnam, I had excellent health. So, I went back and got another examination from a military and also my minister called the mayor and complained, and I was hired, but like you said about the gatekeeper, all seven of us were rejected because of medical reasons. We scored high in everything, but we all were rejected, and this lawsuit opened the doorway and created two lists. It created a black list and a white list, and the federal judge said the Columbus Police Department had to hire 4.9 percent black applicants until we got to a certain percentage of the population of our city.

Well, two years later, another federal lawsuit was filed by African American female on the height and physical agility test work. Women were required to drag 200 pounds, climb -- go over an eight-foot wall in 10.6 seconds and just ridiculous stuff that had nothing to do with policing.

So, again, the Columbus Police Department was found guilty, and there's two federal lawsuits. Then, as I became on the police department, I was aware that if you wanted to go to different bureaus or stuff, you had to know somebody. I was told I was too short to

work traffic because I was six feet tall, and you had to be six one. I was told that in order to get in certain assignments, you had to have education.

Well, I had acquired a Bachelor's degree and a Master's degree and working on my Ph.D., and they told me that I still wasn't qualified to work organized crime, but they had white officers working in organized crime with no education at all. So, we filed a lawsuit in 1978 for promotion and transfer, and the lawsuit wasn't heard until seven years.

During this period, we was audited by the Internal Revenue, our phones were tapped, our cars were destroyed, was followed by Internal Affairs. We had death threats against us. We went through all type of problems with this lawsuit, and then when we testified in federal court, it was more retaliation against us when we testified, and the court came back in 1985 and found the police department again guilty, and myself and 14 others were immediately promoted to sergeant.

So, again, you had three court orders going at the same time, and also what happened was you had a different system take place. In the history that I was there, there was never a white officer never reported anything bad about a supervisor.

Well, the word went out that you could make

them sergeant, but we don't have to keep them, and, so, what happened was that you saw all type of black sergeants being disciplined by white police officers. White police officers said I saw Sergeant Moss run a red light. Well, that would be the gospel. That would be the truth. They wouldn't even investigate. I would be charged departmental, and like I would go back to what Ron said, to be part of the system, we had a black chief in 1990 who was part of the system, even though his skin was black, but he was part of the system. He didn't think black. He didn't act black. He came up through the system, and we filed a lawsuit in 1978, the same gentleman, Chief Jackson, had his name removed from the list. He said I didn't want to associate with these radicals. There's no discrimination.

So, then him over for chief. Then he had to go back in the courtroom and put his name back on the list and say I want to be one of them, and, so, this guy is now our chief, and we are now going through a process of filing another lawsuit. We have more discipline problems with the police department.

So, just by saying -- putting a black chief in place, that he's part of the system, that's not the way to change the system.

In 1989, the federal judge said, well,

Columbus Police, you're doing so well now, we're not going to require you to have a double list no more. That Friday when the judge gave that sentence out, by way the judge was appointed by Reagan, in 1989, they had a class already set to start with like 15 blacks in this class and women. They was supposed to start that Monday. When he gave that order out that Friday, the chief changed the whole class to all white, and in the next four years, we had all-white police classes going through.

So, I'm saying that my 24 years' experience while I went and talked to the chief and complained about the racial problems, I got rewarded with 19 departmental charges filed on me, and again phones being tapped, cars being messed with, threats against my life, and still continue as I retire because I'm still the president of my organization. We just had a black officer was stopped on a supposedly traffic charge and beaten by eight white officers, who was an off-duty black police officer.

We have a lot of corruption on our police department. I just filed -- we filed a suit with the Ohio Supreme Court to see police records. We knew there was criminal acts being done by police, but it was hidden in the records. We filed a suit this year.

I'm now in the process of examining the records. I'm seeing all type of criminal activity that these police officers did unpunished, and most of these criminal acts is going on now which I'm working with the Justice Department of a black chief in control.

So, just by having a black chief, and like Ron said, there's a lot of black police officers there who won't even talk to me. They don't want no part of our organization because they feel if they do that, then they get problem with their supervisor.

The biggest problem we have in Columbus, Ohio, is with the union, the FOP. Our home is the home of Dewey Stokes, which is the president of the National Fraternal Order of Police, and Mr. Dewey Stokes -- every lawsuit that we filed, the FOP joined the city and fought against us, and we were members of that union.

So, I say that the FOP in our state is very racist and always been very racist against affirmative action and against promotion of blacks in the police department. They say that they're for all the members in this silent code, but in reality, it's not there, and it's hard to tell a young black police officer what I went through and the older black police officers went through because they try to simulate and act like the

white counterpart until they get in trouble.

CHAIRPERSON BERRY: Okay. Thank you very much, Mr. Moss.

Ms. Penny Harrington is the executive director of the National Center for Women and Policing. She is a former police chief of Portland, Oregon, and is considered the foremost expert on women and policing in the United States.

Thank you very much for coming, Ms. Harrington, and please proceed.

MS. HARRINGTON: Thank you. I'm -- I'm very grateful that the Commission has put sexism on the agenda and policing because it's the last secret that we don't talk about at all, and the -- I'd like to start out my comments with a quote from Mark Fuhrmann. I like Mark Fuhrmann because he has placed all of this on the national agenda, and when those tapes are really released with all of the comments he made about women, people are going to be very shocked at the attitude toward women and police agencies.

One of the comments that was released that Mark Fuhrmann made about women was, "if you have two suspects as being a police officer, if you have two suspects, you stop them on the street, and you want to find out who they are, you say to one, who's that guy

over there? If he doesn't answer you, you hit him in the stomach with your baton. You say listen to me, I'm talking to you. You answer me or I'm going to drop you like a bad habit. Then he pauses and says, now can you see a woman doing that?", and I say my point exactly.

All the studies that have been done on women and policing show women do not use excessive force. They use the force that's needed to get the job done, but they don't go further and beat people and use force that is not necessary to get the job done.

The -- there is such an effort to keep women out of policing on every department. They all put out advertisements that say that we want women, we want women. They don't. And I'll tell you how you can see that.

The hiring process which one of the officers referred to earlier, the officer from Dallas, is really biased against women. First of all, there's -- even though some agencies may have reduced the wall from eight feet, there's still a five-foot or six-foot wall in most police agencies that you have to get over in order to be a police officer, and yet no police officer in their right mind would ever vault over a six-foot wall without knowing what's on the other side, and I also would challenge police officers nationwide after

they've been on the department more than two years to get over that wall.

So, why do we have it as an entry requirement, and that answer is to keep out women, because that wall didn't come into being until the height requirement went out, and I got rid of the height requirement in my own department in 1973 -- '72. We hired our first women and also the first minority men that weren't -- it was five foot 10 in our department, and as soon as that height requirement was eliminated and women started coming in, that wall went into effect, and it's been there ever since.

The other thing is the oral interview process. In most police agencies, it's conducted by white males, and they do not believe that women can do policing. So, they are -- they look for different reasons to wash them out on oral interview, not aggressive enough, doesn't have enough experience, who knows what they are.

In the background process, where they assign officers to go out and investigate you to see if you should be allowed to be a police officer, some of the -- one of the things we discovered in Los Angeles when we were looking into this was that if the background officer went to your home and made a visit to meet your

family and see the neighborhood and all of that, if it was a male officer, and they walked in and the home was a little bit messy and all of that, they -- that was never mentioned.

If it was a female applicant, and the home was messy, then that was written down, that, you know, the home was in a bad condition and all of that, and it was her fault.

The -- then the training system, and partially, Ms. Berry, in answer to your question about why things haven't changed, is the way we train police officers, which is the way we trained the military. Boot camp. We put -- we take -- we have -- even if we have good systems that select good people, and even if we put an emphasis on getting people who are maybe social workers, teachers, people with a liberal background, a liberal arts background, people that represent the community, we take them in, we march them up and down, we make them drill, we make them do sit-ups, calisthenics, all -- everything else. We spend all of our time teaching them how to be strong, tough military machines, and very little of our time teaching them how to negotiate, mediate, defuse violence, de-escalate, and, so, we break them down and mold them into the image that we want them to be, and one of the

best things that you could recommend is to do away with any type of military boot camp type of training in policing. It is not necessary. Police are not a military force.

The other thing is that -- and I think many of the officers that have spoken this morning have referred to this, that during the training process, women and minorities are ridiculed. Comments are made by the instructors. Women are set up to fail on physical tests.

I remember when I was going out, the first time I ever fired a shotgun, I had never held one in my life. They handed me the shotgun. They told me to put it up to my shoulder and fire it, and a guy stands behind me holding out his arms because he knows the first thing that's going to happen is I'm going to get knocked back, and that's exactly what happened. The whole class laughed. I was terrified to ever touch that shotgun again, you know. Not only did I look like a dope, but I had a bruise, you know, down the whole side of my body from the shotgun.

That's the kind of things that they do to women and minorities to ridicule them during the training process. Then you put them out into the coaching system, and even if your training process is

good, by the time they get out with a coach working in a car day-to-day, the first thing the coach says is forget everything they taught you in training, I'm going to tell you what it's really like out here, and that's where they start getting the indoctrination of the us versus them, that it's a war out here, you know, we got to -- we've really got to depend on each other, we're going to get killed if we don't, you know, it's really terrible, watch out for everybody, they're all against us.

The -- we have not come one baby step in getting women into policing because the comments that you can hear in any police precinct are why women shouldn't be there, and they will say it to women's faces, you know, women can't do this job, you shouldn't be here, go home, take care of your kids.

The -- in the last three weeks, I have had women report to me. One went into a precinct in a California city, and they had the names written on the board of who was going to be partners that day. A man walked in and was partnered with a woman and went up and erased her name and said I don't work with women.

Another one was a woman who was on probation. She was made to sit in the front of the roll call room on a bench so that everybody could watch her during

roll call. For no reason. Just for harassment. So, there's this constant kind of harassing behavior that goes on in the departments.

Women are still segregated into the types of assignments that they're given, so that they don't get a broad base of experience, so that when promotion time comes, then the white male promotional panels that are in place say, gee, I'm sorry, you don't have a very good background yet. You need more experience. You need more patrol experience. You need more experience in SWAT or narcotics or gangs where they're not allowed to go.

And the other thing is the sexual harassment that goes on in police agencies on a daily basis, and one of the mistakes that the legislature made when they passed the laws on harassment and discrimination were it should have said gender harassment because a lot of police departments have gone in and tried to do some training on sexual harassment. So, the people there think that as long as I don't say anything of a sexual nature, it's not harassment.

So, if I say you women are all stupid, you're not strong enough, you're not brave enough, you're not, you know, whatever it is, you're not manly enough to be here, that's not harassment. If I call you a bitch,

that's not harassment. If I do things like -- as long as I don't touch you in a sexual way, but if I refuse to work with you or refuse to let you in my car or don't talk to during the whole shift, that's not harassment, and that's in their minds, and, so, another thing that needs to be done is we need to expand the definition of -- and really change it from sexual harassment to gender harassment because that's what it's really about.

Women who report harassment or discrimination are retaliated against and usually driven out of the department. If you looked at the percentages, and we don't have them on a national basis, and I wish we did, if you could look at the percentages of women who are hired and then women who leave within probably five to seven years, you'd see a very high turnover rate because of the harassment that goes on there.

And this -- now this not only affects women who are police officers, but it affects every woman in the community because with this mentality in police agencies, when you get a police officer responding to your call and you are a woman, and you know that that officer does not value women, then what you get are officers that have no sensitivity to domestic violence situations. Say what did you do to aggravate him

tonight or, you know, tell the guy to go take a walk around the block and cool off, and also the same thing with rape victims or victims of any type of sexual offense. There's no sensitivity there, and that's because these men believe it's all right to denigrate women.

The -- one of the things that Los Angeles did is pass a requirement that the police department gender balance, and they have required the department to hire 43.4 percent women in all academy classes. Now, the department is not meeting that. They say there aren't enough women that want these jobs, which is what is frequently heard, but I'd like to know what woman in the United States with a high school education wouldn't like a job that starts at $35,000 a year, complete benefits, a pension package, and a promotion system. There are women that want the job.

I brought you a document called "A Blueprint for Gender Balancing in the L.A. Police Department", which we wrote, which identifies the obstacles to women and policing, and you can change the name on this document from Los Angeles to any police department in the United States, and it would be true, almost any police department.

The other thing is one of the things you said

about the code of silence. Somebody asked the question about the code of silence. One of the statements made in a -- there was a survey done about police officers and their attitudes toward women and policing.

The primary reason they didn't want women in policing, because they tell. They tell on what's going on. They reveal what's happening, and, so, we don't want them in there.

Until you get a critical mass of women or minorities in these departments where they're not isolated, where they're not trivialized, denigrated, then nothing's going to happen, and I think the studies that are done on women and politics have shown you need at least 25 percent before they can really be effective, and the other thing that I am concerned about and what I heard about here before, you have to be very careful when you're talking about a police officer bill of rights because some of the biggest problems of women and minorities face in the United States are from their own unions, who will take the side of the white male officers when complaints are made and defend them against the minority and the women officers.

So, I would urge you to do something about gender balance in police agencies nationally, to change

the definition of discrimination to include gender -- gender discrimination, and that wall must fall.

CHAIRPERSON BERRY: Okay. Thank you very much, Ms. Harrington.

Mr. Wesley Pomeroy is the executive director of the Dade County Independent Review Panel, a position he's held for the past 12 years. He's a retired police officer, former sheriff of San Mateo County, California, and former assistant to the attorney general of the United States, and former head of the Police Executive Research Council.

Thank you, Mr. Pomeroy, for coming. Please proceed.

MR. POMEROY: I was also chief of police of Berkeley, when --

CHAIRPERSON BERRY: Okay. Chief of police of Berkeley.

MR. POMEROY: -- when Charlie Plummer, the chair that Roslyn was talking about, was my captain.

CHAIRPERSON BERRY: Oh, okay.

MR. POMEROY: That was 20 years ago, and we've made a lot of changes then in that department, and it had to do with institutional racism. Actually, it was systemic discrimination because it related to gender as well as to race, and the preliminary point I

wanted to make is that we know what to do about those things. There have been methods in place with the right kind of leadership to deal with systemic discrimination for doing the right thing where the leaders there to carry out and the will to do it.

We have several of them in this room. We have Nick Pastore. We have Pat Murphy. And we have others who have been pioneers in this area, and when they get the right person in the right spot, they're willing to work, they can do it. They shouldn't depend upon a career there because they're not going to stay there that long, and I don't think anyone ought to because if you're doing the right thing, making the right decisions, you're going to make a lot of people unhappy while you're doing the right things as well.

So, I think about four-five years for a police chief in any major city is about long enough. They ought to figure on moving along.

I didn't intend to say that, but I've been listening to what's going on, and what I have to say is a relatively narrow area, but I do want to get back to the institutional racism, although lots of good things have been said.

What -- and how police recruits learn in basic training is so powerfully -- it so powerfully

shapes and influences them, that the attitudes and sets of personal mission may develop in those first few months, stay with them throughout their entire law enforcement careers.

They're eager to learn and to please, and they will never again be as receptive. There will never again be such a unique opportunity to put them on the right course to show and convince them that they have such a critically-important pivotal role in our society.

There will never be a better time to give them the knowledge, the ethical balance, and realization of their special duty to their fellow human beings and to protect and serve under the law.

Recruits need to know and deserve to know what kind of an environment they'll be working in and what's expected of them in that environment. They need to know about institutional racism, what it is, what his or her department is doing about it, both within the department and outside.

Another critical area and the one I want to talk a little more about is the relationship of the recruit to the law. There is no other person in our society, I believe, who is as important as the police officer maintaining and honoring the rule of law.

Too often recruit training about the law focuses primarily on the criminal statutory law, with the result of recruits are given the impression that the statutory criminal law is the only real law, that the courts only obscure it by misinterpreting it, and constitutional law is only used by the defense lawyers to find loopholes to enable the criminals to escape justice.

That, of course, is a superficial view, and our recruits deserve better. Their duty and responsibility is not only to prevent violations of criminal law and to arrest those who break it, it is to protect the rights established by the Constitution and its amendments and do all in their power to see that no one infringes on them.

I believe the police are the only ones who can really do that in a great measure because they're out there seven days a week, 24 hours a day, dealing with the kind of situations where these laws -- these constitutional rights are most apt to come into play or the protection of them.

There's nobody out there at 2:00 in the morning except the police officer and the person he or she has stopped. There are almost never any witnesses, never any third party evidence, and as any good

policeman knows, when he's trying to enforce discipline, and as I'm aware of in the civilian oversight agency, because part of our jurisdiction is over the police department, as well as other county departments. We know that's a frustration every good policeman has.

So, I think that when recruits are taught the law, they ought to start by being told what the scope and the nature of the law is, and it's very -- it's -- it's the fundamental underpinning of our entire democracy.

They ought to be told and because many of them don't really have a good sense of history, that we fought a revolution over the principles contained in the Constitution and the amendments, particularly the first 10, and our democracy is based upon that, and that they are in a unique position to be the protectors of that and carry forth a high mission and a responsibility to protect those rights and enforce them, and they're important people, and they should do that, and they must do that.

Then you talk about the role. They talk about statutory law, and you tell them what we all know, that it's a legislatively-enacted set of rules of decorum that reflect the majority viewpoint because

that's how the political process works.

Very often, there's a lot of political influence in that, but what the courts say about the case law and interpreting that against real free applications and real life situations is what our operational law really is, and that's what they'll be enforcing.

Then they have about two weeks left to go in the course, then I think they ought to be told about -- find out about what the elements of the crime are, and it's kind of exciting to learn the corpus delicti doesn't involve a body and some other things, and then say what robbery is, so forth, those are the elements, and if you -- you don't really -- forget -- go look at the book. There are statutes, and you can look at those things, and you're going to be learning them and dealing with them.

I think that will make a difference, but it will make a difference only if what is said in those classes reflects what the police departments really are.. It has to reflect what -- not just what people say, but how they operate. It has to recognize it.

Every chief I know knows, has been a recruit, that it was said to him or her, and it's said right now, as Penny said, when you get out there in the

street, forget all that nonsense you learned in the police academy, I'll teach you what the real law is, and then you know what the really -- the training materials are then? It's the old what we learned from the seat of our pants, and what you see on television, where you get all kinds of influences, and cops look at that as well anyone else.

They see that people like that punch them in the nose, knock them down to the ground and be rough and not caring. That's a good way to be a good cop, quote unquote. That's only a side issue. We can't blame them for something we can't control directly.

As police leaders, as police people, we can control what happens in the police departments. Little ways if you're a small person, and big ways if you're a bigger person. I believe, and this goes beyond police work, you have to use the influence you have no matter wherever you are, and nobody I know is absolutely powerless. Some of us come pretty close sometimes, but you have to try to fix where you are.

The -- it's going to be -- having said that, it's not easy to change an institution, and it takes a long, long time, but there are ways to do it. We know what proper supervision will do. Pat Murphy showed that when he came into -- as commissioner under Lindsay

in the New York City Police Department. He invited the Neff Commission to stay. He brought back the command structure. His -- his deputy commissioners and assistants out of retire and other places. He handpicked them, and he put them in place, and then he set up accountability within the police department and got it down to where the precinct commanders are responsible for what happened. They were held accountable.

After he left, it slipped, and it slipped. Now, thank goodness, Bill Bratton, who's the new commissioner, is doing some of the same things. So, it can work, even in a place that's unmanageable as the New York City Police Department, and that is a tough place to change. So, it can be changed, and Nick -- well, you'll be talking to him, but he, too, does a lot of things because he knows they're right, and he gets ahead of things and does it because they're right, and that's what a police leader ought to be.

Let me talk -- incidentally, when Sergeant Glover was raking over the Miami Police Department, which is not the one over which I have jurisdiction, but he's talking about the corruption, and how that was blamed upon affirmative action, and hiring a bunch of Hispanic officers all at once.

Well, the other part of that, another part of that was that they were restricted to hiring within the city of Miami, with 350,000 population, and putting on hundreds of police officers. So -- and they did let down the standards.

The worst example of "affirmative action", which was really an insult to it, I've ever seen, it just built all kinds of incompetence into the system, and do you know what the chief's answer to that was after he retired? When he could have been really straight about it, was, well, they told me to do it, and I had to do it, although I knew it was wrong.

I heard a lot of people in Germany talking that way, too. Now, don't -- you know, Johnny Cochrane was misunderstood the other day, too. So, don't misunderstand what I'm saying. I'm talking about a system and about the kinds of things as Cochrane was, about we don't look at it, it's going to be like that.

CHAIRPERSON BERRY: Okay. We'll have time for questions. Would you mind winding it up now?

MR. POMEROY: Yeah. I'll just stop right -- I'll just stop right now, because everything -- it's so much to be said.

CHAIRPERSON BERRY: I know.

MR. POMEROY: And it's just so little time to

say it, but we know how to do it.

CHAIRPERSON BERRY: Okay. Good. Well, thank you very much.

Before we go to questions, I'd like to ask Mr. Patrick Murphy, who has joined us, to see if he wants to make a few comments.

Mr. Murphy has been police chief of, I guess, every major city or several of them in the country, including New York City, head of the police foundation, and head of the Neff Commission that looked into police corruption in New York City. He's done everything that is possible to do related to police and is expert about it all and is a legend in his own time.

So, we're very happy that you were able to join us, and if you'd like to make a few remarks, please, do so.

MR. MURPHY: Thank you, Madam Chair, and I am honored to be permitted to join this distinguished panel.

I taught Ron Hampton only the good things, none of the mistakes, and it's a great honor to be with Wes Pomeroy and the other members of the panel.

Maybe in just two minutes, I'd -- first of all, we have more than 17,000 police departments in the United States, and they range from close to perfect to

total disasters, but, unfortunately, there is not enough interchange among the departments, either in knowledge or in personnel, and, so, many of the improvements that occur don't -- don't disseminate as well as we might like them to.

The -- Ron Hampton, as he concluded, said something very important. He said officers tend not to be advocates for the poor and the downtrodden, and to get underneath this problem, we really have to get to the problem and the role of the police themselves.

Professor Egon Vitner from Brandeis University has written that policing is a vocation of service to the poor, and that's true. The middle class and affluent people depend very little on the poor, but the work of the police officers is to -- to help the poor, and I think the police officers who can see the role that way accept it as a vocation and are deeply fulfilled by their police careers as they attempt to help the poor and the downtrodden, but police departments do not organize themselves to do that.

Much is being said about community policing. I -- I believe firmly in that, and it comes back again to the definition of the police. The proper role of the police is to assist the people. This is a society. It is a government of the people, by the people and for

the people.

If we can accept that, the role of the police is to assist the people to maintain order, prevent crime, protect their neighborhoods, and as -- as the police move further in that direction, they will be making important progress.

Policing needs to be upgraded and professionalized. The 1967 Presidential Crime Commission called for a four-year college degree for every police officer as soon as it could be accomplished.

Incidentally, there's been much debate about whether that kind of a higher education requirement would have a negative impact on the hiring of African American officers. Well, the reality is that the level of education of African American officers is higher than the general level. So, it should be no impediment.

Political control of the police raises many important issues, and how a police chief can have the independence required to do the job, and in my own experience, working for four different mayors, I felt I always had that independence, but, frankly, within the police world, there's a tendency on the part of chiefs to blame their failures or weaknesses on political

control.

Now, of course, there's -- we are a democratic society. There should be control by the people and having an arrangement that will permit a chief to have reasonable independence but still be under political control.

Incidentally, one of the problems in Los Angeles is that the chiefs for about 50 years have life tenure, and that's been changed now, and as much as we'd like the chief to have independence, I think life tenure with no political accountability might explain a few things in Los Angeles.

The -- the police leadership hopefully one day will speak out on the problems of poverty, of unemployment, the problems that cause crime in any city that we look at. If we put two blank maps on the wall and on the one, plot poverty, unemployment, some of the other social problems, and then on the other, crime, especially violent crime, they will look the same.

So, the police world tends to be very conservative, and police spokespersons, both chiefs who have chiefs associations, and the police unions, both, have tended to be very far on one side of the political spectrum. I hope for the day when we'll see more leaders, and we seeing some chiefs these days speak out

about the problems of poverty and unemployment.

Thank you.

CHAIRPERSON BERRY: Okay. Thank you very much.

Now we go to questions, and I guess I'll turn to my colleagues, but I usually don't do this, but I would like the privilege to ask a question first, if no one objects.

I -- listening to all the panel and the panel before, you could be accused of being people who don't understand that there is a war out there, and that the public is very concerned about crime, that if you are a police officer, maybe you ought to understand there's a war out there.

Somebody said that, you know, they're trained to believe there's a war out there, maybe there is one, and that maybe police officers need to be aggressive. All the things that you were commenting on, some of you, about the behavior of police officers, that your presentation and your analysis maybe tends to go too far in one direction, and does not betray an understanding of the public's interests in crime and criminal behavior and trying to get rid of it.

I mean it could be argued, for example, that if African Americans are concerned about so many

African Americans being in jail, what they need to do is stop committing crimes, and they wouldn't be in jail. I mean it could be that argument.

So that what about the point that maybe your analysis -- even the Fuhrmanns of the world, maybe, you know, the Fuhrmanns of the world is the price we pay, it could be argued, for having police who are committed to doing what most of the public wants to do, is to go out there and be aggressive, and he's just a rotten apple in a barrel, but maybe the system -- it's not that the system is broken, it's just there are a few people out there.

So, I just thought I'd lay that out a little bit and see if anybody wanted to respond and then turn to my colleagues.

MR. HAMPTON: I happen to think that all of those -- that most police departments operate within the parameters of that. There are those who do the job and get it done, and there's -- there's a balanced mixture of all of that.

But let me say this, too. I think you all think or know that there is a war out there, because, Number 1, we tell you that there's a war out there. We talk about it in the warring process. Politicians talk about it that way, Pat, because it -- it guarantees

that they're going to have a job, so they can come back and tell you how they addressed the war, how they prepared for it.

Police -- I know police people who actually think that the absence of crime means that they won't have a job, and we know that that's not true in the democratic society. That's not true.

So, I think they understand that because we have misled them. See, I believe we can go do our job because, see, the best police officer I know will tell you that the best tool and asset that he or she may have is their ability to communicate, to talk to people, to analyze, to -- to identify problems, to be able to address those problems, to be able to work within communities, to gain the trust and confidence of the people.

Good investigators have good communicating skills because it's necessary to be able to solve the crime because, see, police don't solve crimes. They solve crime with the assistance of the community, because they wasn't there, and the first thing they say is did you see anything or what did you see. That solves crimes.

See, they believe that there is a crisis in their community because police and politicians have

politicized the issue of crime, and they think that it has something to do with job security, but they are mistaken, and communities are a lot more sophisticated on this issue than I believe we've given them credit for.

I think that there's a little bit of hysteria, but most of all, they understand and want to see some police, and they want to see some in the context of that's Officer Murphy. I know something about him. He knows something about me, and I see him in my block regardless of whether or not my block has high crime or not.

See, everybody pays something for police services. My block shouldn't be less protected because it's a better block. But the police department will give you that as an excuse, and then the very blocks that need police services, I don't see any more police on Clifton Street than I do on Allison Street, and Clifton Street, by their own testimony, is worse than Allison Street. Then why are they on Allison Street -- I mean on Clifton Street?

And then when you talk to them, and Pat and the rest of them will say, is they don't even want to go on Clifton Street because it's bad. They don't want to go on Allison Street because it's not bad. What is

it? Tell me. I don't know.

But I do know a bull is stiffing somebody, and it's the public. They're not bulling me because I see it every day. See, again we underestimate the ability of our people, the people we serve, underestimate their ability to analyze and understand the complex world of police service, and it's not -- it's not all of that really.

CHAIRPERSON BERRY: Okay. Oh, I see. Other people want to comment. Go ahead.

MR. MOSS: Yes. I think most police departments read the book of survival statistics. There's a book published when I was in college, and we had to read about survival statistics, and most police departments rely on statistics. For instance, I was the burglary squad sergeant head of statistical data and administrative sergeant in burglary squad.

By saying that you had a thousand burglary reports, by that thousand burglary reports, only two -- 200 was assigned for the office to investigate, and out of those 200, maybe you had so many of that 200 that resulted in arrests. Well, how about 800? They got thrown out. Most police departments operate that way.

Another thing is that for our statistical data is how you treat certain laws. Ohio State

University last week, they beat Notre Dame. There was a riot on campus to destroy property, to set buildings -- I mean made bonfires --

CHAIRPERSON BERRY: Ohio State or Notre Dame?

MR. MOSS: Ohio State campus. They won. You know, you had a fire. In the Metro section of the Columbus Dispatch, they said student celebration.

In the black community, if we had set fire, stopped traffic, tore up buildings, it would have been a riot and people shot. So, this is what we -- you know, when you say why are more black folks being arrested, it's because again it's discretion. Only one person did all this damage was arrested for felony. All the rest were white students who were arrested for disorderly conduct. If it happened in a black community, all the blacks would have been arrested for felonies. They would have been imprisoned and instead of having like 50 or 75 police officers, there would have been 300 police officers in that community, and there would have been people hurt and shot.

So, that's why there's more blacks in prison than whites, because laws are not -- you know, there are certain laws that are permitted things in black communities and not enforced the same way in white communities. Laws are not enforced the same, and

police departments, the majority of police departments, lie with statistics, and they lie with statistics to get more funds from the Federal Government.

They lie with statistics to keep us scared of what's going on, and laws are enforced in two different ways. Laws enforced different in black communities against white communities, and that's why you get the perception, you know, saying about the Mark Fuhrmanns and stuff, because that's the way police departments operate, at least that's the way in Columbus, Ohio, that they lie with statistics because I seen them lie with statistics.

CHAIRPERSON BERRY: Okay. Ms. Harrington?

MS. HARRINGTON: Yes. Well, I -- I -- you know, I have to agree that in a lot of cities, there is a war out there, and -- and the police have caused part of it, because they've become so estranged from the communities that they police, and, so, by declaring a war, like a war on crime, if we declare a war on crime, then we can identify the enemy, and then we can justify what we do to get that under control, and what we have to do is -- is -- is stop that mentality within the departments and say, look, we have some problems in this community. Let's take drugs. We know it's a problem in this country. Nationwide, even though Bill

Bennett said he solved the problem, but it is still a tremendous problem in this country.

But if we cannot solve it as police officers and arresting the drug dealers doesn't solve it, we have prisons full of drug dealers, and we still have a problem in this country, and the problem is both in the children and the people who are using drugs. The -- the people who are getting rich off of it because there are no jobs anyway, so why not deal drugs, it's a lot better living.

We have to address these problems, and we have to work with the community as a piece of it to solve it, but by declaring a war, by saying it's bad out there, it's fear. It's the fear of the police in knowing that things are "out of control". It's not like it used to be. Our society has changed very quickly.

We haven't kept up with it because we've isolated ourselves, and I think that that's what a lot of them are reacting to.

CHAIRPERSON BERRY: Mr. Pomeroy?

MR. POMEROY: They say there is no harm in words, but there's a lot of harm. We make a very grave mistake when we talk about a war in the police parlance. War on drugs. We're talking about war on

people, not drugs.

Example of where this gets into real problems operationally, the function of a commission of an army is to search and destroy and to take territory. That's a war. The function of police department is to preserve the peace and to arrest violators of law and bring them to some place where they can be tried, not to kill them. But there have been instances where very clearly this has been done.

In the '60s, when they had the raid, L.A. had the raid, the SLA and they went and attacked, and they destroyed and killed them, and the chief said send me some more, I'll do the same.

In Chicago, when they assassinated the black panther, was that Hampton -- and that was strictly an assassin -- war. There was no attempt to arrest.

The situation in Waco was clearly a war type operation. There was nothing police-like about it. The one out in the Midwest there, Wyoming or wherever it was, was a -- Idaho? That again was a war-like approach, which is incompatible with, inconsistent with the police mission, no matter who's carrying it out.

I think that fundamental attitude has to be really understood by people making decisions and the leaders and the people within the police department.

That's a part of it.

CHAIRPERSON BERRY: Okay. Commissioner Horner, did you have your hand up?

COMMISSIONER HORNER: Yes. A few questions for anyone who wishes to respond. You're all -- you have all served as police officers as well as in your more elevated or, shall we say, more recent posts anyway.

This morning, as I was leaving the house, I heard just a very brief radio report that a D.C. police officer had been murdered in the course of a traffic violation this morning, that he had been shot in the head. He or she. I heard only the dead line -- the headline and then left, and that, in conjunction with something that was said earlier today, raises a question for me that I'd like to hear from you on.

One of the witnesses on the first panel talked about the large number of suicides among police officers, and we just passed right by that. I rode the Metro in this morning wondering what it must be like to stop someone who's run a red light and have to decide, make a three- or four-second assessment, whether I'm dealing with a sociopath or a drunk or someone who's on drugs, and if on drugs, how impaired and how likely to be violent, in my comportment vis-a-vis that

individual, and I could imagine very easily that I could go strictly by the book and be respectful and calm and orderly and dead.

I am wondering what you can tell us about the environment in which a police officer operates, perhaps the lowest level, street police officer, that would help us understand why behavior might not be ideal from an ordinary citizen's point of view, so that we can then think about public policies, such as, for instance, additional police officers to relieve stress or whatever you might propose, which would help police officers themselves feel somewhat more at ease in meeting their civic responsibilities.

Any one of you who has a reaction, but mainly I would like to know why there is disproportionate, if indeed there is, number of suicides.

MR. POMEROY: I think one reason is because it could be psychological testing and psychiatric interviewing at that level. That doesn't tell you much, except who the real bad people are. It doesn't detect future behavior. It can't do that.

We went through -- well, I won't tell you. We had a lot of experience with that. What will work and does work in some departments is an early warning system, which the Metro-Dade Police Department has,

that's the county department, where a police officer has several incidents, some of them may be complaints or may be use of force complaints or may be one of the kind of -- I can't think of it, which does not result in any kind of a discipline or even investigation.

They have those kinds of report incidents over, say, a six-month period of time, that flags them, flags that officer, and they are sent down through the ranks. The supervisor has to interview that police officer and see what the problem -- do you have a problem? What's going on? And it will -- the remedy can be everything from change of assignment or just talking to them.

It can involve getting into psychological help or to really take them out of the line, getting them real help. It's not disciplinary, and it's not -- it's not going to harm them, but there is a system in place where you could pick signs, because it may be many of them, could be alcohol, could be drugs, could be -- it could be physical with a brain tumor, all kinds of things.

So, that's a kind of warning system I think a police department can do. They have to know what their officers are dealing with, what the feelings are, and to be able to deal with them. Stresses at home help

with that.

COMMISSIONER HORNER: Do you think there's any reason why the life of a police officer may lead to suicide more than the life of a citizen in another line of work?

MR. POMEROY: Well, there's a lot of frustration in it. Interestingly enough, most of the frustration is toward the upper administration, but a lot of it toward the street. It is a dangerous job, very -- much more dangerous job than when I was patrolling years ago. Terribly dangerous.

But there are -- there are sophistication in the teaching of how you approach things and how you try to guard against it. That officer that was shot last night apparently had no chance, and some things you cannot really guard against.

I don't know that that really is a major cause of police distress or not because it's among other things, but there is a training for it, and I'd just like to put in a plug for the fact that you don't have to become brutal or impolite or nasty in order to do a good police job. You needn't take your manhood or yourself -- the way you feel about yourself out of the strengths that you have and deal with those situations.

But it is dangerous. There aren't a lot of

things you can do that about operation.

CHAIRPERSON BERRY: Yes, Ms. Harrington?

MS. HARRINGTON: Yes. I think that part of the thing that leads to police officer suicide is the -- is the way that we have our police departments set up, where you get -- especially young people coming in are -- after you go through the academy and all that, you get out on the street.

A lot of police departments go by seniority as to what shift you work. So, police officers, because they're on 24-hour shifts, and because they work on Saturdays and Sundays and holidays, when everybody else is home with their family and all of that, and because they get called out for emergencies and because that when they're at work, especially on that four to midnight period of time, it's just one call after another because there are less police officers per thousand and more demand for service.

The stress level on these officers is very high, very high, and it's also a macho thing about I can't seek help for it. It's I -- because I'm a real he-man type guy, I can't go ask for counseling if I need it.

Now, a lot of the departments have come up with peer counseling and anonymous ways that you can

get into it, and that's good, but the other thing is they become estranged from their families, from their support system, because the families are up, you know, they go to school during the day time, they're awake in the day time, and when the officer's asleep, and, so, they become estranged.

So, what do they do is they go out after work with the buddies, and they have a few drinks, and then that leads to -- that even worsens depression, and the things that they see. You know, it all plays in. The policing is not always -- you get exposed to things there that most people will never see in their lives, and, so, all of that weighs on, and until we can find ways to relieve the police officers -- if you have an officer who can't get promoted or doesn't choose to for some reason, then what break do they get from that constant stress on the street?

If there were a way to give police officers sabbaticals, so that they could go away for maybe a year and work some place else, if there were ways to get them more time to work with the public, where they can do some crime prevention work, some things like that during their normal shift, so that it's not all this constant negative high-powered/high-adrenaline things. Those are all the issues that feed in to a

suicidal culture.

CHAIRPERSON BERRY: Okay. Was that -- yes, Commissioner Wang?

COMMISSIONER WANG: Thank you. Listening to particularly Commissioner Murphy and also Officer Hampton, I think you talk about feeding certainly the poor, the depressed, and also you talk about really the community leading me to think about, I think, the term "community policing", which I think has been mentioned so many times, and also the residency.

I mean that's an argument and a point which I don't think we have resolved that. I'd just like to hear your comment. If there's a residency requirement, that people are really living and working in the -- really live there and consider this is my neighborhood, like you said, this is my community, would that make a difference? I mean would that be -- I mean constitutionally, I think we have an argument whether it's constitutional, but just enhancing the whole community policing, would that be helpful?

MR. MURPHY: What they've done here in Washington, in the District of Columbia department, and in Alexandria and in some number of other departments, they don't make it a mandatory thing, but they provide some kind of incentive for an officer to work there.

For example, a few cities now provide an incentive for either a rent-free apartment in public housing or some kind of favorable arrangement for an officer to buy a house, probably in a low-income neighborhood.

So, it's -- the solution is not to make it mandatory but to offer some incentive for officers to volunteer, and I hear very good reports.

MR. HAMPTON: I think that it's excellent, and believe me, those streets, where even the process where the officer take cars home, and you have a marked cruiser sitting in front of your house, I mean they've done it in counties and rural police departments for years, and now in this city, where you take a car home, it makes a difference. You see a police car on your block.

I think that one of the things that I would leave, and I'd like to press upon you all is that I think that those are columns that need to be erected in this system that will raise our policing in this country to a level -- ethical level, all having something to do very much with one another because they are very important.

But if we don't address, if we don't address the value system, if we don't address -- because I -- I

have seen a number of those things erected in police departments, and the value system never ever addressed, and we have those same individuals.

I mean it was interesting, Ms. Horner's comment, because as we looked at automobile accidents in this country, as we looked at the results of years and years of smoking, we addressed that, and we addressed it primarily by changing how we look at it as a society. We addressed the culture, the value system. We said stop smoking. We said wearing seatbelts reduce automobile accidents, and don't you know that most police officers don't wear seatbelts? And why is that? Obviously they must think that they're not going to have an accident, but we know that they have accidents, and they're injured as a result of accidents.

If we don't look at that culture that sets up and that value system that sets up, I can go through all of this and nothing is going to happen to me, we can have all the residency, all the car take-home programs, and all the community policing programs that we want to have, and we will never ever touch the whole -- what it is that we want because that's what -- in my mind, that's the issue.

I mean some -- something popped in my mind. Just a couple of years ago, Canada did a research piece

because their police unions was raising the issue about police officers' lives being threatened, dangerous jobs, and they did -- they had the -- the -- the wherewithal to do a research piece, a survey on what was the most dangerous job in Canadian society, and guess what the Number 1 job was? No. It was driving a -- it was driving a tractor-trailer, and then policing came in Number 7, and why was driving a tractor-trailer dangerous? Because more people get killed on the highways in the country than anywhere else. That makes sense to me, too.

Now that's not saying that police jobs aren't dangerous, but it didn't lay -- it didn't lay claim in legitimacy to what they were raising, and then what do you do if you want a person who drives a tractor-trailer for a life -- for a living to do in order not to be the Number 1 on the list? And then you build in safeguards and other things to make that happen.

Well, we have to do that in policing, also, and then it reduces. But somehow or another, Ms. Horner, if we don't look at how the institution itself contributes to whether or not police officers decide that they want to jump off the bridge, then it's not going to make any difference because there is a great deal of built-in frustration that occurs within the

institution because people who get there bring their experience, and then when they get there, they tell you to do -- they want you to do this, but then they say there are these institution impediments that prevent you from doing it, based on how you think it ought to be done, and then the way they want you to do it sometimes bring this great amount of pressure.

COMMISSIONER HORNER: How much has the perception of failure of the criminal justice system carried through with its -- its end of reducing crime, a contributor to police frustration?

MR. HAMPTON: I mean -- I don't think I'm the right person to ask that because --

COMMISSIONER HORNER: Okay. I'll ask someone else.

MR. HAMPTON: No. I want to -- yeah. But no. I think that it's important, though, because, see, this here is -- that's really strange, but I mean I think that that's a good question because, see, as a police officer, I believe that my job is clearly articulated on -- on my ID folder, and it says that my job is to defend, to arrest the violators, the law in my community. I don't have nothing to do with what they do after I turn them over to the person, the prosecutor. I don't have anything to do when they turn

them over to the court, the judge, the jury. I don't have anything to do with that. As a matter of fact, that's not my job.

COMMISSIONER HORNER: But didn't you go in to police work with the goal of making your community safer, and you contributed a piece of that goal, and if you see the larger goal unattained after all your effort, isn't that enormously frustrating?

MR. HAMPTON: You know what the larger goal is in my community? And I used to make it happen every day. I used that -- all that discretion I had to impact on what was happening in my community, that I had direct control over. That was my picture.

MR. MURPHY: But we -- 99 percent of us cops know that villains are the judges, okay, who don't send them away for long enough.

COMMISSIONER HORNER: You will get no quarrel from me on that.

MR. MURPHY: They do plea bargains.

COMMISSIONER HORNER: Okay.

MR. HAMPTON: I didn't -- I didn't live in that world.

CHAIRPERSON BERRY: Okay. We have to --

COMMISSIONER WANG: I have one comment. Every time I see Commissioner Murphy, it reminds me of

a case in 1970 that we worked on. An Asian laundry on a street corner was approached by a pizza shop owner in the middle of the block, saying I want your store, you should move and switch with me, because that corner is a very busy corner. I think I can do more business. The pizza shop. And the laundry person said why should I switch with you? I have a lease here, and I want to stay here. So, then they start a problem. From the precinct, start giving not only ticket and then also send people over one day, had a fight inside the store and break up all the store, everything, and then when the police come and give the person at laundry shop a summon that he had assaulted the other people, and they come in, broke up his store, and he had to -- I mean a summon to appear to court, and he committed assault and a violent act against the other two people, and, so, we had a -- it turned out that just to the contrary, that the precinct had actually linked up with the pizza store and deliberately started the violence and tried to force the person to -- to move out of the store.

So, that commission actually -- I mean turned the whole thing around, and the store still operates there as a laundry today. So, I just want to mention that as --

MR. MURPHY: The captain retired two weeks

later.

COMMISSIONER WANG: Right.

CHAIRPERSON BERRY: Okay. Well, thank you very much. I want to thank the panel. Thank you very much for meeting with us. We appreciate it.

Panel III

CHAIRPERSON BERRY: Then we can call the last panel. Thank you very much. We want to begin this panel with Mr. Edward Spurlock. He's a retired D.C. deputy police chief and former commander of the Third District.

He has served on advisory committees for the National Organization of Black Law Enforcement Executives, National District Attorneys Association, and the International City Managers Association.

He is currently the president of Spurlock and Associates.

Welcome, Mr. Spurlock, and please proceed.

MR. SPURLOCK: Thank you very much. I apologize for not being able to stay very long. I have a court appointment.

CHAIRPERSON BERRY: We understand.

MR. SPURLOCK: I'm afraid I'll learn quite quickly how the judge acts if I'm not there.

CHAIRPERSON BERRY: All right.

MR. SPURLOCK: Historically, there's been a movement within police departments which has been captioned and you've heard it mentioned here about cultural training, and I have a definite opinion about cultural training.

I think probably what we're doing is cultural training might be called enrichment in academic world, because if you don't have a basis for professionalism, cultural training is not going to help you. You're just simply going to have someone who knows about culture but who can be more fruitful. He can now speak the language, and he knows the customs, he or she.

So, I think police departments should put in front of cultural training a real serious look at what we do out there, and I think it's defined already. I think there's a -- there is a history of law, administrative law, that would back up an unprofessional charge. Failure to display cultural sensitivity is an extremely difficult charge to make. It's made in little parts throughout a lot of memorandums, but unprofessionalism is something that you can label someone. You can actually try to make and convict them for it, and it would pass on from one department to another.

But most of this stuff about cultural -- I

know it's important from a tactical standpoint to be able to tell someone in Spanish don't turn around or to drop that or whatever or to give someone directions, and that's important. So, I'm not belittling totally culture, but I just have a serious problem with emphasizing that cultural -- learning about cultural diversity is going to be the answer to our problems.

Our problems basically are unprofessional conduct. A professional law enforcement person does not call people by names that would offend them. The "N" word would not be used by a professional. But we tend to spend a lot of time talking about don't -- don't use these -- these -- these words, don't do these things, but while these things are being done, we're also doing illegal acts.

So, I think we would be better served if we approached this problem from a standpoint of unprofessional conduct, which is easier to define, and we wouldn't lose so many of these cases in appeals, in the appeals process.

Chiefs all over the country lose cases when they try somebody for doing something that's truly wrong and offensive and demeaning, and they end up losing it in the end because they say, well, the punishment didn't fit the crime or -- or -- and we keep

these people around till they retire. I think therein lies one of our problems.

But a professional would not demean anyone, would not falsely arrest, would not use order maintenance, disorderly, just to have someone be quiet. First Amendment to the Constitution violations, and these early warning systems that we talk about, they confuse me.

I was recently asked to do a study of a small town in the Midwest, and while I was there, I experienced a situation that brought home this early warning system and the folly of it. They have a system where if an officer gets two complaints from a citizen, and in this particular one, it had to do with some demeaning language, that they then have an early warning system, that the officer is called in, and it could be an early warning system, if it really means that they haven't completed the investigation or verified the validity of the complaint.

But they had a departmental rule, and in my presence, the lieutenant called the officer in and said I'm giving you -- I'm counseling you about this -- these two complaints. Well, the officer looked at him, and he said they're two brothers, George and Tom, and it was all the same incident. I mean it just occurred

a few days ago, and they were all wrong, and the lieutenant said, well, I'm counseling you, and the officer said, well, what do you mean, you're counseling me, and the lieutenant says I have an order, departmental order that this is our early warning system. So, you are now counseled. You can leave.

And I'm thinking now what we've done here, we have belittled -- we have -- first of all, we have an administrative procedure that belittles human beings. First of all, you can't counsel someone without being very specific about what it is that he did wrong.

Well, obviously he didn't -- they didn't know whether he did anything wrong or not. Now I don't know the outcome of that situation, but these early warning systems -- if someone tells you they have an early warning system, you should look at it, because probably it's nothing. It's really an insult to people to call them in and counsel them about something that you can't be specific about.

So, an early warning means that usually the investigation has not been completed. So, I have a real serious problem with our response to these, and a lot of the rank and file believe that there's simply something that management puts up front to pacify the minority community, and I think probably they may be

right.

Looking at complaints against police is a serious problem. Having been the commander of the Third District during some rioting in the period before this Commission in reference to that, I was struck by the importance that someone would put on a complaint against a police officer on a front end, and it amazed me because I saw my job as the commander as going out and making people feel good about the police, about coming into the police station. That's extremely difficult for people from countries where historically if they go to police stations, they never see that loved one again.

Now if you can get someone to come to the police station to make a complaint, whether they're plain old American or someone from a South American country who's trying to start a new life, I think it's a major community relations coup if you can get them to come to the station and put -- and say this officer wronged me and ask for an explanation.

But in turn, the administration and the organizations in our society condemn us for numbers, up-front numbers. You must not do that because police, whether you believe it or not, can control the number of complaints against them as well as the types of

complaints against them. They simply tell a citizen who doesn't know the process we only receive those complaints on Tuesdays and Thursdays, and you have to go down to the wrong building. Well, that person never will get that complaint filed.

So, if we can have a process whereby complaints are not good or bad on the front end, we will be well served by it. We that hear about complaints many times from the filing of a civil lawsuit. We should not hear about them in that manner. I mean I know we're going to, but we should hear about them long before because we should encourage all people to come into the precincts, to come wherever the complaint centers are, whether it be a civilian complaint review board or a precinct where the officer's assigned, and to file these complaints and have some faith that some answer will be found and that someone will get back to them and tell them what they found, then they can go on with any other process or civil matter that they wish to do.

I have a serious problem with being held in a negative way responsible for a large number. I actually had that happen to me because I was out encouraging people to come forward because that usually puts down people -- puts these complaints to rest, and

it puts down those people who don't have a legitimate complaint.

A lot of times, that happens. About 95 percent of the complaints usually are satisfied -- complainants are satisfied with a verbal complaint, with a verbal explanation.

I think we have a serious problem with isolating police as some sort of an adopted child out there by themselves. Police was part of a government, and I think we ought to look at it in that context, as just another part of government services to the citizenry.

I think if we captioned it that way, that possibly we could say to the citizens, this is how you make complaints. This is where you go and do this. In other words, like Pat Murphy said, we assist more.

I'm not so sure that I agree totally with Pat because I know you want people locked up at certain times, and at other times, you expect police officers to have finesse and compassion and use that judgment that so many people refer to, that they can say they don't have to make an arrest. It's not mandatory. Good judgment is something we wish we could issue, but you can't, and we're certainly not born with it.

But I think if we -- if we could just keep

police in the context of government, that then it wouldn't be -- they wouldn't feel so isolated, and then at the same time work toward getting those police officers into the community.

But the overall aim has to be professionalism. Every officer cannot live in the police -- on a beat that he -- that he works. They can't know everybody by name. Sooner or later, there's going to be an officer who does not know these people, and when they come in there, a professional response should be the basis for everything that we do, and from there, it can grow.

Community policing is a great thing. It means problem solving. It means assisting, h lping people, and helping people help themsel have to have a requirement that officers re professional. Without it, we are lost.

CHAIRPERSON BERRY: Okay. Thar ry much, Mr. Spurlock.

MR. SPURLOCK: And I apologize for having to leave.

CHAIRPERSON BERRY: Oh, we understand. We're a little behind here.

MR. SPURLOCK: I left the car home, and I'm going to use a cab so I can get to court on time.

CHAIRPERSON BERRY: Oh, my goodness.

MR. SPURLOCK: But I thank you for the opportunity to be here, --

CHAIRPERSON BERRY: Thank you very much.

MR. SPURLOCK: -- and I am sorry I can't hear my famous colleagues speak. Maybe I can at another time.

CHAIRPERSON BERRY: We really appreciate it.

MR. SPURLOCK: Thank you.

CHAIRPERSON BERRY: Our next presenter is the chief of police. He's the chief of police. Mr. Nicholas Pastore is the chief of police of New Haven, Connecticut, and he's been chief since 1990, and he's been associated with the police service since 1962.

He not only is chief of police, but he's published several articles on the subject of community policing.

Welcome, Chief Pastore, appreciate your being here, and please proceed.

MR. PASTORE: Thank you, Madam Chair, and Commissioners. It's certainly a pleasure to be here on this important subject.

I -- I have put my text aside a minute to try to address some of the questions that are so burning and so full of wisdom and maybe discuss some things

that have obviously worked in New Haven. We've come a long way, and we have a long way to go in dealing with these important issues, and I -- I think so many people have touched on the issues associated with it, but we're part of government.

I can't stress that enough, that based on what we've been doing for at least 15 to 20 years, especially, is that we've become a cynical business. We're -- we're dealing with the ills of society on the front line of it, and it's causing -- we're in each other's face, you know. We're -- we're -- we have the wind at our back from the other parts of government and other parts of the community. Elected officials more often than not. Those 17,000 police departments are an extension of the king's army and sometimes the queen's army, and to get re-elected is part of the process, and often the police are called on to let's make some noise in this area, and it's easy to affect negatively those people that aren't part of the process, the disenfranchised, especially those that don't vote, and the numbers and what have you that don't have legal standing in the nation and what have you, and again I give you a Connecticut perspective, but the reality of government, how it works, certainly forms a -- a thinking, a culture, that fees the negative.

And the way to deal with that is certainly to move in the area of collaborations and understanding. I'm a firm believer that we must come together and look for alternatives to arrest, and that calls for smart policing and thinking policing. Get rid of the mean-spirited, be it attracting the adventure, recruiting the adventure, and truly move for -- we heard Mr. Spurlock say we would move to a professional, but what are we now?

We're a crude track. That's all I see, a crude track. We haven't invested in the adventure. We haven't worked with labor and other officials. Policing is still patronage in the business. Hire this person, hire that person, okay.

Some things that have happened in New Haven. We have moved toward the critical mass concept, and it does show a change. It's good to move from three percent to 17 percent in a couple of years, not bad. As Fuhrmann said, another thing he said, women usually don't go along, but let's talk about the cops that do go along and why they go along.

They go along to get along, because many, in my experience, many cops were afraid. They have a fear to go into neighborhoods. The level of violence is -- it's a good, validated reason to be afraid. The other

is the cultural polarization, a lack of sensitivity and understanding, education. They're from the suburbs. They don't live -- we heard about residency, and what do we do to connect to allay those fears, which translates to stress and what have you? Not very much.

So, what we have to is keep putting those things in place that automatically give rewards to the officers when they do connect, get away from stranger policing. Hi, my name is so and so, what is your name? Community policing starts there.

The thing that's worked so well in New Haven is that I found that officers -- usually their bias doesn't translate to children. I found a common denominator in New Haven. We formed a coalition with Yale Child Study four years ago, where actually New Haven officers go to Yale University as fellows and are trained to identify children traumatized by violence, and who better to train? Who makes house calls 24 hours a day, seven days a week? Just the cops alone. Who goes where others dare not go? Remember, you left us alone.

So, it's what you have us do, and what happens when these cops -- and they can't -- over 500 cases. What happens when they identify these kids traumatized by violence? They're in the system.

They're treated. But what we found, and it was by accident, that they became a credible part of the extended family. Hi, Officer Mary, thanks for helping me out with the kid. By the way, I have another problem. Getting back to what we heard from Murphy and Brother Hampton here about the role of police has to be defined, redefined.

We have become, and you heard it right here, all I hear about policing is law enforcement, a single purpose agency, a single purpose mission, and Washington, what did you do? You build more prisons. You build them, we'll fill them. That's the fastest-growing housing industry in American, is prisons, and we're going to fill them. You know who we're going to fill them with? Again, we're in each other's face.

The system is driving us. Unleashed on society is the cop dealing with all the stress, the consequences, the failures, and let's talk about Fuhrmann again. I'll give you the Connecticut experience.

There was a great question about the courts, let alone where are the good cops that allowed Fuhrmann to manifest, but where were the courts? Where were the prosecutors, the poor men, Tom Deweys, and the poor women, Tom Deweys, trying to assimilate in the system?

They knew what Fuhrmann was, and they know that Fuhrmanns are around the country. Where are the checks and balances?

In Connecticut, when I was a cop in the 1960s, I spent half my work week in court. My cops haven't been to court in 10 years. 96 percent of cases are plea bargained out. They're not asked to say why did you do this. There's no motion for discovery, motion to suppress. They're gone. That's Connecticut. I don't know what happens in Washington or anybody else.

But our cops don't go to court any more. It's street justice. That's all that prevails, is street justice. So, the system is in a state of paralysis. When we talk about -- what are we looking for? Social justice for all, and the criminal justice system has to come together, and the -- the -- the important part of that, too, is also labor has to be on the same page. Labor is a defender of transgression often because they're not in the loop of education. They're not part of the employment. They're not part of the process.

We have to sit down and really negotiate where we're going, to rid and ferret out the people that we don't want in the system, and the culture has

to change.

Let me tell you another sacred cow that some people touched on. It's training. They are sacred cows in police departments. They don't change. In New Haven, we changed it within a week when I became chief, and who heads it up? A woman, who hasn't had a day in the business of policing. She comes with strong education credentials.

We had build a college-type setting academy, and think if you want to protract that. Imagine if you had an apprenticeship, two years full time, you go to school, fund it, whatever it was. I think we started in '68 crime bill when Nixon was in. It was funding for education in those days, and then during that period of the apprenticeship, you must maintain, and then you're tied into your police departments. You get to know the people for two and three years before they become police officers. Forget psychological examination. I'm going to tell you they don't work. They haven't worked.

The leadership, change the culture, create the support mechanism and the foundation with the emphasis on diversity, and diversity has to be factored in not so much in the demographics as they exist but where do we need it most?

In cities like New Haven, we spend 90 percent of our work with our less-fortunate communities. It's not just a demographic. You could have 20 percent of your population that's reflective. It could be 80 percent of your work. So, start looking where the need is, and residency does work. You've got to do everything to connect. That's what our effort has been in New Haven, and it works very well.

Thank you.

CHAIRPERSON BERRY: Thank you.

Ms. Mary Powers is the national coordinator for the National Coalition on Police Accountability in Chicago. She publishes Policing by Consent, a newsletter that has captured the attention of police leaders around the country.

Thank you very much for being with us, Ms. Powers, and please proceed.

MS. POWERS: Thank you. The National Coalition on Police Accountability is an organization of religious, community, legal groups and progressive law enforcement representatives, that come together formally physically once a year but communicate constantly throughout the year about problems of police abuse, police accountability.

The whole mission is to make the police more

accountable to the communities, to their own communities, and the communities they serve, and to do this through public education, through community organizations, through legislation, litigation, and through promoting empowered civilian oversight.

I just wanted to give you a little history because this is kind of an unusual citizens organization. There are lots of local police accountability groups that may call themselves police watchdogs or other terms that seem hostile towards the police community.

Our organization is not that. We've had police people working with us from the very beginning on our advisory boards, on our boards. We have a steering committee that's made up of people from across the country, from Minneapolis to Albuquerque to Boston, Syracuse, Dallas, Houston, Louisville, Oakland, Baltimore, Chicago, Cincinnati, Seattle and Biloxi, and we do publish, as Ms. Berry said, Policing by Consent.

I brought copies of this for each of the commissioners, and we also have -- I brought the last copies of the last four issues. I'll be glad to make them available for anyone who would like to give their name and address because I think it really has so much pertinent information to what we're talking about.

Suggestions for reforms that would help bring police and community closer together. Surprising information about people who really don't want civil settlements and million dollar settlements, don't want the same thing that happened to their son. Mothers tell me over and over again in the 28 years I've been working in it. They don't want someone else's son killed by the police, and they want to do something. They don't want to pay for what happened to their son. They find that somewhat insulting. They want to know there's some sort of change that can be made and that they can contribute toward it. They can be part of it somehow as a citizen, and it's a whole healing process that takes place when -- when people are unable to -- to solve their own problems and solve problems that will help people in the same situations.

So, I -- I do hope that you'll read these, and I won't go into them too much. One of -- I do want to refer to one article by John Krug, who's with the ACLU in San Francisco, who wrote an article about -- it's not just getting money, not just beat them, but make change, and recommending a lot of things, for instance, that I think are really essential, and that we've begun to work on.

In Chicago, not just having someone get a

settlement for someone that's abused or hurt or killed, but along with that settlement, to have some written agreement of what was done wrong, what should be changed, what should never be done again, to prevent that same situation coming over and over again.

We have police officers in Chicago, you know, 35 complaints against them, and some of those complainants have been paid millions of dollars by the city of Chicago, and by tax money, and still they're on the force repeating and accumulating these complaints.

It's -- there is an awful lot to be done within departments themselves, and we have the experts here to tell you that. So, I didn't even go into any of that.

But I would like to -- to say that I think that we all know that police abuse is so widespread, but one thing that we found recently in the National Coalition for Police Accountability is that groups are springing up all over the country, citizens groups, to try to deal with this, and they're not so much the old thing, where you used to hear the defense committee when someone was killed or someone was brutalized or something happened in a community that people really took offense, and they'd get together and say we're the defense committee against this and that or for this and

that.

But they're -- they're groups that are really talking about taking some ownership themselves. It's not even the old concept of community control that we see and hear about, but it's becoming partners, so to speak, with the community policing, but besides that, a lot of groups that aren't ready for community policing are beginning to recognize that they have not only a right but a responsibility to see that their professional police are really professional, that the people they pay to protect them and serve them really do that.

One of the -- last -- just within the last week, I had a call from Phoenix, Arizona. The father of a man who had been killed by the police, shot 33 times last January, and he started -- I think there's probably a civil suit in process and all that. I don't -- I haven't gone into the details with him. But what he really wanted was help in continuing to organize a group that's called Citizens Organized for Better Community Relations, and I -- and he lives in the Maricopa County housing projects.

The incident took place there. Many of the people that are working with him in this committee are residents of that community. I think that's really

exciting.

The same week we had a call from a mother from Tucson, and I don't know the details. As they described themselves, they're a fledgling organization, quote unquote, called Police Watch, and they were asking for technical assistance from us in setting up some sort of an accountability agency there.

So, Springfield, Massachusetts, and Worcester, Mass., and Santa Fe and Albuquerque, all -- places like that, that you don't think of as the large urban area, but they're looking at things like civilian review boards, but beyond the civilian review board, they're really working together to take ownership and have a way of helping set policies and critique procedures and that sort of thing.

So, I think that this is the kind of -- really the kind of opportunity for us, and we need to seize the day.

CHAIRPERSON BERRY: All right. Thank you very much, Ms. Powers.

Our next presenter is another police chief, Mr. Robert Johnson, who is the chief of police of Jackson, Mississippi.

And Mr. Johnson has been a police officer for more than 23 years, and has held virtually every rank

in the police department.

Welcome, Chief Johnson, and please proceed.

MR. JOHNSON: Thank you. In making a short presentation to you this morning, having heard all of the comments prior to me speaking, I got the sense that things are bad and getting worse in law enforcement, and I take -- I take the optimistic view, that things have gotten better and will continue to get better for whatever drives it toward getting better, and I make that comment with a great detail of, I think, expertise in the area relative to the changes that I have seen in the 23 years that I've been in police work.

I have been in Jackson, Mississippi, for about nine months now. Prior to that, I came from a department that was predominantly white. As police chief, I was there. A community that was predominantly white.

Going to Jackson, Mississippi, where the African American population is predominant in that city, about 65 percent to be exact. So, I have some -- have some basis for making a contrast and the differences in terms of how people view racism, how people view sexism, and how people interact, and how they view the function of police departments in their city.

You are all mindful of the atrocious history that the state of Mississippi has had relative to law enforcement, and how people view law enforcement, and I got to tell you that things are a lot different.

I went to Mississippi after 23 years in Michigan, with perceptions and expectations and certain stereotypes about the quality of law enforcement and about attitudes that people had about law enforcement, and I can see the difference, having been raised in Tennessee and being a Southern native, also making that contrast about the differences 23 years later when I went back to Mississippi.

So, I think we need to keep that in mind as we talk about these issues, that although Mark Fuhrmann and his type rear their head every so often, there are countless hundreds and thousands of good, decent police officers out there who have the interest of the community at heart, who put their lives on the line day in and day out, and they do it in a very professional manner, and that's the basis on which we must continue to build and move forward from.

We can't continue to let the past haunt us to the degree that we can't see a brighter future ahead of us. We need to learn from our past history, and certainly Mississippi provides a good deal of rich

history about what not to do in law enforcement.

But we need to let that guide our future actions as opposed to continuing to hamstring us in moving ahead to a better day.

I came back to Mississippi and found a department that currently is 60 percent African American. Although our numbers relative to the number of women in sworn positions is low, nine percent at this point in time, we're committed to increasing that. We have a civilian staff that's 76 percent African American, 72 percent of which are women, and that reflects the population of the city itself.

I found a department that has a crisis intervention unit that's comparable to any city and state in this country relative to its involvement in domestic violence and domestic disputes in getting at that issue right at the onset, with trained counselors who are able to provide crisis intervention in those crisis situations.

We have -- we have also in the state of Mississippi just this year a law that mandates arrests in domestic violence situations, not a preferred arrest policy, not a mandatory arrest policy that's driven by the department policy, but a state statute that says to police officers, you shall make an arrest in a domestic

violence situation, no if, and or buts about it.

So, things are not as dark perhaps as maybe we think they are, and I think we need to be mindful of that, but we can't let our guard down. That's contrasted with what I found to be a training system that's entrenched in the old ways.

Training in most states is mandated by state training boards that prescribe training, basic training for all police officers, and every department has to comply with those training requirements.

Currently in the state of Mississippi, we require 10 weeks for police officers to be certified. About 60 percent of that -- that training is in areas such as PT and firearms and defensive tactics, very little of that time is spent on things like culture diversity and human relations and defusing volatile situations and personal interactions with other people.

But those are things that we have to change. We just simply can't continue to let again the past hamstring us to the degree that we can't see the future.

So, I'm here this morning to talk about the positive aspects of law enforcement and what it is that we can do to continue to move forward in making all of our police departments all across the country better.

CHAIRPERSON BERRY: Okay. Thank you very much, Chief Johnson.

Mr. James Fyfe is a retired New York city policeman. He's been very active in national and international groups addressing police practices. He's also now a professor at Temple University in Philadelphia.

Welcome, Professor Fyfe, --

MR. FYFE: Thanks.

CHAIRPERSON BERRY: -- and please proceed.

MR. FYFE: Okay. Even though I'm in Philadelphia, I'm a New Yorker. So, I'll talk fast.

CHAIRPERSON BERRY: Good.

MR. FYFE: I have a lot of points I'd like to make. One of them, I think, is an issue that has been hinted at several times here, sometimes more directly than others. But I think the major problem with the American police is that we don't know what we expect of them.

We really haven't -- you can define a good lawyer or a good firefighter or a good school teacher, but we really don't have a definition of good cop. One extreme, Mark Fuhrmann thinks he's a good cop, and on the other hand, we've heard other definitions of that.

But I would challenge the Commission to sit

down and write in 25 words or less the definition of good policing, and I think the definition would vary all over the place.

So, I think part of the reason that that's an issue is that it creates enormous ambiguities for police officers, and the problem with policing, for example, is not the physical danger. The physical danger of policing certainly is too much, but the police job is far more psychologically dangerous than the police job. But -- than physically dangerous.

In New York City last year, two police officers were killed in the line of duty. 11 committed suicide. Those numbers are pretty constant around the United States.

Commissioner Horner raised questions about vehicle stops. I did a study in connection with some litigation in New Jersey and calculated that in the United States, state troopers are killed by people in traffic stops once in every two and a half million traffic stops. So, chances of being killed in a vehicle stop are very much like the chances of being struck by lightning, but the problem with police work is ambiguity.

It's been long thought, for example, that the most dangerous police job was in a domestic situation.

That just ain't so. The numbers have been misread on that, and domestic situations are far, far less dangerous for police officers than robberies or burglaries or even vehicle stops.

The problem with domestic situations, as Chief Johnson hinted at, has been ambiguity. When I was on the street in New York City during the 1960s and 1970s, we did not distinguish between domestic disturbances and domestic violence, and thoughtfully the courts have done that for us. They've distinguished between domestic violence and domestic disturbances, and now in domestic violence situations, a cop's job is very unambiguous.

You're a law enforcement officer. Go there and make an arrest. Don't try and mediate violence. You make an arrest in those situations. Police officers still dread going to domestics because they're very ambiguous. They can't tell who the good guy is, who the bad guy is, and they can't tell when they've resolved them successfully. But I think the major -- a major problem with police work is that great degree of ambiguity.

I think removing the ambiguity requires that we set expectations for the police, and that requires rulemaking. One of the most fundamental problems with

policing is the absence of standards. The last time I was here, I had hair, we discussed deadly force standards.

If you look at what has happened to the use of deadly force in the United States, through the imposition of standards by police departments and by the United States Supreme Court in Tennessee v. Garner, you see that much ambiguity has been removed, so that in years when police officers enjoyed almost complete discretion, the line between discrimination and discretion was unclear, and in Memphis, for example, I worked on the Garner case. We found that black citizens who were arrested for non-violent crimes was six times as likely to be shot at during the course of the arrest as white persons arrested for non-violent crimes.

When rules were imposed by the police department, a couple of scholars from Memphis State University demonstrated that disparity disappeared. The rule -- the role of the police officer in those situations has been made much less ambiguous.

The same is true around the United States generally. Much of the disproportionate black citizens being shot by police officers has disappeared now that the parameters of police discretion have been clearly

defined.

So, I think what we've got to do, following up on that example and the example of domestic violence, is to come up with some more standards for police behavior. Police officers respond to domestic disturbances and don't have a clue about what to do. Police officers respond to stick-ups.

If you look at the police manuals in most agencies, you'll see no guidance in those manuals about what to do when the radio dispatcher tells you that the bank down the street is being held up. There's nothing in those things. Do the best you can is generally the advice.

Where recruitment is concerned, I think Commissioner Horner made some interesting comments. She said -- she talked about the lowest level police officer, and the unfortunate conception is that policing is a low-level job, and it's not.

I can tell you that I've been an academic. I've worked for the police foundation. I've done lots of interesting things. There is no job I know of that is tougher than doing a police officer's job well. That's a tougher job than being an FBI agent or a Secret Service agent because an FBI agent or a Secret Service agent is under very close supervision in

planned situations and does not respond to domestics at 3:00 in the morning.

Police officer's job is an extremely difficult job, which has much more in common with the job of a social worker or a deputy prosecutor or a legal aide attorney than it does with the jobs we equate it with.

Our problem, I think, is that we define it as a job that is suitable for GED people whom we can train for 10 weeks, and we wonder why we have problems. So, I think we really have to redefine the educational levels that are required to be a police officer. If we're going to professionalize it, we need professional educational standards, and an argument I hear quite often is that that works against affirmative action and minority recruitment.

I teach in Temple University, which Commissioner Redenbaugh knows is in one of the toughest areas and one of the toughest cities in the United States, and I could easily fill the Philadelphia Police Department's recruiting requirements with the black and Hispanic kids who are in my classes. They're very anxious to become police officers.

As a part of that, I think one of the problems with the police culture is that people who

become police officers in Philadelphia, as young as 19, with general equivalency diplomas or high school diplomas and spend eight or nine years in the job and find that they don't like it, are really stuck. They have no option because they're already halfway through a pension.

So, a big problem with policing is that it has attracted in many measures people who are stuck in the job. So that if you look at most police departments, and I'm sure everybody who has police experience will tell you this, that many police departments are loaded with burned-out people who have eight or nine or 10 or 12 or 15 years on the job and who are just marking time till they get a pension.

One of the most attractive aspects of a police career is the 20- or 25-year retirement pension, but when you combine that with the fact that many of the people who are in policing have no options to leave, you find that you have an awful lot of folks who are in there who probably shouldn't be there and who are a real problem.

Training for police around the United States is generally inadequate. I taught here at American University for 13 years, and we had many foreign police officials. Police officers in Kuwait get four years

worth of training. Police officers in England get much more training.

There's no democratic society in the United States that gives police officers the low level of training that we give, even in the best police departments.

One of the major issues there is that policing is a job that attracts people like the rest of the population, who bring prejudices, and it's very important that police officers not be prejudiced, but it's almost impossible in a short police training program to try and address the core beliefs that people hold. You can't do that in a six-month training course when you're trying to teach people how to make traffic stops and how to resolve domestics, and that's -- just the extra length of training is so critical because the nature of police work really enhances any prejudices anybody has.

You take a guy like Mark Fuhrmann, presumably he's got some racist attitudes to begin with. He comes from a small lily-white town in the Northwest and finds himself working in South Central, in a job that has been defined as responding to crises, and all he deals with is black and Hispanic folks who are in trouble all the time. We don't want to see them. That becomes

very, very wearing, and that makes it very easy to stereotype the people you work with, and it's not necessarily a racial issue.

I worked in two precincts in New York City, in Brooklyn and Queens, where some of the cops would say things about black and Hispanic people because they were the only ones we met in crisis.

Later, I was a sergeant in a precinct that was full of Greek Americans in the early 1970s, and many of the cops there said very much the same thing about Greek Americans. The only ones we met were the guys who had too much to drink, who had beaten their wives, who were in trouble, who had run red lights and who just didn't want to see us.

So, I think the socialization of police officers and the training is really, really critical. A couple good examples of that. One is that I was privileged to be a staff member of the New York City Police Academy from 1973 to 1975, and we completely revamped the recruit curriculum as Chief Pastore indicated, tried to make it much more like a college curriculum, and in fact, it was evaluated by New York State Board of Regents as having the equivalent of 35 undergraduate credits. It's a very demanding curriculum. Some classes resulted in 18 out of 24

percent of the people.

The people who came into the job at that time were folks who regarded themselves as post-NEF police officers. They were honest, and they were going to turn the police department around. We hired 5,000 of them in two years. They went through hell because the city ran out of money almost as quickly as they were trained, and laid off 3,000 of them.

But as I look back on it, I'm still in touch with many of my colleagues in that time, I don't know of any of those 5,000 young police officers who have been in trouble, and they went into that department at a very unique period in time. They went into it when the whole mentality of the agency under Murphy was let's turn this place around, and the training was really professional, and the sense that they got was that they're entering an agency that they were going to convert, and I don't know of any of them who has gotten in trouble, which is a remarkable statement to say about 5,000 big city police officers 23 years later.

Another issue, I think, is the culture of policing. That is really set by the top of the department. One of the problems with most police agencies is that they're really closed societies, and when Darryl Gates was chief in L.A., he used to talk

with great pride about the LAPD mentality, and there was good evidence of how strong that was, despite the, Former Chief Harrington mentioned, 43 percent female membership in recruit classes.

Just before the Rodney King riots, a professor from the Claremont Graduate School, named George Felkens, did an evaluation of Los Angeles police officers' attitudes towards their work and towards the people in the city, and the stipulation of the 43 percent women stipulation and a large percentage of black and Hispanic officers, that was a stipulation that was entered into in 1980, and the sense was that this would make LAPD a kinder and gentler police department.

What Professor Felkens found was that regardless of gender or ethnicity, LAPD cops, a great majority of LAPD officers he surveyed felt the same about the job and about the city, which was to say that the city was a bunch of undeserving slobs, and that the only thing keeping them from anarchy was that thin blue line of the LAPD.

So, even though the agency succeeded in attracting very large numbers of women and minorities, it was driven by a culture and a set of values that really made them conform to the -- to the LAPD

mentality.

And my last point has to do with accountability. A very good police scholar named Herman Goldstein wrote that we should never confuse responsiveness and accountability, and the police must always be able to explain what they've done, and in the O.J. Simpson case, we have seen that police officers have not been able to explain what they did and why they did it, and we very rarely ask police officers to do that.

I know of very few police departments that publish statistics on how they discipline officers and for what. I testify in civil rights cases, more than 300 of them, involving police officers. Police officers lie routinely. Just the other night, I calculated -- I've been involved in 32 civil rights actions in Southern California, and in 30 of them, it is absolutely clear that police officers lied. They gave testimony that's absolutely inconsistent with all the physical evidence. None of them has ever been punished, and none of that -- none of their involvement in the civil rights actions has ever been mentioned on their evaluations. Their periodic performance evaluations say they do a good job, and they don't say that they were the subject of a $1.9 million civil

rights verdict, for example.

So, I think we have to insist on accountability and probably the best way to do that is fresh air, to take police discipline out from behind closed doors.

I thank you.

CHAIRPERSON BERRY: Thank you, Professor Fyfe. Spoken like a New Yorker.

MR. FYFE: I got more.

CHAIRPERSON BERRY: I know, I know. I believe you. I think my colleague, Commissioner Horner, probably wants to ask you a question or say something. I can tell.

COMMISSIONER HORNER: Of course. Would someone else like to go first?

CHAIRPERSON BERRY: Oh, no. I think ladies go first.

COMMISSIONER HORNER: I have a question for Chief Johnson and one for Professor Fyfe. First, I just do want to say for the record, Professor Fyfe, my reference to lowest level police officers was intended to define the difficult street work as opposed to more sophisticated -- well, I don't even want to say that.

I was trying to make a distinction between a desk job and a street job --

MR. FYFE: Well, that's --

COMMISSIONER HORNER: -- on the assumption that there is a hierarchy, and one is promoted off the street from the lowest level to a "higher level". I didn't mean to suggest the higher level was a less desirable or difficult level.

MR. FYFE: Let me just make a quick point about that. One of the structure -- if we were organizing the police again, we would not organize them in a military fashion. We would organize them much more -- if we were starting from scratch, they'd be organized much more like a university.

I'm a full professor, and I make a lot of money. There are people -- but I'm still doing basically the same job as an instructor. So, the university has said, well, this guy Fyfe is a good teacher and a good researcher. We want to give him more money, but we don't want to take him off the front line.

A problem in policing is that very smart and astute men like Chief Johnson and women, if they're going to advance, have to go off the street, and -- and what -- what results from that is that the guys in the street are regarded in their agency as failures, and the instinctive response, and this is not you, but the

instinctive response is if you're any good, what are you still doing on the beat?

And every time we promote a good street police officer to sergeant, we lose a really important asset. You know, there should be a way to keep good police officers on the street without forcing them to live at the entrance level wage forever.

COMMISSIONER HORNER: I have a -- one of my three brothers is a now retired policeman who has dealt with all the issues you just described.

MR. FYFE: Sure.

COMMISSIONER HORNER: Chief Johnson, you talked about the transformation of a police department in Mississippi over a 20-year period, maybe longer than that. It was very heartening to hear your assessment that things are getting better, and you obviously are in a position to make a good assessment.

We need to understand how that transformation and improvement happens, and I just wonder if you have anything you could tell us about what makes such a transformation happen over time. What makes things better in your view?

MR. JOHNSON: A number of things, and I think one of the panelists talked about three -- three things that he saw as driving the changes in the police

departments. One was the recruiting. The second was training, and the third, I think he talked about laws and those kind of things, and all that's true.

It takes committed leadership, first of all, not only at the head of the agency but political leadership in the city, and we happen to have that in the city of Jackson, Mississippi.

It takes -- it takes focus, such as being brought to bear here in these kind of discussions for us to start thinking about these kind of things and what can make us better.

Professional organizations, such as the IACP, that highlights successful stories like New Haven and other places helps drive the changes that are taking place in many of the departments.

And occasionally, we'll get a good idea from academia that may help us improve, but -- but -- but if you really think about it, you know, you think about it deeply, it's usually those troubling issues that move us beyond where we have been to where we need to go, and you only need to think about the tremendous changes that we've seen in law enforcement.

Professor Fyfe talked about Garner v. Tennessee. That clearly defined rules of deadly force for us. Miranda. NEF. Any number of things that --

that -- that created the problem. Rodney King has come to symbolize certain issues in law enforcement, and I don't have any doubt in my mind that Mark Fuhrmann will come to symbolize certain things in law enforcement that will continue to move us forward.

So, we need to look at these things not so much as -- as sort of confirming what we want to believe about police departments being bad, but as -- as sort of a catapult or an impetus to move us forward and to learn and grow from, and I think that's what we need to continue to do.

COMMISSIONER HORNER: Well, I think that's a very helpful perspective to offer on that.

Professor Fyfe, it's, I think, -- I want to say something that's just my own opinion. I don't quite know how to introduce it without saying this is what I observe. So, maybe I should just say this is what I observe.

It strikes me that in the big city I live in, which is Washington, D.C., there is very little political support for the kinds of costly contributions to good policing that you refer to. Better-educated people, more highly-trained, longer training periods, and so on.

I pay a lot of taxes in the city and would be

happy to have a larger proportion of my taxes go for precisely that purpose because life in this city is deteriorating in many ways because of crime, and I think there are a lot of people feel this way, and I cannot understand why my impulse as a citizen doesn't get translated by our city council, our mayor. Why the translation of what I observe to be a massive craving by the city for more police, better police, better-trained police, healthier police, why that doesn't happen.

We are -- why is the money going to other places, where I don't sense as strong a citizen impulse to spend the money? I guess maybe I'd like to hear that from any of you who -- hear a response from any of you that have a response.

MR. FYFE: Well, I was in the Washington Battalion for 13 years, and I had a lot of contacts with the D.C. Police. I've known Ed Spurlock and Ron Hampton for many years, for example, and I worked on the Rivlin Commission that looked at the budget and financial priorities of the District, and I concentrated mostly on the police.

What I saw here was a confusion between quantity and quality. Washington, D.C., is one of the most over-policed cities in the United States, although

you wouldn't know that.

COMMISSIONER HORNER: Really?

MR. FYFE: In New York -- in New York City, for example, there are 39,000 police officers for a population of something over seven million. I think the D.C. population is about 590,000, and you have right now 3,800 police officers, but you had almost 5,000 a year or two ago. You also have 1,200 officers on Capitol Hill. The roads and the parks are policed by the Federal Government.

COMMISSIONER HORNER: Right.

MR. FYFE: So, there's an enormous number of police officers in this town. A big problem, I saw, was that many of the police officers are not deployed and trained in the appropriate manner.

The issue in this town, I think, has been that -- and I go right back to talking like a Washingtonian. This town. The -- the issue in Washington, D.C., I think, has been that during the 19 -- late 1960s and early 1970s, the Federal Government made the Washington, D.C. Police Department the model police department, but it was deployed at a time when police -- it was done at a time when police technology was not highly advanced, when the notion was that we should specialize police agencies, and

policing, as Chief Johnson can tell you, has advanced enormously since 1970, but the D.C. Police Department didn't do that, and I wrote in a piece in the Washington Post that instead of having a neat little Ford Taurus or Honda Accord, what you had in the Washington, D.C., Police Department was sort of an inefficient 1970 Cadillac, and I think -- and a good example of that, in about 1988, the Washington, D.C., Police bought all its officers new nine-millimeter semi-automatic pistols.

So, those guns ran about $600 a pop. There was no demonstrated need for them. I would sit and talk with the chief and the president of the union, both of whom are my friends. They could not give me any incident in which a police officer had been out-gunned, and they bought all those guns at $600 apiece, and then they sent all of the 4,4 or 4,500 police officers in the department to five days training for those guns.

Now you figure out what that cost. That took a hundred police officers off the street for a year to give them an expensive gun that they didn't need, when police officers were not being trained, as Ron Hampton suggested, in community policing or in changes in the law.

I think there was just -- there was a wrong emphasis.

COMMISSIONER HORNER: What I'm trying to get at is why do we have such an accumulation of wrong emphases?

MR. FYFE: Why? I think this city is a unique city, largely because of its relationship with the Federal Government, and I did not understand the insidiousness.

I know a lot of my African American friends talked about Washington being the last plantation, and I really didn't understand what that meant until I sat on the Rivlin Commission. It's a city in which the unions are sophisticated enough to know that they can get around the mayor by going to the D.C. Committee on -- or the House Committee on the District of Columbia, and where lots of the political clout is not focused on the municipal issues.

You know, I hate to say this, but, you know, in many ways, many of the most sophisticated political types in Washington, D.C., don't want anything to do with the municipal government. The issue here is not municipal government as it is in New York City or Philadelphia or New Haven. The issue here is the national government. So, how could Sharon Pratt Dixon,

for example, be a nationally-known figure in the Democratic Party but be invisible on the Washington, D.C., scene?

So, I -- I think there's a --

CHAIRPERSON BERRY: You mean until she became mayor?

MR. FYFE: Until she became mayor. Well, then, --

CHAIRPERSON BERRY: We don't want to get into that.

MR. FYFE: Right.

CHAIRPERSON BERRY: Okay. Go ahead, Ms. Powers.

MS. POWERS: I just wanted to ask Commissioner Horner. Are there citizens groups that are working for reform here, and --

COMMISSIONER HORNER: The demand, as I hear it, is not at that organized level. It's a very simple why don't we have more police as Professor Fyfe has focused on, more police.

MS. POWERS: Public education. The other thing I was going to say is there's really something amiss when a 12-year old civilian review board that, you know, where people from all over the world came to the United States, they come here to deal with the

civilian review board in Washington, which had its faults as everyone does, but where that has been defunded and that function that was once a civilian oversight function given back to the police department.

It's such a regressive thing, and it's happening all over. I mean it's a move.

COMMISSIONER HORNER: The perception that we have is that the citizens who are most vulnerable and most preyed upon by criminals do not demand better or more police. That's the perception. I'm not in that category, although given the trends where I live in the city, I perhaps will be soon, and I want to know why it is that those who are most vulnerable don't make that demand upon their city government.

CHAIRPERSON BERRY: Well, as a matter of fact, in D.C., the people who live in Anacostia, which is a poor neighborhood in far Northeast, demand police protection. In fact, one of their political gripes is they say that the police are all in Northwest and are all in Georgetown and other places and not in Anacostia and far Northeast, and they say that they are preyed upon, they agree with you, by the criminals, and they don't understand.

They claim, I don't know what the numbers are, that all the police are over in Northwest

somewhere, and they are dealing with revelers on Halloween or something or after a Redskins game or something, and here they are over there getting shot, mugged, and with drug dealers infesting their communities, while they're trying to go to work, and the mayor or somebody tells them that you can't get any more police because we got to send them over in Northwest because that's where the tax base is.

So, maybe what Ms. Powers is saying is correct, but at least in this city, so that we don't degenerate into a discussion entirely on Washington, D.C., I shouldn't say degenerate, maybe we need in this community more community action together and more information to try to make clear that from all segments of the community, people want more and better police, and that that is a priority rather than playing off parts of the city one against the other.

Commissioner Wang, --

COMMISSIONER WANG: I am first.

CHAIRPERSON BERRY: -- and then Commissioner Redenbaugh.

COMMISSIONER WANG: I am dying to comment. I think we're really talking about some fundamentals, which I think our chief from Connecticut, Pastore, and Chief Johnson had touched upon. I think it's a

fundamental. I think we always talk about -- if we have more jails to accommodate the criminals rather than we should have more education, should we feed them, find them jobs, so that they don't have to commit criminal acts, so that they will be citizens and contributing to the society.

I think this is where -- she had talked about the mean-spirited approach. If we continue to look at everyone as criminals, and we value your optimism. I think Chief Johnson was kind of optimistic that there's -- something can be done.

I think definitely we can help to really make our society different. That's why the focus here is to make such a, I mean, passionate appeal to America that we cannot abandon the principle, what really make America great, and it's to really help, to continue to assist the poor and the needy, which we have tried to turn away from.

We're trying to cut back on all those other services and not to really help those to give them the opportunity to -- to make it in our society. So that constantly we're building more jails to lock them up and not to give them opportunity to really turn their life around.

So, that is what I think fundamentally what

we really should have looked at. Why can't they have a decent education? Why can't they have the opportunity to find a job, so that they can support themselves? So that they don't have to really again be, I mean, a burden on our society.

So, this is where I find -- I mean disappointed that Mr. Spurlock left because he talk about pacifying them. We don't have to pacify any of our minorities. If -- I mean we -- we give them the same opportunity, and you see, if we cite two examples of cases to provide counseling from two brothers in a very -- I mean I find that sort of extreme cases.

As a public person, as a part of the government structure, as he said, the police officer. We are all accountable, and we in a sense -- I mean like each of us, I mean, are constantly being called to the task for whatever we do. Certain people will like, certain people will not particularly appreciate.

So, to that extent, as a public person, as a police department being in the public eye, constantly out there, I think this is where I'm making a statement, but I can't help but to kind of -- this is why what went wrong with our society, all along in the sense that we again missing the boat from the positive. We always look at the negative and trying to, in a

sense, stop the gap but not to work on the source of the problem.

The source of the problem is poverty. The source of the problem is discrimination. Not everyone is getting the same kind of services, like our Chair just mentioned, about different aspects, getting more compared to this different aspect, doesn't really get a fair share.

So, to that extent, if we really see our society and every member of our society on an equal footing, I don't see where we need all the police. We need more school rooms. We need more -- I mean, shall we say, services to -- to really make immigrants continue to be welcomed, because they contributed to our society.

Rather, we talk about now -- I mean we want to close our border, and again we continue to look at things from the negative, and from the standpoint of a mean-spirited approach, and I don't think we can turn this thing around.

CHAIRPERSON BERRY: Okay. Thank you.

Commissioner Redenbaugh?

COMMISSIONER REDENBAUGH: Yeah. Professor Fyfe, if you could comment, and I -- it's really an area of concern, and I don't have an insightful

question, but I was jarred by the recent book of Steven Lopez, "Third and Indiana", which is, I guess, also close to your university.

For those of you who may not know the work, it's about the badlands in Philadelphia, which is the poorest and most violent district clearly in the city and maybe in the country, and it's only three subway stops or so away from where I live in the police district that's the most highly protected, and although we think we don't have enough police protection in my district, it is the best protected in the city.

This book I found terribly troubling and -- and -- and jarring, and -- and inclined me to -- to despair over solving the problem.

Do you have some knowledge of the Philadelphia situation in which you can make a comment about this or --

MR. FYFE: Well, I think we put unrealistic expectations on the police to solve all the problems, and as we were talking, I think Washington, D.C., is an even better example than Philadelphia.

No place has the extremes that Washington, D.C., does, and in Northwest Washington, which is a nice quiet neighborhood, you don't even need the cops. So, the difference between the most crime-free

neighborhoods and the most crime-ridden neighborhoods in American cities is not the police at all, and I think the situation in Philadelphia is problematic.

There are a lot of police problems there. There's an enormous problem with the economy in the city, and I think the Philadelphia Police Department has been involved in scandal and misconduct even more than my own department, the New York City department.

I think a major problem in that agency is the fact that like Los Angeles, there's only one person in that department who does not hold civil service tenure, and somebody at the Commission should think of very seriously.

Willie Williams left Philadelphia to move to Los Angeles to try and change the culture of the police department. He comes in as the outsider, Willie from Phillie, the first African American chief in that department, the first outside chief in that department for 70 years, since August Bulmer, the great American police reformer, who lasted all of one year. He takes the job over the heads of other people whose loyalty is to the LAPD mentality, who came up in the past, who have no obligation to make him look good, and who really are locked into their jobs for life.

So, and the same thing is true in

Philadelphia. Anybody who tries to reform that organization goes into it much like President Reagan being forced to retain Jimmy Carter's Cabinet. What kind of changes can you make?

So, we talk about how strong police cultures are, and they're driven from the top, but I don't think one person at the top of a police organization can effectively make change unless the person has the authority to appoint people to key positions that represent his or her philosophies and policies.

And a couple of good examples of that, I think, are Pat Murphy, who did manage to change the culture in the New York City Police Department for 15 or 18 years, and -- and Don Pomerlo, who is the police chief in Baltimore.

It's very interesting when we talk about eastern cities and corruption and brutality. You very rarely hear Baltimore mentioned. Baltimore has the same troubles as Washington or Phillie or New York City, and I think by and large, because the shape of that police department was changed in a very dramatic fashion about 30 years ago, that everybody at the top of the organization owes their job to the police chief and is responsive to the philosophies and policies of the police chief.

I've given you a very long answer, but I think if you're going to change the police department in Philadelphia, it takes enormous change at the top of the organization, and --

COMMISSIONER REDENBAUGH: And a change in the structure and the structure incentives, it sounds like, also.

MR. FYFE: It does. I've been involved in a whole series of civil rights litigation in Philadelphia, and the disciplinary system in the police department is virtually non-existent. It just doesn't function.

CHAIRPERSON BERRY: Well, let me just say that -- did you want to comment? I saw your --

MR. JOHNSON: Yeah. I just need to comment to Commissioner Wang's observations.

Let me -- let me temper my optimism with a healthy dose of reality about the issue of law enforcement and the need to make arrests and the need for prisons.

You know, I don't want us to lose sight of the fact that there are some real bad people out there who are committing some awful atrocious acts on every citizen in our communities, and they need to go to jail. They need to be locked up for a long period of

time.

So, although I'm optimistic about us being on the right track, I'm also a realist with the view that we need to lock people up when they deserve it.

CHAIRPERSON BERRY: Okay. Well, I want to say that this, on behalf of the Commission, this discussion has been -- first, let me ask, Commissioner Fletcher, are you -- no.

On behalf of the Commission, let me just say that this discussion has been very illuminating. We have learned a great deal. The -- that there is some ambivalence about this question of crime and everyone is concerned about criminal behavior and stopping it and stopping criminals from preying on society.

Some people are concerned about focusing on the root causes of crime. Others are concerned about the cost of prisons. Other people are concerned about how you allocate resources. People are concerned about training, and we've heard that theme over and over again. We heard it at the Mount Pleasant hearings that the Commission held here in Washington. We heard it everywhere we've gone.

Police officers themselves are concerned about training and what kind of training works and how it's done, but people are also concerned about bias.

They're concerned about racist behavior, sexist behavior, where it exists, in part because they think it undermines the job of the police in trying to enforce the law.

Also, I guess the most frightening thing I heard was the comment that Chief Pastore made when he said that 95 percent or 90 percent of cases are plea bargained, so that there's no opportunity for the police officer to be in court, where a court might scrutinize their behavior, which means we have to rely more and more on internal review boards and civilian review boards, and as Ms. Powers pointed out, they're going out of existence, the civilian review boards.

So, we have to rely more and more on the internal review process to get rid of the Mike Fuhrmanns -- Mark Fuhrmanns and all the people who are the rogue cops in the system because the courts -- and I really had not thought about that.

If 95 percent are plea bargained, and the officer never is in court for anybody to ask what you did, this is a major problem.

But I want to thank you. This will be useful for the Commission as we go forward with our work.

Thank you very much.

MR. FYFE: Thank you, Madam Chair.

MR. JOHNSON: Thank you.

CHAIRPERSON BERRY: And thank you, Commissioners.

(Whereupon, the meeting was adjourned.)

REPORTER'S CERTIFICATE

This is to certify that the attached proceedings before

U.S. COMMISSION ON CIVIL RIGHTS

In the Matter of:

MEETING AND BRIEFING ON 10-6-95

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OFFICIAL REPORTER

DATE: 10-6-95